

From: **Tom McCormick** tommccormick@mac.com 
Subject: 150-foot buffer and other buffers should be based on OHMW
Date: May 1, 2018 at 7:16 PM
To: Ryan Countryman ryan.countryman@snoco.org, Paul MacCreedy paul.maccreeady@snoco.org
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Ryan and Paul,

It appears that five buildings in the South Village are within the 150-foot marine buffer "measured from the ordinary high-water mark," as the Code requires. SCC 30.62A.320. A number of submitted drawings (e.g., EX2) indicate that in March 2018 a DEA biologist located and recorded the ordinary high-water mark (OHWM) at Point Wells.

SCC 30.91O.030 defines ordinary high water mark as follows"

" 'Ordinary highwater mark' on ... tidal waters is the mark that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, with respect to vegetation. The following criteria clarify this mark on tidal waters, lakes, and streams:

(1) Tidal waters.

(a) in high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide.

Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide. ..."

(bold added for emphasis)

Since the DEA biologist found and recorded the OHWM, shouldn't the OHWM be used to measure the 150-foot marine buffer line? The OHWM is not used. Instead, the submitted drawings show the 150-foot marine buffer line and the 200-foot shoreline management zone measured from the line of mean higher high water (MHHW). Aren't the submitted drawings defective?

I note that the OHWM appears to be roughly 50 feet farther inland than the line of MHHW in front of the five most southern buildings in the South Village. As a consequence, it appears that those five buildings are located within the 150-foot buffer. (See the two snippets attached.) In contrast, in the current (defective?) drawings which measure the 150-foot buffer from the line of MHHW, all five of those buildings are located *outside* the 150-foot buffer. Does the Code require that all buildings be located *outside* the 150-foot buffer? It seems like the developer went out of its way to locate all buildings in all villages *outside* of the 150-foot buffer.

If I am correct about measuring the 150-foot buffer and the 200-foot shoreline management zone from the OHWM instead of the line of MHHW, then the submitted UC drawings and the Short Plat drawings are defective and out of compliance. Are there any other issues to be concerned about? Can the developer build within the 150-foot buffer? I see that per SCC 30.62A.320(c)(i), no new effective impervious surfaces are allowed within the 150-foot buffer, but I also see that there are methods to reduce the buffer width. And how is the 200-foot shoreline management zone impacted, and the 300-foot submittal requirement rule in SCC 30.62A.130(1)(f) and (g) and the special buffer rule in SCC 30.62A.320(1)(c)(ii)?

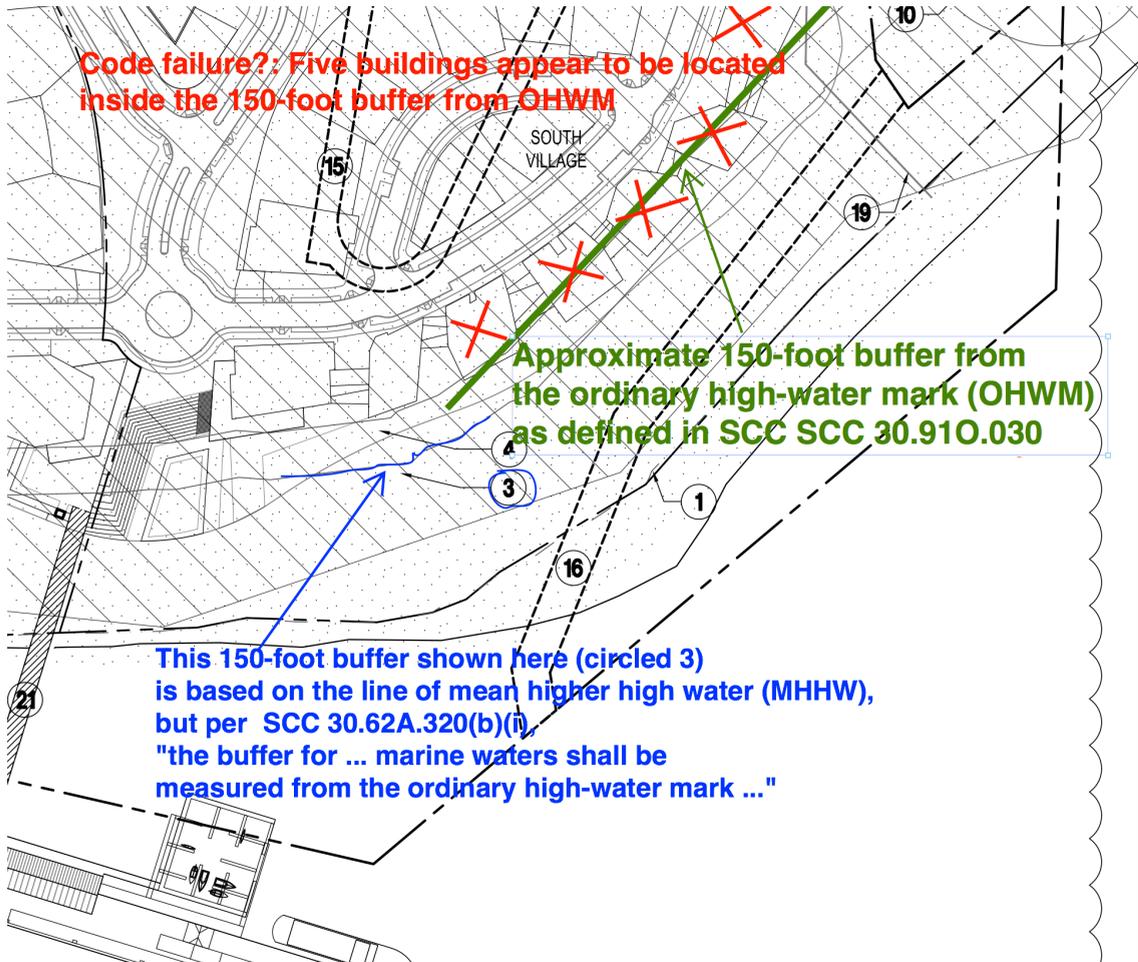
If I have overlooked something or misinterpreted anything in the Code, could you please let me know.

Thank you.

Tom McCormick

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REV.	ISSUE	DATE
1	CORRECTION	04.18.2017
2	CORRECTION	04.24.2018

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