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POLICY/PROCEDURE/INTERPRETATION

Shoreline Master Program (SMP) - Residential Appurtenances

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ISSUE: Property owners in San Juan County want to develop residential structures in the shoreline jurisdiction that are not specifically identified in the County's definition of normal residential appurtenance. Clarity is needed about the application of the shoreline regulations to residential appurtenances.

BACKGROUND, POLICY AND PERMIT PROCESSES:

A. Normal Residential Appurtenances.

San Juan County's SMP and development regulations in San Juan County Code (SJCC) Chapter 18.50 regulate normal residential appurtenances. These are defined in SJCC 18.20.140 as:

"Normal residential appurtenance, shoreline" means a structure or development that is necessarily connected to the use and enjoyment of a single-family residence and which is expressly defined in WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption from shoreline substantial development permit requirements in accordance with WAC 173-27-040(g). Structures and activities considered normal residential appurtenances include accessory dwelling units **or other detached residential structures**, garages, sheds, decks attached to primary structures, private pedestrian pathways, stairways to access shorelines, ramps, patios, fences, driveways, utilities, on-site sewage disposal systems, antennas, solar arrays, wind power generators serving a single structure, satellite dishes, boat houses landward of the primary residential structure served by marine railways that require a substantial development permit, official registered historic structures, and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM.

Are some normal residential appurtenances allowed with a shoreline exemption?

Yes, some may be allowed with an approved shoreline exemption if they meet the criteria in SJCC 18.50.050.

Which normal residential appurtenances identified in the SJCC 18.20.140 are allowed seaward of a residence?

SJCC 18.50.540(D) does not allow non water-dependent normal residential appurtenances seaward of the most landward extent of a residence except for:

- private pedestrian pathways to beach access stairways or that provide shore access,
- stairways,
- ramps,
- patios,
- decks attached to the primary structure, and
- boat houses served by marine railways, normal.

Are temporary or permanent fences allowed seaward of a residence?

No, fences including deer fences are normal residential appurtenances that are not water-dependent. SJCC 18.50.540(D) does not allow fences seaward of the most landward extent of the house.

Since fences impact habitat corridors and views, they must be located landward of the residence. Fences must meet the required shoreline aesthetic setback in SJCC 18.50.540(C)(3). They must also meet the critical area buffers required by SJCC Chapter 18.35 to meet the No Net Loss standard in SJCC 18.50.120. The alternative method that allows the submittal of a No Net Loss report is not allowed because avoidance, the first step in the No Net Loss mitigation sequence analysis required by SJCC 18.50.120, cannot be met.

Are private pedestrian access stairs a normal residential appurtenance?

Private pedestrian access stairs are normal residential appurtenances on a lot intended for single-family development, even if they are constructed prior to the residence. A shoreline permit or exemption may be required. See SJCC 18.50.050 and 18.50.600.

What is a patio and what regulations must patios and decks meet?

A patio is a normal residential appurtenance defined in SJCC 18.20.140. A patio is a paved area or area assembled with solid materials adjoining (attached to) a house. Pavers assembled together are considered a patio.

SJCC 18.50.540(D) allows patios to be located seaward of the most landward extent of the house. At-grade patios and decks less than 30 inches tall also do not need to meet the shoreline aesthetic buffer in SJCC 18.50.540(C)(3). Patios and decks less than 30 inches tall must meet the No Net Loss standard required in SJCC 18.50.120.

Above-grade patios and decks attached to the house that are taller than 30 inches in height are subject to the same regulations as the home.

Can I have a plug-in hot tub on a patio or deck that is attached to a house?

Yes, if the patio or deck meet the requirements outlined above.

B. Other Residential Structures not identified in SJCC 18.20.140.

The following list identifies some “other residential structures” that are not specifically identified in the definition of normal residential appurtenance in SJCC 18.20.140:

- Fire pit - or outdoor fireplace (temporary stone fire rings are allowed in shoreline jurisdiction);
- Outdoor kitchen;
- Dog house, no fencing; (a 3 foot by 3 foot temporary dog house is allowed in shoreline jurisdiction);
- Ponds involving less than 250 cubic yards of grading;
- Garden trellises;
- Gardens and raised beds;
- Irrigation system;
- Sculpture/art installation;
- Outdoor shower;
- Above ground propane/LP tank, HVAC equipment not attached to the house;
- Retaining walls;
- Kayak rack;
- Children’s play equipment, such as a swing set or jungle gym; and
- Hot tubs not on located on a patio.

May these “other residential structures” identified above be located seaward of a residence?

SJCC 18.50.540(D) would not allow these structures seaward of the residence because they are not water-dependent normal residential appurtenances. However, the intent of SJCC 18.50.540(D) is to protect views to and from the water and critical area functions and values by limiting the number and type of residential appurtenances located seaward of the residence. It also assumes that the residence is located at the minimum required aesthetic setback and critical area buffer, thereby allowing some limited water-dependent normal residential appurtenances to be located within these areas.

In instances where a residence is setback further than the minimum aesthetic setback required by SJCC 18.50.540(C)(3) and further than the critical area buffers required by SJCC Chapter 18.35, these “other residential structures” will not impact shoreline views and critical area functions. In such cases, the “other residential structures” listed above may be located seaward of the residence if they are also located outside of the aesthetic setback and critical area buffers. All “other residential structures” taller than 30 inches must also meet the lot width requirement of SJCC 18.50.540(A)(2).

If my home is nonconforming to the shoreline aesthetic setback or critical area buffers, can these “other residential structures” be placed seaward of the home?

No. SJCC 18.50.540(D) does not allow these structures seaward of the residence because they are not water-dependent. In addition, under SJCC 18.50.090, no structure is allowed to be developed that would increase the nonconformity to the shoreline regulations including the aesthetic setback and critical area buffers.

What are the permitting requirements for these “other residential structures” that have been identified as normal residential appurtenances?

SJCC 18.50.540(D)(3) specifies that:

Normal residential appurtenances that are not identified in the definition in SJCC 18.20.140 are allowed with a conditional use permit.

However, because the “other residential structures” identified in this memo are considered “normal residential appurtenances” they may be allowed by shoreline exemption if they meet the shoreline exemption threshold in SJCC 18.50.040(A).

A. Normal residential appurtenances are structures or development that are necessarily connected to the use and enjoyment of a single-family residence and that are expressly defined in SJCC 18.20.140. Hard structural shoreline stabilization measures and other shoreline modifications or over-water structures are not considered normal appurtenant structures. Normal residential appurtenance exemptions also include:

As noted in SJCC 18.50.040(A), an exemption from the shoreline substantial development permit requirements under this section does not constitute an exemption from the policies of the SMA, the regulations of this SMP, or other applicable County, state, or federal permit requirements.

What regulations apply to residential appurtenances that are not defined in SJCC 18.20.140 or not identified as an “other residential structure” in this policy?

SJCC 18.50.540(D)(3) allows these structures with an approved shoreline conditional use permit:

Normal residential appurtenances that are not identified in the definition in SJCC 18.20.140 are allowed with a conditional use permit.

What are examples of normal residential appurtenances that are not defined that would require a conditional use permit?

A bunkhouse, greenhouse, treehouse or swimming pool.

Is a separate shoreline exemption application required for an “other residential structure” if it was shown on the building permit application site plan for a single family residence?

No, under SJCC 18.50.050(B), a separate shoreline exemption application is not required if a project or development permit application is required. The exemption will be reviewed with the building permit. If you are submitting a building permit application for development of a single family residence in the shoreline, the proposed location of all residential appurtenance structures shown on the site plan will be reviewed without the need to submit a separate shoreline exemption application.

Are there any normal residential appurtenances or other residential structures that do not require a shoreline exemption or shoreline permit?

The following do not require a shoreline exemption or permit provided they do not result in removal of trees or vegetation within critical area buffers or the shoreline aesthetic setback:

- Temporary fire ring or bowl;
- Temporary dog house (3' X 3'); and
- Moveable, non-fixed furniture such as picnic tables and benches.