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COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Creating Solutions for Our Future

Joshua Cummings, Director

March 3, 2020

Thurston County Board of Commissioners
2000 Lakeridge Drive SW
Olympia, WA 98502

Subject: Planning Commission recommendation to amend the validity period for Critical Area Determinations (2018/2019 Development Code Docket #A-16-part)

Dear Commissioners,

The Thurston County Planning Commission has completed its review of a proposed development code amendment to increase the validity period for Critical Area Determinations (CADs) from one year to three years.

The Planning Commission was initially briefed by staff on January 22, 2020. A legal notice scheduling the Planning Commission's public hearing was issued January 29, 2020. A public hearing was held on February 19, 2020 to discuss the proposed code amendment. No one from the public testified. No written comments were submitted. A post-hearing work session was held immediately following the public hearing on February 19, 2020 and the Planning Commission produced the following recommendation by majority vote (5-4).

Planning Commission majority recommendation (5-4 vote): The Planning Commission recommends that the Board amend section 24.50.070 of the Thurston County Critical Area Ordinance (Title 24) to increase the validity period for Critical Area Determinations from one year to three years.

We find that this action will improve consistency with existing county protocols.

Thank you for the opportunity to review and comment on the proposed amendment. If you have any questions, please feel free to contact me.

Sincerely,

Scott Nelson, Chair

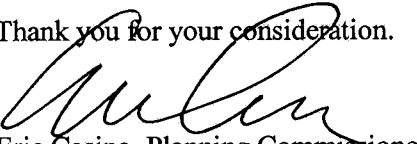
Minority report

During our briefing on this topic, the Planning Commission requested adding an option for public hearing that would increase the validity period for CADs to five years (with an exception of a negative determination following Thurston County's current Site Inspection Protocol for Mazama Pocket Gophers, leaving that at three years). Staff has recommended to extend the period to three years and reported that the BoCC has set a protocol of three years. Staff's recommendations for this time frame seemed to be based on two factors. First, this is what some other jurisdictions have chosen. Secondly, it would add consistency to the code with all CADs being of the same duration.

A minority of Planning Commissioners do not believe that the justifications for three years to be compelling and wish to leave the property owners of Thurston County more flexibility in how they use their land. In the first factor, what other jurisdiction chose to do, with no report for why they chose it, does not convince us we need to follow the same path. In the second factor, we do not believe that having CAD validity periods for two different time frames, depending on the issue, is unreasonable, nor an undue burden on staff to maintain. Other CADs include steep slopes and wetlands. Outside of a major geological event, the timeframes involved in changes to a steep slope are significantly greater than the timeframes of a gopher migrating from one area to another. With this in mind, it does not seem unreasonable for there to be different validity times for different CADs, negating a need for consistency in the code.

Minority Recommendation: Four dissenting commissioners recommend that the validity period be extended to five years for all critical area determination reports.

Thank you for your consideration.



Eric Casino, Planning Commissioner

cc: Thurston County Planning Commission
Ramiro Chavez, County Manager
Joshua Cummings, Director
Travis Burns, Deputy Prosecuting Attorney

Attachment: Majority Recommendation- Amended code section 24.50.070

Attachment A: Revised Code section 24.50.070 of the Thurston County Critical Area Ordinance (Title 24)

24.05.070 - Critical area determinations.

- A. Determining if Critical Areas are Present. Any person seeking to determine whether a proposed activity or an area is subject to this chapter may request a Critical Area Determination (CAD) on an application provided by the department.
- B. The CAD shall be processed as a Type I application.
- C. Submission Requirements. Applicants for a CAD shall submit all of the information requested on the application form provided by the department. Based on the quality and detail of information provided, the complexity of the site, or the potential of the proposed use to impact critical areas or buffers, the approval authority may request additional information as necessary to make a determination regarding the site.
- D. Director Findings. The director shall review the information submitted by the applicant and other relevant, available information and perform an on-site inspection to determine if a critical area, which includes the associated buffer, is located on the property. If the director cannot determine, based on available information or due to access limitations, whether the proposed development would encroach upon a critical area, the applicant shall be advised as to what is needed to make the determination. This may include full delineation and analysis of the critical area by a qualified professional at the applicant's expense.
- E. The critical area determination shall be valid for ~~one year~~ three years.