



**San Juan County
Community Development & Planning**

135 Rhone Street P.O. Box 947 Friday Harbor, WA. 98250
(360) 378-2354 (360) 378-2116 Fax (360) 378-3922
permits@co.san-juan.wa.us www.sanjuanco.com

To: San Juan County Council and Planning Commission
From: Linda Kuller, AICP, Planning Manager, DCD *LK*
Re: Growth Management Hearings Board Order: Shoreline Master Program update

Date: July 30, 2018
Public Hearing Date: August 17, 2018

Attachments:

- A. Draft Shoreline Master Program Compliance Ordinance
- B. Ecology email comment dated July 20, 2018
- C. Sixty-day notice and Commerce acknowledgement
- D. Public hearing notice published August 1, 2018
- E. SEPA Addendum issued August 1, 2018
- F. Shoreline Master Program Planning and Implementation Guidance: Soft Shoreline Stabilization

Other Appeal Documents: <https://www.sanjuanco.com/1505/SMP-Appeals>

Joint Public Hearing: Staff proposes a draft ordinance to comply with the Western Washington Region Growth Management Hearings Boards' Final Decision and Order (FDO) regarding an appeal of the County's Shoreline Master Program. The draft ordinance (Attachment A) is titled:

AN ORDINANCE AMENDING SAN JUAN COUNTY ORDINANCE 1-2016; ORDINANCE 11-2017; AND SAN JUAN COUNTY CODE 18.20.190, 18.50.020, 18.50.140, 18.50.350, 18.50.390, AND 18.50.420.

The Prosecuting Attorney has reviewed the draft ordinance.

Background:

The staff report dated July 2, 2018, provides additional background about the appeal of the County's Shoreline Master Program by the Friends of the San Juans. The Western Washington Region of the Growth Management Hearings Board (GMHB) processed the appeal in Case No. 17-2-0009.

The County Council and Planning Commission were briefed on July 20, 2018, regarding three noncompliance issues outlined in the GMHB's Final Decision and Order (FDO). The issues will be resolved by amending the County's Shoreline Master Program development regulations in San Juan County Code (SJCC) Chapters 18.20 and 18.50. The compliance issues are summarized in the following bullets:

- Amending code provisions related to the mitigation of adverse impacts to shoreline ecological functions to require mitigation within the same watershed of the development site, not on the same island;

- Amending standards for soft shoreline stabilization measures so that they do not contain hard stabilization measures and require “conclusive evidence” that a structure is in danger from shoreline processes instead of a “significant possibility”; and
- Amending procedures to include a mechanism to document all review actions in shoreline areas and identify and adopt a process for periodically evaluating the cumulative effects of authorized development on shorelines.

WA. State Department of Ecology Comments

Since the joint briefing in July, DCD received comments from the Washington State Department of Ecology (Attachment B) that suggested including a reference to the Washington Department of Ecology’s March 2014 Shoreline Master Program Planning and Implementation Guidance: Soft Shoreline Stabilization. A reference to this document has been added to the amendments in Section 5 of the draft ordinance as a new item (E) in SJCC 18.50.390.

Summary of the Ordinance Sections

Section 1: Amends SJCC 18.20.190 “S” definitions as follows:

“Soft shoreline stabilization measures” means shore erosion control structures and measures composed of primarily natural and semi-rigid or flexible materials, logs, bio-engineering tailored to site-specific natural conditions, and vegetation, organized in a nonlinear, sloping arrangement, that dissipate wave energy and minimize erosion in a way that is similar to natural shoreline processes.

SECTION 2. Adds a new item SJCC 18.50.020 (E)(3):

E. Responsibilities of Department Director and Planning Commission.

3. The Shoreline Master Program shall be periodically reviewed and amendments be made as are necessary to reflect changing local circumstances, new information, improved data and changes in state statutes and regulations. This periodic review shall include an evaluation of project review actions in shoreline areas and the cumulative effects of authorized shoreline development. The following information shall be used in the periodic evaluation of the Shoreline Master Program:

- The department’s permit tracking system;
- Aerial photographs;
- Other available data; and
- Field observations.
- The cumulative impact review shall be coordinated with the Tribes, relevant State agencies and interested parties.

SECTION 3. Amends SJCC 18.50.140 (C) Mitigation of adverse impacts to shoreline ecological functions.

C. When feasible, adverse impacts are to be mitigated on site. If off-site mitigation is proposed, the mitigation site must be located ~~on the same island, as close as feasible to~~ within the stormwater watershed of the development site. A map of the County’s stormwater watersheds is available on the County’s web portal for GIS data and maps.

The County's watersheds are identified in the *San Juan County Stormwater Basin Planning* report dated June 26, 2014. Basin maps are available on the County's website Map Gallery.

SECTION 4. Amends SJCC 18.50.350(C) - Hard and soft structural shoreline stabilization measures – General regulations.

C. New, replaced, or enlarged soft structural shoreline stabilization measures may are not be allowed unless there is conclusive evidence documented by a geotechnical analysis, that the structure is in danger from shoreline when there is a significant possibility that development will be damaged as a result of erosion caused by tidal action, waves and or currents.

1. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need.

2. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

SECTION 5. Amends SJCC 18.50.390 Soft structural shoreline stabilization design standards, items (A) and (B) and adds a new item (E) depicted below as suggested by the WA. Department of Ecology.

A. The project must be designed to prevent increased erosion of adjacent properties. Soft shoreline stabilization projects may not include hard structural shoreline stabilization elements ~~if needed to tie in with hard structural shoreline stabilization measures on adjacent properties. The need to use hard structural shoreline elements must be documented as required in SJCC 18.50.350. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible and not more than 10 linear feet. The hard structural shoreline stabilization transition area must not extend waterward of the OHWM, except as needed to connect to the adjoining stabilization structure. It must not extend onto adjacent property.~~

B. The soft shoreline stabilization design must ~~include an arrangement of various sizes of gravels, cobbles, logs, and boulders to provide stability and dissipate wave and current energy without presenting extended linear faces to oncoming waves or currents.~~

E. Applicants may use the Washington Department of Ecology's March 2014 *Shoreline Master Program Planning and Implementation Guidance: Soft Shoreline Stabilization* and any revisions thereto to plan and design soft shoreline stabilization measures.

A copy of this guidance document is included in this report as Attachment F.

SECTION 6. Amends SJCC 18.50.420(3) and (4) for consistency - Hard or soft shoreline stabilization measures – Additional submittal requirements.

3. A geotechnical analysis for hard structural shoreline stabilization measures documenting that without the proposal there is a ~~significant possibility~~ conclusive evidence that development will be damaged within three years as a result of erosion caused by waves and currents, or that postponing the work until the need is imminent (within three years) will result in the loss of opportunities to avoid greater impacts on shoreline ecological functions. New and enlarged hard structural shoreline stabilization measures are allowed only when needed to protect the types of upland structures and infrastructure identified in SJCC 18.50.350(A);

4. A geotechnical analysis for soft structural shoreline stabilization measures documenting that without the proposal there is a ~~significant possibility~~ conclusive evidence that development will be damaged as a result of erosion caused by waves and currents. New and enlarged soft structural shoreline stabilization measures are allowed only when needed to protect the types of upland structures and infrastructure identified in SJCC 18.50.350(A);

Sections 7 and 8 address the codification and effective date of the ordinance.

Sixty-day Notice of Intent to Adopt Development Regulations

A notice of the intent to adopt amendments to the San Juan County Code was sent to the Washington State Department of Commerce (Commerce) on July 18, 2018. An acknowledgement letter was received by the County from Commerce on July 23, 2018. See Attachment C for documentation.

Public Hearing Notice

The public hearing notice in Attachment D was advertised in The Journal of the San Juan Islands and Islands Sounder on August 1, 2018.

State Environmental Policy Act

On August 1, 2018, DCD issued a SEPA Addendum (Attachment E) to a Determinations of Nonsignificance (DNS) issued on April 24, 2013, and another DNS issued June 26, 2013 under Ecology Material ID 201303154 and an Addendum to that DNS issued August 30, 2017.

Compliance Schedule

GMHB Compliance Schedule	Due Date
Compliance Due	October 11, 2018
Compliance report/statement of actions taken to comply and index to the compliance record	October 25, 2018
Objections to a finding of compliance	November 8, 2018
Response to objections	November 19, 2018
Telephonic compliance hearing	December 3, 2018 9:00 am

Tentative Project Schedule

August 17, 2018	Planning Commission deliberations and recommendation to Council
September 11, 2018	County Council 2 nd Touch and deliberation
September 17, 2018	County Council adoption

Stormwater Watersheds

with Web AppBuilder for ArcGIS



ORDINANCE NO. _____ - 2018

**AN ORDINANCE AMENDING SAN JUAN COUNTY ORDINANCE 1-2016;
ORDINANCE 11-2017; AND SAN JUAN COUNTY CODE 18.20.190, 18.50.020,
18.50.140, 18.50.350, 18.50.390, AND 18.50.420.**

BACKGROUND

- A. San Juan County (County) first adopted a Shoreline Master Program (SMP) in 1976 and completed the last comprehensive SMP update in Ordinance 02-1998.
- B. Revised Code of Washington (RCW) Chapter 90.58 is the Shoreline Management Act (SMA) and it set the deadline for completion of a comprehensive update of the County's SMP as December 1, 2012.
- C. Washington Administrative Code (WAC) Chapter 173-26 is the State's guidelines for the development of local jurisdictions SMPs.
- D. After a long public process, the County adopted Ordinance 1-2016 that updated the SMP on April 5, 2016.
- E. On April 5, 2017, the Washington State Department of Ecology (Ecology) conditionally approved the County's SMP update pending incorporation of specific changes recommended by Ecology.
- F. On May 9, 2017, the County agreed to forty-two changes recommended by Ecology, proposed alternative language for 10 recommendations and declined six of the recommended changes.
- G. On June 1, 2017, Ecology informally accepted the County's proposed changes to the SMP.
- H. On July 25, 2017, the County Council was briefed on the proposed amendments to Ordinance 1-2016 as informally approved by Ecology.
- I. On September 19, 2017, San Juan County Council held a public hearing and adopted Ordinance No. 11-2017 amending San Juan County Ordinance No 1-2016 updating the County's Comprehensive Plan Section B, Element 3, the SMP, and related shoreline regulations.
- J. On October 4, 2017, the County sent Ordinance 11-2017 that adopted the revised SMP to Ecology.
- K. On October 16, 2017, Ecology issued a final approval letter finding the County's revised SMP consistent with the purpose and intent of the changes originally proposed by Ecology.

1 RCW 90.58.020 and the applicable rules. The effective date was established fourteen days from
2 the date of the approval letter.

3
4 **L.** Ecology published a legal ad that began the sixty-day appeal period.

5
6 **M.** Adoption of the SMP update by the County and Ecology was appealed to the Western
7 Washington Region of the Growth Management Hearings Board (GMHB) by the Friends of the
8 San Juans (Friends) on December 22, 2017 in Case No. 17-2-0009

9
10 **N.** On June 13, 2018, the GMHB issued its Final Decision and Order in Case No. 17-2-0009
11 upholding the SMP update as to four of the seven appealed issues and remanding the remaining
12 three issues to San Juan County and the Department of Ecology to take further action to comply
13 with the Board's Order.

14
15 **O.** On July 20, 2018, the San Juan County Council and Planning Commission were jointly
16 briefed on the appeal issues and a draft of responses needed to obtain compliance.

17
18 **P.** On July 18, 2018, a 60-day notice of the County's intent to adopt new development
19 regulations was sent to the Washington Department of Commerce (Commerce). Commerce
20 forwarded the notice to State agencies and issued an acknowledgement letter on July 23, 2018

21
22 **Q.** On August 1, 2018, the County issued an Addendum to State Environmental Policy Act
23 two Determination of Nonsignificance (DNS) issued on April 24, 2013 and June 26, 2013 and an
24 Addendum to the June 26, 2013 DNS regarding San Juan County Ordinances 1-2016 and 11-
25 2017.

26
27 **R.** A duly advertised public hearing notice was published on August 1, 2018, in The Journal of
28 the San Juan Islands and Islands Sounder.

29
30 **S.** On August 17, 2018, the County Council and Planning Commission held a duly
31 advertised joint public hearing to take and consider public comments on the proposed
32 amendments to Ordinances 1-2016 and 11-2017. The hearing was closed by Council with the
33 right to re-open it at a later date.

34
35 **T.** On August 17, 2018, the Planning Commission recommended [REDACTED] of
36 the draft code amendments to the County Council.

37
38 **U.** On [REDACTED], 2018, the County Council deliberated on the proposed code
39 amendments and [REDACTED].

40
41 **V.** The San Juan County Council makes the following findings:

42
43 **I.** The amendments to Ordinances 1-2016 and 11-2017 are consistent with the
44 County's Comprehensive Plan.

- 1 II. The amendments to Ordinances 1-2016 and 11-2017, are consistent with the SMA
2 (Chapter 90.58 RCW) and implementation regulations Washington
3 Administrative Code Chapter 173-96, and 173-97 WAC.
4
- 5 III. The amendments address the concerns of the Growth Management Hearing
6 Board’s June 13, 2018 Final Decision and Order.
7
- 8 IV. The County’s watersheds are identified in the *San Juan County Stormwater Basin*
9 *Planning* report dated June 26, 2014. Basin maps are on the County’s Polaris web
10 map application.
11

12
13 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County,
14 state of Washington, as follows:
15

16 **SECTION 1. SJCC 18.20.190 and Ord.11-2017 § 30 are each amended to**
17 **read as follows:**
18

19 **18.20.190 “S” definitions.**
20

21 “Sale” means the transfer for consideration of legal or beneficial ownership.
22

23 “Salt water intrusion” means the underground flow of salt water into wells and aquifers.
24

25 “Screening” means a method of visually shielding or obscuring a structure or use from view by
26 fencing, walls, trees, or densely planted vegetation.
27

28 “Seaward” means to or toward the sea.
29

30 “Secondary use” is secondary, or subordinate, to the primary use of the property (e.g.,
31 commercial, residential, utilities, etc.).
32

33 “Security barrier” means a locked, impenetrable wall or fence that completely seals an area from
34 unauthorized entry or trespass.
35

36 “Sedimentation” means the process by which material is transported and deposited by water or
37 wind.
38

39 “Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake-
40 induced ground shaking, slope failure, settlement, or soil liquefaction.
41

42 “Septage” means the mixture of solid, semi-solid, and liquid wastes, scum, and sludge that is
43 pumped from within septic tanks, pump chambers, holding tanks, and other septic system
44 components.
45

46 “Service area” means an area identified by a public water system that includes existing and
47 future service.

1 “Service range” means the area within eight driving miles measured from the property boundary
2 on ferry-served islands and existing facilities on each non-ferry-served island.

3
4 “Setback” means the distance a structure is placed behind a specified line or topographic feature.

5
6 “Sewerage treatment facilities” means the management, storage, collection, transportation,
7 treatment, utilization, and processing of sewage from a municipal or community sewage
8 treatment plant, not including community drain fields.

9
10 “Shooting range” means a facility specifically designed and used for safe shooting practice with
11 firearms and/or for archery practice, with individual or group firing positions for specific
12 weaponry.

13
14 “Shore process corridor” means the land-water zone within which certain geological, biological,
15 and hydraulic actions and interchanges critical to the integrity of the shoreline take place, for
16 example, a feeder bluff-driftway-accretion shoreform system.

17
18 “Shorelands” means lands extending landward for 200 feet in all directions as measured on a
19 horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas
20 landward 200 feet from such floodways; and all wetlands and river deltas associated with the
21 streams, lakes, and tidal waters which are subject to the provisions of Chapter 90.58 RCW, the
22 same to be designated as to location by the Department of Ecology.

23
24 “Shoreline access point” means a road end or other area that provides physical or visual access to
25 the tidelands and waterfront to the public. Shoreline access points may include one or more of
26 the following:

- 27
28 1. Signposts;
29 2. Benches and tables;
30 3. Parking areas;
31 4. Paths;
32 5. Public pedestrian trails;
33 6. Boat ramps without lifts;
34 7. Gates;
35 8. Staircases; or
36 9. Other shoreline access features.

37
38 “Shoreline development” means a use consisting of the construction or exterior alteration of
39 structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals;
40 bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary
41 nature which interferes with the normal public use of the surface of the waters overlying lands
42 subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).

43 “Shoreline jurisdiction (shorelands or shoreland areas)” means the proper term describing all of
44 the geographic areas covered by the Shoreline Management Act, related rules, and the applicable
45 master program. Those lands extending landward for 200 feet in all directions, as measured on a
46 horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas

1 landward 200 feet from such floodways; and all wetlands and river deltas associated with the
2 streams, lakes, and tidal waters subject to the SMA (RCW 90.58.030).

3
4 “Shoreline modifications” means those human actions that modify the physical configuration or
5 qualities of the shoreline area, usually through the construction of a physical element such as a
6 dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can
7 include other actions, such as clearing, grading, or application of chemicals.

8
9 “Shoreline permit” means a substantial development, shoreline conditional use, or shoreline
10 variance permit.

11
12 “Shoreline substantial development permit exemption” means certain developments that meet the
13 precise terms of listed exemptions and are granted exemption from the requirements of the
14 substantial development permit process of the Shoreline Management Act (SMA). An activity
15 that is exempt from the substantial development provisions of the SMA must still be carried out
16 in compliance with policies and standards of the Act and the Master Program (Element 3 of the
17 Plan and Chapter 18.50 SJCC). Shoreline conditional use or variance permits may also still be
18 required even though the activity does not need a substantial development permit (Cf. RCW
19 90.58.030(3)(e); WAC 173-27-030(7) and 173-27-040).

20
21 “Shorelines” means all of the water areas in the state, including reservoirs, and their associated
22 shorelands, together with the lands underlying them, except:

- 23
24 1. Shorelines of statewide significance;
25 2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20
26 cubic feet per second or less, and the wetlands associated with such upstream segments;
27 and
28 3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small
29 lakes (RCW 90.58.030).

30
31 “Shorelines of statewide significance” means, in San Juan County, those areas of Puget Sound
32 and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying
33 seaward from the line of extreme low tide (RCW 90.58.030).

34
35 “Sign” means any object, device, display or structure, or part thereof, situated outdoors or
36 indoors, which is used to advertise, identify, display, direct or attract attention to an object,
37 person, institution, organization, business, product, service, event or location by any means,
38 including words, letters, figures, design, symbols, fixtures, colors, illumination or projected
39 images. Excluded from this definition are signs required by law and the flags of national and
40 state governments.

41
42 “Sign, commercial” means a sign that directs attention to a business or profession, to a
43 commodity or service sold, offered, or manufactured, or to an entertainment offered on the
44 premises where the sign is located.

45
46 “Sign, freestanding” means a sign not attached to a structure.

1 “Sign, off-site outdoor advertising” means an outdoor, off-site sign that calls attention to a
2 business, activity, profession, commodity, product, service or entertainment constructed in the
3 form of a freestanding “A” with no more than two faces, each no larger than six square feet.
4

5 “Sign, temporary” means a sign that will become obsolete after the occurrence of an event or
6 series of discrete events such as for sale or lease signs, and garage sale signs that are consistent
7 with the provisions for special event signs in SJCC 18.40.400.
8

9 “Simple land division” means a division of property meeting the criteria in SJCC 18.70.040.
10

11 “Single-family residence” means a dwelling unit designed for and occupied by no more than one
12 family.
13

14 “Siting” means the method and form of placement of a use or development on a specific area of a
15 subject property.
16

17 “Slaughterhouses, small-scale” means places where animals are butchered and:
18

- 19 1. There is a fee charged for the entire carcass to be returned to the animal owner; or
- 20 2. There is a group of residents who butcher their animals in a common area and there is no
21 fee for slaughtering services.
22

23 “Small scale” means of a size or intensity which has minimal impacts on the surrounding area
24 and which makes minimal demands on the existing infrastructure.
25

26 “Soft shoreline stabilization measures” means shore erosion control structures and measures
27 composed of primarily natural and semi-rigid or flexible materials, ~~logs~~, bio-engineering tailored
28 to site-specific natural conditions, and vegetation, organized in a nonlinear, sloping arrangement,
29 that dissipate wave energy and minimize erosion in a way that is similar to natural shoreline
30 processes.
31

32 “Soil test hole log” means the excavation and written record of soil septic suitability as per health
33 department written guidelines and requirements.
34

35 “Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except
36 wastes identified in WAC 173-304-015, such as junk vehicles, garbage, rubbish, ashes, industrial
37 wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and
38 discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at
39 agronomic rates. This includes all liquid, solid and semi-solid materials which are not the
40 primary products of public, private, industrial, commercial, mining and agricultural operations.
41 Solid waste includes but is not limited to sludge from wastewater treatment plants and septage
42 from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues
43 from recycling operations are considered solid waste.
44

45 “Solid waste disposal” means the act or process of disposing of rubbish and garbage.
46

1 “Solid waste transfer station” means a fixed, supplemental collection and transportation facility,
2 used by persons and route collection vehicles to deposit collected solid waste from off site into a
3 larger transfer vehicle for transport to a permanent disposal site. Solid waste transfer stations
4 include recycling centers. (See “recycling center.”)
5

6 “Sound” means an oscillation in pressure, particle displacement, particle velocity, or other
7 physical parameter in a medium with internal forces that causes compression and rarefaction of
8 that medium, including any characteristics of sound, such as duration, intensity, and frequency.
9

10 “Source of contamination” means a facility or disposal or storage site for material that impairs
11 the quality of groundwater to a degree that creates a potential hazard to the environment, public
12 health, or interferes with a beneficial use.
13

14 “Special flood hazard” means land in the floodplain subject to a one percent or greater chance of
15 flooding in any given year.
16

17 “Static level” means the stable equilibrium level of the water in a well which rises in the well
18 column, without being influenced by pumping.
19

20 “Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as
21 stand density.
22

23 “Storage yard” means an outdoor area used for the storage of equipment, vehicles and materials.
24

25 “Stream” means a watercourse with a defined bed and banks, not including manmade ditches,
26 canals, or other entirely artificial watercourses, except where they exist in a natural watercourse
27 (see WAC 220-110-020). Streams are classified in WAC 222-16-030 and 222-16-031.
28

29 “Street frontage” means the length along a street which a structure, business, or lot abuts or
30 fronts.
31

32 “Structure” means a permanent or temporary edifice or building or any piece of work artificially
33 built up or composed of parts joined together in some definite manner, whether installed on,
34 above, or below the surface of the ground or water, except for vessels (WAC 173-27-030).
35

36 “Subarea plan” means a detailed plan consistent with but more specific than this code or the
37 Comprehensive Plan. It may be a detailed land use plan for a specific geographic area, or a
38 functional long-range plan for a land use or resource issue of Countywide concern.
39

40 “Subdivision, alteration of” means the alteration of lots or changes in dedications or restrictions
41 or easements shown on the face of a plat of a subdivision or short subdivision; except as
42 provided by RCW 58.17.040(6) for boundary line adjustments.
43

44 “Subdivision (long)” means a division or redivision of land, normally into five or more parcels,
45 but under special circumstances for subdivision into two or more parcels, as provided by this
46 code and Chapter 58.17 RCW.

1 “Subdivision, short” means subdivision of land into no more than four parcels, as provided by
2 this code and Chapter 58.17 RCW.

3
4 “Subdivision, vacation of” means the removal of lots, boundaries, roads, dedications,
5 restrictions, or easements of a recorded subdivision or short subdivision.

6
7 “Substantial alteration” means any alteration, where the total cost of all alterations such as
8 electrical, mechanical, plumbing, and structural changes for a building or facility within any 12-
9 month period or single development permit application amounts to 50 percent or more of the
10 value of the building or facility. In determining the current value of the building or facility, the
11 assessor’s fair market value, or a current appraisal acceptable to the County, may be used.

12
13 “Substantial development” means any development of which the total cost, or fair market value,
14 exceeds the dollar threshold established by the Washington State Office of Financial
15 Management (RCW 90.58.030(3)(e)); except for the exemptions specified in WAC 173-27-040,
16 Chapter 18.50 SJCC, or any development which materially interferes with the normal public use
17 of the water or shorelines of the state.

18
19 “Substantial improvement” means any maintenance, repair, structural modification, addition or
20 other improvement of a structure, the cost of which equals or exceeds 50 percent of the market
21 value of the structure either before the maintenance, repair, modification, or addition is started or
22 before the damage occurred, if the structure had been damaged and is being restored.

23
24 “Substantial storage space” means a development in the service and light industrial and service
25 park land use districts in which the ratio of covered and uncovered storage space to retail space is
26 greater than two.

27
28 “Sustainable” means actions or activities which preserve and enhance resources for future
29 generations.

30
31 “Swale” means a depressed, vegetated, often wet area of land, or an open drainageway.

32
33
34 **SECTION 2. SJCC 18.50.020 and Ord.11-2017 § 3 are each amended to read as**
35 **follows:**

36 **18.50.20 General.**

37
38 **A. Title.**

39
40 This chapter of the San Juan County Unified Development Code (UDC), together with Element
41 3 of the Comprehensive Plan, the official maps and common descriptions of shoreline
42 designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section
43 2(B) Figures 130-7, 130-6 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound
44 Waterfront Access Plan, and SJCC 18.80.110, is the Shoreline Master Program (SMP) for San
45 Juan County, Washington.

1 **B. Short Title.**

2
3 The short title of this chapter and Element 3 of the Comprehensive Plan is the “SMP.”
4

5 **C. Authority.**

6
7 1. The provisions of this chapter are adopted pursuant to RCW 90.58.140(1) through
8 (3) and 90.58.200, the SMA, Chapters 173-26 and 173-27 WAC, and Element 3 of the
9 Comprehensive Plan. Except when specifically exempted by statute, all proposed uses
10 and development occurring within shoreline jurisdiction must conform to Chapter 90.58
11 RCW, the SMA, and this SMP.
12

13 2. As provided in RCW 90.58.900, the SMA is exempt from the rule of strict
14 construction. The SMA and the SMP are liberally construed to give full effect to the
15 purposes, goals, objectives, and policies for which the SMA and this SMP were enacted
16 and adopted.
17

18 3. The SMA and the SMP comprise the basic state and local law regulating the use
19 of shorelines in the County. Unless specifically provided otherwise, if the provisions of
20 the SMP conflict with other applicable state or local policies, subarea plans, or other
21 regulations, the most restrictive regulation controls.
22

23 **D. Official Map.**

24
25 1. The official maps are part of the SMP. The map shows all areas of the County
26 under the jurisdiction of the SMP and the official shoreline designations established by
27 Element 3 of the Comprehensive Plan for all affected lands and waters.
28

29 2. There are four official copies of the map. Two are maintained by the department,
30 one is archived by the San Juan County auditor, and one is submitted to the Washington
31 Department of Ecology (WDOE). Amendments to the map are promptly recorded on the
32 official copies.
33

34 3. No part of the map may be altered or amended without the approval of the
35 WDOE, except those changes provided for in subsection (D)(4) of this section.
36

37 4. Where questions arise regarding the precise boundaries of any shoreline
38 designation, the director will make the final determination, subject to the provisions of
39 SJCC 18.80.140. Unofficial copies of the map may be prepared for administrative
40 purposes as needed.
41

42 5. All areas that are not mapped in shoreline jurisdiction, but meet the jurisdictional
43 criteria in RCW 90.58.030(f) per WAC 173-26-211(2)(e), are assigned a conservancy
44 designation until the shoreline can be redesignated through an SMP amendment.

1 **E. Responsibilities of Department Director and Planning Commission.**

2 1. Director.

3
4 a. The director makes written recommendations to the decision-maker regarding
5 shoreline permit applications, provides technical and administrative assistance to the
6 hearing examiner as required, and provides such technical assistance to the planning
7 commission and County council as may be needed; and

8
9 b. The director has the overall administrative responsibility for the SMP including:

10
11 i. Establishing the procedures and preparing the forms deemed essential for the
12 administration of the SMP;

13 ii. Advising applicants for permits and other interested persons of the policies,
14 regulations, and procedures established by the SMP and the SMA;

15 iii. Making administrative interpretations of the SMP, as necessary;

16 iv. Collecting required fees;

17 v. Determining that applications are proper and complete prior to review;

18 vi. Making field inspections; and

19 vii. Seeking compliance with the provisions of the SMP and the SMA and with
20 conditions attached to a shoreline permit issued by the County.

21
22 2. The department and planning commission have authority to review and
23 recommend revisions to the SMP.

24
25 3. The Shoreline Master Program shall be periodically reviewed and amendments
26 made as are necessary to reflect changing local circumstances, new information,
27 improved data and changes in state statutes and regulations. This periodic review shall
28 include an evaluation of project review actions in shoreline areas and the cumulative
29 effects of authorized shoreline development. The following information shall be used in
30 the periodic evaluation of the Shoreline Master Program:

31
32 a. The department's permit tracking system;

33 b. Aerial photographs;

34 c. Other available data; and

35 d. Field observations.

36
37 The cumulative impact review shall be coordinated with the Tribes, relevant State agencies and
38 interested parties.

1 **SECTION 3. SJCC 18.50.140 and Ord.11-2017 § 10 are each amended to read as**
2 **follows:**

3
4 **18.50.140 Mitigation of adverse impacts to shoreline ecological functions.**

5
6 **A.** Shoreline development, land uses, structures and activities must meet the no net loss
7 requirement of WAC 173-26-186(8)(b). If project proposals do not comply with the critical area
8 protections in SJCC 18.50.130, applicants must submit a mitigation sequence analysis to the
9 department.

10
11 **B.** Mitigation measures must be applied in the following sequence. The applicant must
12 demonstrate that each mitigation action is not feasible or applicable before proceeding to the next
13 option or action:

- 14
15 1. Avoiding the impact altogether by not taking a certain action or parts of an action;
- 16
17 2. Minimizing impacts by limiting the degree or magnitude of the action and its
18 implementation by using appropriate technology or by taking affirmative steps to avoid
19 or reduce impacts;
- 20
21 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected
22 environment;
- 23
24 4. Reducing or eliminating the impact over time by preservation and maintenance
25 operations;
- 26
27 5. Compensating for the impact by replacing or providing substitute resources or
28 environments; and monitoring the impact and compensation projects, and taking
29 appropriate corrective measures; and
- 30
31 6. Monitoring the impact and the compensation projects and taking appropriate
32 corrective measures.

33
34 **C.** When feasible, adverse impacts are to be mitigated on site. If off-site mitigation is
35 proposed, the mitigation site must be located ~~on the same island, as close as feasible to~~ within the
36 stormwater watershed of the development site. A map of the County's stormwater watersheds
37 from the San Juan County Stormwater Basin Planning report dated June 26, 2014 is available on
38 the County's web portal for GIS data and maps.

39
40 **D.** Modifications to wetlands or buffers may be exempt from the requirement to avoid
41 impacts when the wetland is below minimum size thresholds listed in SJCC 18.35.095 provided
42 impacts are fully mitigated according to the remaining mitigation sequence in subsection (B) of
43 this section.

1 **SECTION 4. SJCC 18.50.350 and Ord. 01-2016 § 41 are each amended to read as**
2 **follows:**

3
4 **18.50.350 Hard and soft structural shoreline stabilization measures – General regulations.**

5
6 Hard and soft structural shoreline stabilization measures must meet the following requirements:

7
8 **A.** Hard and soft structural shoreline stabilization measures are only allowed to protect the
9 following types of structures and infrastructure:

- 10
11 1. An existing primary structure;
- 12
13 2. An accessory dwelling unit;
- 14
15 3. Underground utilities and components of on-site sewage disposal systems and
16 wells that cannot feasibly be relocated; and
- 17
18 4. A road or driveway that cannot be relocated and where there is no feasible
19 alternative means of access.

20
21 **B.** New, replaced, or enlarged hard structural shoreline stabilization measures may be
22 allowed when damage to them is expected within three years.

23
24 **C.** New, replaced, or enlarged soft structural shoreline stabilization measures ~~may are not be~~
25 allowed unless there is conclusive evidence documented by a geotechnical analysis, that the
26 structure is in danger from shoreline when there is a significant possibility that development will
27 be damaged as a result of erosion caused by tidal action, waves and or currents.

28
29 1. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a
30 scientific or geotechnical analysis, is not demonstration of need.

31
32 2. The geotechnical analysis should evaluate on-site drainage issues and address
33 drainage problems away from the shoreline edge before considering structural shoreline
34 stabilization.

35
36 **D.** A certificate of exemption is required prior to undertaking the repair of shoreline
37 stabilization measures.

38
39 **E.** All structural shoreline stabilization measures must result in no net loss of ecological
40 functions.

41
42 **F.** If it can be demonstrated that nonstructural measures such as planting vegetation or the
43 installation of on-site drainage improvements are not feasible or sufficient to address erosion
44 causes and impacts, new structural stabilization measures may be allowed to:
45
46

- 1 1. Restore shoreline ecological functions;
- 2
- 3 2. Remediate hazardous substances pursuant to Chapter 70.105D RCW; or
- 4
- 5 3. Protect sites with exposed and verified archaeological resources.
- 6

7 **SECTION 5. SJCC 18.50.390 and Ord. 11-2017 § 19 are each amended to read as**
8 **follows:**

9 **18.50.390 Soft structural shoreline stabilization design standards.**

10
11 In addition to the general design requirements of SJCC 18.50.370, the following design standards
12 must be incorporated into the design of soft structural shoreline stabilization measures:

13
14 **A.** The project must be designed to prevent increased erosion of adjacent properties. Soft
15 shoreline stabilization projects may not include hard structural shoreline stabilization elements if
16 needed to tie in with hard structural shoreline stabilization measures on adjacent properties. The
17 need to use hard structural shoreline elements must be documented as required in SJCC
18 18.50.350. The length of the hard structural shoreline stabilization transition area to adjacent
19 properties shall be the shortest distance possible and not more than 10 linear feet. The hard
20 structural shoreline stabilization transition area must not extend waterward of the OHWM,
21 except as needed to connect to the adjoining stabilization structure. It must not extend onto
22 adjacent property.

23
24 **B.** The soft shoreline stabilization design must include an arrangement of various sizes of
25 gravels, cobbles, logs, and boulders to provide stability and dissipate wave and current energy
26 without presenting extended linear faces to oncoming waves or currents.

27
28 **C.** The sizing and placement of all materials must be selected to:

- 29
- 30 1. Protect upland structures from erosion over the long term;
- 31 2. Ensure they will remain stable during a two-year flood event and under typical currents,
- 32 boat wakes and wind-driven waves including those occurring during storm events if the
- 33 proposal is near a stream or drainage outlet;
- 34
- 35 3. Allow safe passage and migration of fish and wildlife;
- 36
- 37 4. Minimize the creation of juvenile salmon predator habitat; and
- 38
- 39 5. Use sand and gravel that are suitable as spawning substrate when a proposal is on a
- 40 shoreline reach with forage fish spawning habitat.
- 41

42 **D.** Soft shoreline stabilization measures may include fill placed waterward of the OHWM to
43 provide enhancement of shoreline ecological functions to improve the substrate condition or

1 gradient. Fill in flood hazard areas identified on the FIRMs is not allowed unless the director
2 finds that there is no feasible alternative.

3
4 E. Applicants may use the Washington Department of Ecology’s March 2014 *Shoreline Master*
5 *Program Planning and Implementation Guidance: Soft Shoreline Stabilization* and any revisions
6 thereto to plan and design soft shoreline stabilization measures.

7
8 **SECTION 6. SJCC 18.50.420 and Ord.1-2016 § 48 are each amended to read as**
9 **follows:**

10 **18.50.420 Hard or soft shoreline stabilization measures – Additional submittal**
11 **requirements.**

12
13 A. Except as provided in SJCC 18.50.410(E), a geotechnical report prepared by a qualified
14 professional must be submitted with applications to construct new, enlarged and replacement
15 structural shoreline stabilization measures. The report must demonstrate the need for the
16 proposed hard or soft stabilization measure and must include:

17
18 1. A determination that shoreline erosion is being caused by waves and currents and
19 not upland drainage issues. Normal sloughing, erosion of steep bluffs, or shoreline
20 erosion itself, without a scientific or geotechnical analysis, is not demonstration of need.
21 The geotechnical analysis should evaluate on-site drainage issues. If erosion is being
22 caused by drainage from upland areas, the report should present options for controlling
23 the erosion;

24
25 2. An assessment of the erosion rate and site specific conditions contributing to the
26 erosion such as water depth, orientation of the shoreline, and wave fetch and flow
27 velocities;

28
29 3. A geotechnical analysis for hard structural shoreline stabilization measures
30 documenting that without the proposal there is ~~a significant possibility~~ conclusive
31 evidence that development will be damaged within three years as a result of erosion
32 caused by waves and currents, or that postponing the work until the need is imminent
33 (within three years) will result in the loss of opportunities to avoid greater impacts on
34 shoreline ecological functions. New and enlarged hard structural shoreline stabilization
35 measures are allowed only when needed to protect the types of upland structures and
36 infrastructure identified in SJCC 18.50.350(A);

37
38 4. A geotechnical analysis for soft structural shoreline stabilization measures
39 documenting that without the proposal there is ~~a significant possibility~~ conclusive
40 evidence that development will be damaged as a result of erosion caused by waves and
41 currents. New and enlarged soft structural shoreline stabilization measures are allowed
42 only when needed to protect the types of upland structures and infrastructure identified in
43 SJCC 18.50.350(A);
44

1 5. An assessment of alternatives to hard or soft structural shoreline stabilization
2 measures, such as:

3
4 a. Relocation of the structural measure farther inland. If the structural
5 measure does not meet current buffer or setback standards, the new location is not
6 required to meet these standards provided the magnitude of the nonconformity is
7 not increased, new nonconformities are not created, and there is no net loss of
8 shoreline ecological functions;

9
10 b. Correction of any groundwater or drainage issues that may be causing
11 shoreline erosion;

12
13 c. An assessment of the feasibility of using soft structural shoreline
14 stabilization measures in lieu of hard structural shoreline stabilization measures;

15
16 d. An assessment of the anticipated effects of the proposed stabilization
17 measure on ecosystem processes and functions such as effects on feeder bluffs,
18 drift cells and areas adjacent to and down drift of the site;

19
20 e. Design recommendations for minimizing adverse impacts of the soft or
21 hard structural shoreline stabilization measure; and
22

23 f. Design recommendations for minimizing the size, bulk or volume of
24 structural shoreline stabilization materials, including gravel and cobble beach
25 substrates necessary to dissipate wave energy, eliminate scour, and provide long-
26 term shoreline stability.
27

28 **B.** Detailed construction plans shall be submitted for hard and soft structural shoreline
29 stabilization measure proposals that demonstrate compliance with the standards. Plans shall
30 include:

31 1. Existing and proposed cross section views showing topography and OHWM;

32 2. Construction sequence; and

33 3. Specifications for all materials, including gravels, cobbles, boulders, logs, and
34 vegetation.
35

36 **C.** The director may waive a demonstration of need when a hard structural shoreline
37 stabilization measure is proposed to be replaced with soft structural shoreline stabilization
38 measures and the replacement would result in restoration of shoreline ecological functions or
39 processes.
40

41 **SECTION 7. Effective Date.**

42
43 This Ordinance shall take effect fourteen days from the date of written approval by WDOE
44 pursuant to RCW 90.58.090.

SECTION 8. Codification.

Sections 1 through 6 shall be codified after the effective date of this ordinance.

ADOPTED this ____ day of _____ 2018.

ATTEST: Clerk of the Council

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

Ingrid Gabriel, Clerk Date

Bill Watson, Chair
District 1

REVIEWED BY COUNTY MANAGER

Michael J. Thomas Date

Jamie Stephens, Vice-Chair
District 3

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: _____
Date

Rick Hughes, Member
District 2

Linda Ann Kuller

From: Burcar, Joe (ECY) <jobu461@ECY.WA.GOV>
Sent: Friday, July 20, 2018 11:45 AM
To: Linda Ann Kuller
Cc: Yunge, Chad (ECY); Gates, Tim (ECY)
Subject: FW: San Juan Co Request for 60-day review

Hi Linda,

Thank you for reaching out to us with your draft amendments to comply with the Growth Management Hearings Board (GMHB) decision on the San Juan County SMP.

I have included below some initial feedback from Tim Gates (see below). We have a strong interest in preserving the opportunity to consider a range or spectrum of soft stabilization techniques to adapt to physical site characteristics and to keep soft stabilization as a feasible alternative to hard stabilization solutions. We were disappointed by the Boards decision (as I am sure you were) as we thought your SMP provided a clear distinction in the intended objectives of soft versus hard stabilization. With this said, we are happy to work with you on the remand to hopefully find a solution that does not undermine the evolution and use of soft shoreline stabilization techniques.

As Tim suggests, we recommend incorporating a reference to either Ecology's Soft Shoreline Stabilization Guidance, or WDFW's Marine Shoreline Design Guidelines, into the amendments to sub-section .390, as a good resource in identifying appropriate site specific elements of a soft shoreline stabilization design.

Again, we are happy to continue to discuss specific components of the amendment, but wanted to get you some initial feedback on this item.

Best regards,

-Joe

Joe Burcar | SEA Section Manager | Department of Ecology Northwest Regional Office | o: 425-649-7096 | c: 425-681-1051 | e: joe.burcar@ecy.wa.gov

This communication is a public record and may be subject to disclosure as per the Washington State Public Records Act (RCW 42.56)

From: Gates, Tim (ECY)
Sent: Wednesday, July 18, 2018 5:32 PM
To: Burcar, Joe (ECY) <jobu461@ECY.WA.GOV>
Subject: Re: San Juan Co Request for 60-day review

Section 390 could maybe include room for hybrid projects. Perhaps by reference to Ecology guidance or WDFW MSDG. This should be able to be done without using the word hard but would allow for use of appropriate elements to ensure soft projects hold up

Sent from my iPhone

On Jul 18, 2018, at 5:23 PM, Burcar, Joe (ECY) <jobu461@ECY.WA.GOV> wrote:

FYI – I have not yet reviewed this.

-Joe

From: Linda Ann Kuller [<mailto:lindak@sanjuanco.com>]
Sent: Wednesday, July 18, 2018 5:21 PM
To: Burcar, Joe (ECY) <jobu461@ECY.WA.GOV>
Cc: Yunge, Chad (ECY) <CYUN461@ECY.WA.GOV>
Subject: FW: San Juan Co Request for 60-day review

Hi Joe,

FYI,

Please let us know if you have any suggestions on this preliminary draft.

Linda Kuller, AICP
Planning Manager
360-370-7572

From: Linda Ann Kuller
Sent: Wednesday, July 18, 2018 2:16 PM
To: 'reviewteam@commerce.wa.gov' <reviewteam@commerce.wa.gov>
Subject: San Juan Co Request for 60-day review

Hi Review Team,

Attached in one document are San Juan County's transmittal letter, request for review form and a draft ordinance. The proposed code amendments are required for compliance with a Growth Management Hearings Board decision on the County's updated Shoreline Master Program.

Thank you for your review.

Linda Kuller, AICP
Deputy Director
360-370-7572

NOTICE: All emails and attachments, sent to and from San Juan County are public records and may be subject to public disclosure pursuant to the Public Records Act, Chapter 42.56 RCW.

<2018-07-18_DCD_Sixty-day_Notice Trans_with-draft_Ord.pdf>



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

July 23, 2018

Linda Kuller
Planner IV
San Juan County
135 Rhone Street
Post Office Box 947
Friday Harbor, Washington 98250

Dear Ms. Kuller:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

County of San Juan - Proposed amendment Ordinance 1-2016; Ordinance 11-2017; County Code 18.20.190, 18.50.020, 18.50.140, 18.50.350, 18.50.390, and 18.50.420. proposed amendments are needed to comply with the Growth Management Hearings Board (GMHB) Final Decision and Order in Case No. 17-2-0009 related to the update of the Shoreline Master Program (SMP) and development regulations. The GMHB found the county's updated SMP noncompliant on three issues in the shoreline regulations. These materials were received on July 18, 2018 and processed with the Material ID # 25121.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services

Linda Ann Kuller

From: Linda Ann Kuller
Sent: Wednesday, July 18, 2018 2:16 PM
To: 'reviewteam@commerce.wa.gov'
Subject: San Juan Co Request for 60-day review
Attachments: 2018-07-18_DCD_Sixty-day_Notice Trans_with-draft_Ord.pdf

Hi Review Team,

Attached in one document are San Juan County's transmittal letter, request for review form and a draft ordinance. The proposed code amendments are required for compliance with a Growth Management Hearings Board decision on the County's updated Shoreline Master Program.

Thank you for your review.

Linda Kuller, AICP
Deputy Director
360-370-7572

NOTICE: All emails and attachments, sent to and from San Juan County are public records and may be subject to public disclosure pursuant to the Public Records Act, Chapter 42.56 RCW.



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250
(360) 378-2354 | (360) 378-2116
dcd@sanjuanco.com | www.sanjuanco.com

July 18, 2018

WA Department of Commerce
GMA Review Team

RE: Sixty-day Notice
Intent to adopt amended development regulations

Dear Review Team:

Accompanying this letter is a notice of intent to adopt amended development regulations and an ordinance titled:

AN ORDINANCE AMENDING SAN JUAN COUNTY ORDINANCE 1-2016; ORDINANCE 11-2017; AND SAN JUAN COUNTY CODE 18.20.190, 18.50.020, 18.50.140, 18.50.350, 18.50.390, AND 18.50.420.

Purpose of the Amendments: On September 19, 2017, San Juan County Council adopted Ordinance No. 11-2017 amending San Juan County Ordinance No 1-2016 updating the County's Comprehensive Plan Section B, Element 3, the Shoreline Master Program (SMP), and related shoreline regulations. The Washington Department of Ecology (Ecology) approved San Juan County's SMP comprehensive update on October 16, 2017.

Adoption of the SMP update by the County and Ecology was appealed to the Western Washington Region of the Growth Management Hearings Board (GMHB) by the Friends of the San Juans (Friends). On June 13, 2018, the GMHB issued its FDO in Case No. 17-2-0009 (FDO, Page 35). The GMHB did not invalidate the updated SMP although several areas of the SMP were found noncompliant. These compliance issues will be addressed by:

- Amending code provisions related to the mitigation of adverse impacts to shoreline ecological functions to require mitigation within the same watershed of the development site, not on the same island;
- Amending standards for soft shoreline stabilization measures so that they do not contain hard stabilization measures and require "conclusive evidence" that a structure is in danger from shoreline processes instead of a "significant possibility"; and
- Amending procedures to include a mechanism to document all review actions in shoreline areas and identify and adopt a process for periodically evaluating the cumulative effects of authorized development on shorelines;

Sincerely,

Linda Kuller, AICP
Deputy Director



Department of Commerce

Notice of Intent to Adopt Amendment 60 Days Prior to Adoption

Indicate one (or both, if applicable):

- Comprehensive Plan Amendment
- Development Regulation Amendment

Pursuant to RCW 36.70A.106, the following jurisdiction provides notice of intent to adopt a proposed comprehensive plan amendment and/or development regulation amendment under the Growth Management Act.

Jurisdiction:	San Juan County
Mailing Address:	PO Box 947 Friday Harbor, WA 98250
Date:	July 18, 2018

Contact Name:	Linda Kuller, AICP
Title/Position:	Deputy Director
Phone Number:	360-370-7572
E-mail Address:	LindaK@sanjuanco.com

Brief Description of the Proposed/Draft Amendment: <i>If this draft amendment is provided to supplement an existing 60-day notice already submitted, then please provide the date the original notice was submitted and the Commerce Material ID number located in your Commerce acknowledgement letter.</i>	An ordinance amending San Juan County Ordinance 1-2016; Ordinance 11-2017; and San Juan County Code 18.20.190, 18.50.020, 18.50.140, 18.50.350, 18.50.390, and 18.50.420. The proposed amendments are needed to comply with the Growth Management Hearings Board Final Decision and Order in Case No. 17-2-0009 related to the update of the County's Shoreline Master Program and development regulations. The GMHB found the County's updated SMP noncompliant on three issues in the shoreline regulations.
Is this action part of the scheduled review and update? <i>GMA requires review every 8 years under RCW 36.70A.130(4)-(6).</i>	Yes: ___ No: <u>X</u>
Joint Public Hearing Date:	Planning Board/Commission: August 17, 2018 Council/County Commission: August 17, 2018
Proposed Adoption Date:	September 17, 2018

REQUIRED: Attach or include a copy of the proposed amendment text or document(s). – Copy attached

LEGAL ADVERTISEMENT

To: The Journal of the San Juan Islands and Islands Sounder
From: Ingrid Gabriel, Clerk of the San Juan County Council
Bill To: Department of Community Development
Publish: 1 Time(s) – Wednesday, August 1, 2018

NOTICE OF A SAN JUAN COUNTY COUNCIL SPECIAL MEETING AND JOINT PUBLIC HEARING WITH THE PLANNING COMMISSION TO HEAR TESTIMONY ON PROPOSED AMENDMENTS TO SAN JUAN COUNTY CODE CHAPTER 18.50 SHORELINE REGULATIONS

On August 17, 2018, the San Juan County Council will hold a special meeting and joint public hearing with the Planning Commission for the purpose of receiving testimony on proposed amendments to the San Juan County development regulations in: **AN ORDINANCE AMENDING SAN JUAN COUNTY ORDINANCE 1-2016; ORDINANCE 11-2017; AND SAN JUAN COUNTY CODE 18.20.190, 18.50.020, 18.50.140, 18.50.350, 18.50.390 AND 18.50.420.**

The hearing will begin **at or after 9 a.m. Friday, August 17, 2018** at the County Council Chambers, 55 Second Street, Friday Harbor, WA. Interested parties are encouraged to attend the hearing, and submit written or oral comments regarding the proposal. The proposed amendments are in response to an appeal of the County's Shoreline Master Program update to the Washington Growth Management Hearings Board (GMHB) by the Friends of the San Juans (Friends). On June 13, 2018, the GMHB issued its FDO in Case No. 17-2-0009. The GMHB did not invalidate the County's updated SMP. Three of the nine issues appealed were found noncompliant with the state Shoreline Master Program and are proposed to be addressed by amending:

- Mitigation provisions to require mitigation within the same watershed of the development site;
- Soft shoreline stabilization measures to not contain hard stabilization measures and requiring "conclusive evidence" that a structure is in danger from shoreline processes; and
- Procedures to document review actions in shoreline areas and identify and adopt a process for periodically evaluating the cumulative effects of authorized shoreline developments.

The staff report, proposed ordinance and related materials will be filed at the Department of Community Development (DCD), PO Box 947, and 135 Rhone Street, Friday Harbor, WA and posted on the Department's webpage ten days prior to the hearing <https://www.sanjuanco.com/1505/SMP-Appeals>. They may be obtained from DCD during business days between 8:00 a.m. and 4:30 p.m. Upon request they will be mailed without charge.

How to Comment: The official comment period is **Wednesday, August 1, 2018 through Friday, August 17, 2018**, unless the County Council extends the comment period. Written comments about particular changes should refer to the page and line numbers. Written comments submitted **prior to 12:00 p.m. on August 16 will be copied** for the County Council and Planning Commission members unless they wish to review comments on-line. **Copies:** Please provide fifteen (15) copies of written comments submitted to DCD after 12:00 p.m. on August 16, 2018, or if you distribute written comments at the hearing. You may comment:

- **Via Mail:** Prior to the hearing date, mail written comments to **Linda Kuller, Department of Community Development** or deliver them to the DCD office (addresses posted above) during business hours.
- **Via Email:** Email comments to LindaK@sanjuanico.com. **Please title the Email subject line: SMP Response Ordinance from (your last name or agency name)**. For the record, include your full address in all correspondence.
- **Via Oral Testimony:** The public is invited to comment on the proposed amendments at the hearing.

Contact Linda Kuller, AICP at (360) 370-7572.



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250

(360) 378-2354 | (360) 378-2116

dcd@sanjuanco.com | www.sanjuanco.com

SEPA ADDENDUM FACT SHEET
PCODES 18-0003 Amending Shoreline Regulations

Action Sponsor and Lead Agency: San Juan County Department of Community Development

Proposed Action: An Ordinance Amending San Juan County Ordinance 1-2016; Ordinance 11-2017; and San Juan County Code 18.20.190, 18.50.020, 18.50.140, 18.50.350, 18.50.390 and 18.50.420.

Responsible Official: Erika Shook, AICP, Planning Director

Linda Kuller (for)

Contact Person: Linda Kuller, AICP, Deputy Director, LindaK@sanjuanco.com, (360) 370-7572

Required Approvals: Approval by the San Juan County Council

Location of Background Data: Shoreline Master Program update Administrative record and PSCODES 18-0003.

Addendum to SEPA Determination: This Addendum updates information in a SEPA Determination of Nonsignificance (DNS) issued for the Shoreline Master Program update (Ordinance 1-2016) on April 24, 2013 and another DNS issued on June 26, 2013 under Ecology Material ID 201303154 that announced the availability of the draft Shoreline Restoration Plan. A DNS Addendum was also issued for Ordinance 11-2017 on August 30, 2017 for Ordinance 11-2017.

Date of Issuance: August 1, 2018

Background: The proposed amendments to the San Juan County shoreline regulations will be made in response to an appeal of the County's Shoreline Master Program update to the Washington Growth Management Hearings Board (GMHB) by the Friends of the San Juans. On June 13, 2018, the GMHB issued its Final Decision and Order in Case No. 17-2-0009. County's updated SMP was not invalidated.

Three of the nine issues appealed were found noncompliant with the state Shoreline Master Program and are proposed to be addressed by amending:

- Mitigation provisions to require mitigation within the same watershed of the development site;

- Soft shoreline stabilization measures to not contain hard stabilization measures and requiring “conclusive evidence” that a structure is in danger from shoreline processes; and
- Procedures to document review actions in shoreline areas and identify and adopt a process for periodically evaluating the cumulative effects of authorized shoreline developments.

Non-Project Action: Decisions on the adoption of development regulations are referred in the SEPA rules as “non-project actions” (WAC 197-11-704(2)(b)). The purpose of an SEPA Addendum in analyzing a non-project action is to help the decision-makers identify and evaluate the environmental effects of, in this case, amendments to the shoreline regulations to become compliant with the Growth Management Hearings Board (GMHB) Final Decision and Order (FDO) and the Shoreline Management Act. The proposed amendments are more restrictive than the shoreline regulations originally adopted by the County. The proposed amendments are not likely to have a significant adverse environmental impacts.

Description of the Proposal:

Section 1: Amends SJCC 18.20.190 “S” definitions as follows:

“Soft shoreline stabilization measures” means shore erosion control structures and measures composed of primarily natural and semi-rigid or flexible materials, logs, bio-engineering tailored to site-specific natural conditions, and vegetation, organized in a nonlinear, sloping arrangement, that dissipate wave energy and minimize erosion in a way that is similar to natural shoreline processes.

SECTION 2. Adds a new item SJCC 18.50.020 (E)(3):

E. Responsibilities of Department Director and Planning Commission.

3. The Shoreline Master Program shall be periodically reviewed and amendments be made as are necessary to reflect changing local circumstances, new information, improved data and changes in state statutes and regulations. This periodic review shall include an evaluation of project review actions in shoreline areas and the cumulative effects of authorized shoreline development. The following information shall be used in the periodic evaluation of the Shoreline Master Program:

- The department’s permit tracking system;
- Aerial photographs;
- Other available data; and
- Field observations.

- The cumulative impact review shall be coordinated with the Tribes, relevant State agencies and interested parties.

SECTION 3. Amends SJCC 18.50.140 (C) Mitigation of adverse impacts to shoreline ecological functions.

C. When feasible, adverse impacts are to be mitigated on site. If off-site mitigation is proposed, the mitigation site must be located ~~on the same island, as close as feasible to~~ within the stormwater watershed of the development site. A map of the County's stormwater watersheds from the San Juan County Stormwater Basin Planning report dated June 26, 2014 is available on the County's web portal for GIS data and maps.

SECTION 4. Amends SJCC 18.50.350(C) - Hard and soft structural shoreline stabilization measures – General regulations.

C. New, replaced, or enlarged soft structural shoreline stabilization measures may are not be allowed unless there is conclusive evidence documented by a geotechnical analysis, that the structure is in danger from shoreline when there is a significant possibility that development will be damaged as a result of erosion caused by tidal action, waves and or currents.

1. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need.

2. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

SECTION 5. Amends SJCC 18.50.390 Soft structural shoreline stabilization design standards, items (A) and (B) and adds a new item (E) as depicted below.

~~A. The project must be designed to prevent increased erosion of adjacent properties. Soft shoreline stabilization projects may not include hard structural shoreline stabilization elements if needed to tie in with hard structural shoreline stabilization measures on adjacent properties. The need to use hard structural shoreline elements must be documented as required in SJCC 18.50.350. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible and not more than 10 linear feet. The hard structural shoreline stabilization transition area must not extend waterward of the OHWM, except as needed to connect to the adjoining stabilization structure. It must not extend onto adjacent property.~~

~~B. The soft shoreline stabilization design must include an arrangement of various sizes of gravels, cobbles, logs, and boulders to provide stability and dissipate wave and current energy without presenting extended linear faces to oncoming waves or currents.~~

E. Applicants may use the Washington Department of Ecology's March 2014 Shoreline Master Program Planning and Implementation Guidance: Soft Shoreline Stabilization and any revisions thereto to plan and design soft shoreline stabilization measures.

SECTION 6. Amends SJCC 18.50.420(3) and (4) for consistency - Hard or soft shoreline stabilization measures – Additional submittal requirements.

3. A geotechnical analysis for hard structural shoreline stabilization measures documenting that without the proposal there is a ~~significant possibility~~ conclusive evidence that development will be damaged within three years as a result of erosion caused by waves and currents, or that postponing the work until the need is imminent (within three years) will result in the loss of opportunities to avoid greater impacts on shoreline ecological functions. New and enlarged hard structural shoreline stabilization measures are allowed only when needed to protect the types of upland structures and infrastructure identified in SJCC 18.50.350(A);

4. A geotechnical analysis for soft structural shoreline stabilization measures documenting that without the proposal there is a ~~significant possibility~~ conclusive evidence that development will be damaged as a result of erosion caused by waves and currents. New and enlarged soft structural shoreline stabilization measures are allowed only when needed to protect the types of upland structures and infrastructure identified in SJCC 18.50.350(A);

Environmental Analysis: The proposed amendments will change noncompliant portions of the County's Shoreline Master Program for compliance with the State Shoreline Master Program rules and regulations. The result will be more restrictive regulations than originally adopted.

Conclusion: A SEPA addendum is appropriate when a proposal has been modified, but the changes are not expected to result in any new significant adverse impacts. Based on the review and an analysis of the proposed changes, they will reduce the potential for any adverse environmental impacts.

CC: Attached Distribution List
File



San Juan County Community Development & Planning

135 Rhone Street, P.O. Box 947, Friday Harbor, WA 98250 | cdp@sanjuanco.com
 (360) 378-2354 | (360) 378-2116 | Fax (360) 378-3922 | www.sanjuanco.com

REQUEST FOR REVIEW *For your Information*

Applicant Name and File #: PCODES 18-0003 DATE: 8.1.2018

Please review the application materials and return written comments to LindaK@sanjuanco.com by _____.
 If you request additional information or materials from the applicant, please notify SJC Community Development & Planning in writing.

State Agencies	
<input checked="" type="checkbox"/>	Dept. of Archaeology
<input type="checkbox"/>	Dept. of Agriculture – Kelly McLain
<input checked="" type="checkbox"/>	Dept. of Commerce
<input checked="" type="checkbox"/>	Dept. of Ecology/SEPA
<input checked="" type="checkbox"/>	Dept. of Ecology/Shoreline – Chad Yunge
<input checked="" type="checkbox"/>	Dept. of Ecology/Shoreline – Doug Gresham
<input checked="" type="checkbox"/>	Dept. of Fish and Wildlife – Bob Warinner
<input checked="" type="checkbox"/>	Dept. of Fish and Wildlife - SEPA
<input type="checkbox"/>	Dept. of Health – Kelly Cooper
<input type="checkbox"/>	Dept. of Health - Shellfish
<input checked="" type="checkbox"/>	Dept. of Natural Resources – SEPA
<input checked="" type="checkbox"/>	Dept. of Natural Resources – NW Region
<input type="checkbox"/>	Dept. of Social & Health Services –Terri Sinclair-Olson
<input checked="" type="checkbox"/>	Dept. of Transportation Env Svcs – Roland Storme
<input type="checkbox"/>	Dept. of Transportation – Ferries – Robert Price
<input type="checkbox"/>	Energy Facility Site Evaluation Council–Stephen Posner
<input type="checkbox"/>	Interagency Committee on Outdoor Recreation
<input checked="" type="checkbox"/>	Parks and Recreation Commission
<input checked="" type="checkbox"/>	Puget Sound Partnership
<input checked="" type="checkbox"/>	UW-Friday Harbor Labs, Director
<input type="checkbox"/>	UW-Real Estate Office, Property Rights Manager
<input checked="" type="checkbox"/>	Washington State Parks NW Region
Tribal Agencies	
<input checked="" type="checkbox"/>	Lummi Historic Preservation Office
<input checked="" type="checkbox"/>	Lummi Natural Resources – Alan Chapman (Shoreline)
<input checked="" type="checkbox"/>	Samish Indian Nation – Jackie Ferry
<input checked="" type="checkbox"/>	Swinomish Tribal Commission – Tim Hyatt
<input checked="" type="checkbox"/>	Tulalip, Natural Resources
County Agencies	
<input type="checkbox"/>	San Juan County Council
<input type="checkbox"/>	San Juan County Planning Commission
<input type="checkbox"/>	San Juan County Prosecutor – Amy Vira
<input checked="" type="checkbox"/>	San Juan County Assessor
<input type="checkbox"/>	San Juan County Community Development & Planning
<input type="checkbox"/>	Chief Building Official – Fred Schaller

County Agencies (Cont.)	
<input checked="" type="checkbox"/>	San Juan County Engineer – Jeff Sharp
<input type="checkbox"/>	San Juan County Health Dept – Kyle Dodd
<input checked="" type="checkbox"/>	San Juan County Parks Dept – Dona Wuthnow
<input type="checkbox"/>	San Juan County Dept of Emergency Management
<input type="checkbox"/>	San Juan County Fire Marshal – Richard Meyers
<input type="checkbox"/>	Fire Districts (Indicate: #2, #3, #4, or all)
Town, Utilities, & Utility Districts	
<input type="checkbox"/>	Town of Friday Harbor – Mike Bertrand
<input type="checkbox"/>	Eastsound Sewer District
<input type="checkbox"/>	Eastsound Water Users
<input type="checkbox"/>	Fisherman Bay Sewer District
<input type="checkbox"/>	Fisherman Bay Water Association
<input type="checkbox"/>	Washington Water Service Company
<input checked="" type="checkbox"/>	OPALCO
<input checked="" type="checkbox"/>	CenturyLink
Schools and Libraries	
<input checked="" type="checkbox"/>	School District: Lopez Orcas San Juan Shaw
<input checked="" type="checkbox"/>	Libraries: Lopez Orcas San Juan Shaw
Other	
<input checked="" type="checkbox"/>	San Juan Conservation District
<input type="checkbox"/>	SJC Noxious Weed Control Board
<input type="checkbox"/>	San Juan County Parks Board – Dona Wuthnow
<input type="checkbox"/>	Eastsound Planning Review Committee
<input type="checkbox"/>	Deer Harbor Plan Review Committee
<input type="checkbox"/>	Lopez Village Plan Committee
<input checked="" type="checkbox"/>	<i>Friends of the San Juans</i>

Distribution completed by: *Lynnda Gunnsey* Date: 8/1/18