



**Department of Economic  
and Development Services**

**Memorandum**

**To:** Planning Commission

**From:** Carolyn Morgan, Chief Planner

**Date:** May 1, 2018

**Re:** CPA 2018-03 Text Amendment Community Facilities 8.1 & Conservation Policy 2.1 a.

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**INTRODUCTION**

This is an application by Charles Sohm, agent for Overwatch, Inc. to amend the text of Community Facilities Element Policy 8.1 and Conservation Element Policy 2.1 a. in order to revise the 50 foot setback requirement landward from the Ordinary High Water Line or Mean High Water Line for those properties with existing bulkheads permitted by the SJRWMD or FDEP prior to October 1, 2003.

**ANALYSIS**

This amendment has been requested to facilitate the redevelopment of property that would not meet this setback requirement with a new use that is not water dependent and not within a platted subdivision. If this amendment is successful, similar changes will also be initiated for the land development code.

These policies regulate building setbacks along waterfronts. Conservation Policy 2.1 includes paragraph a., which excuses the setback requirement for residential platted lots with bulkheads that were platted prior to October 1, 2003. No such provision applies to un-platted residential lots with bulkheads or non-residential lots with bulkheads that were permitted by FDEP or SJRWMD in the same time-frame. The current policy does excuse water-dependent uses from this requirement.

The policy in the Community Facilities element addresses the setback, but does not address the residential exception or water dependent uses specifically, but instead references Conservation Policy 2.1.

Staff has contacted the Florida Department of Environmental Regulation and is not aware of any difficulty in removing the 50 foot setback requirement. The existing provisions are a result of a Remedial Amendment, DOAH No. 07-0453GM, April 2007.

### ***2025 Comprehensive Plan Policies***

#### **Community Facilities Element:**

**Objective 8: Clay County shall protect the function of natural drainage features through preservation of adjacent vegetation and wetlands, limitation of development within the floodway and requirements for setbacks from waterbodies.**

Policy 8.1: All structures shall be set back a minimum of 50 feet landward from the Mean High Water Line of any natural water body whichever is applicable; for waters designated as Aquatic Preserves or Outstanding Florida Waters, the setback will be 100 feet. The requirements of Conservation Element Policy 2.1.a shall also apply.

#### **Conservation Element**

**Objective 2: The County shall prevent further degradation of ambient water quality and conserve and protect the quantity of surface water resources [9J-5.013(2)(b)(2)].**

Policy 2.1: The County shall regulate future waterfront development (excluding manmade lakes or stormwater facilities). The following criteria shall apply:

- a. All structures shall be set back a minimum of 50 feet landward from the Ordinary High Water Line or Mean High Water Line, whichever is applicable; for waters designated as Aquatic Preserves or Outstanding Florida Waters, the setback will be 100 feet. In the case of lakes that have not been meandered and without an established Ordinary High Water Line, the historical high shall be used as the appropriate high water line. These setbacks shall not apply to development within platted residential subdivisions located landward of permitted bulkheads, including docks, boardwalks, and similar structures which are related to the development of the subdivision.

These setbacks shall not apply to water dependent uses and recreational facilities, including bulkheads, boardwalks, docks, and boathouses, when constructed pursuant to permits issued by the St Johns River Water Management District. *Amendment 06-2, November 2006.*

- b. All Onsite Sewage Disposal Systems septic tanks and drain fields shall be set back a minimum of 100 feet landward from the appropriate high water line as permitted by state rule or allowed by the applicable permitting agency; for waters designated as Aquatic Preserves or Outstanding Florida Waters, the setback shall be 150 feet.

All Onsite Sewage Treatment Systems shall be located on the landward side of the primary structure except that infill lots within existing development served by onsite sewage disposal systems shall be exempted when state requirements for the distance between wells and onsite sewage treatment systems cannot be obtained.

- c. A 25-foot buffer zone of native vegetation shall be preserved landward of the Ordinary High Water Line or Mean High Water Line, whichever is applicable, or the historical high in the case of lakes without an established Ordinary High Water Line. Exceptions shall be made to trim vegetation within the buffer in order to maintain water views. Up to 25 linear feet or 20 percent of the buffer (whichever is greater) can be removed for the placement of water-dependent uses including dock walkways, boat ramps, etc. Where the length of shoreline exceeds 250 feet within areas of the county subject to the Manatee Protection Plan, no more than 50 linear feet of native shoreline vegetation shall be altered (trimmed, cut, removed, killed, or destroyed). *Amendment 07-2, November 2007.*

Waterfront lot widths shall be a minimum of one hundred (100) feet at the Ordinary High Water Line or the Mean High Water Line, whichever is applicable, or the historical high in the case of lakes without an established Ordinary High Water Line.

### **Analysis**

Planning staff finds that the proposed amendment would not introduce additional bulkheads, and that the use of existing bulk-headed property without the 50 foot setback will not pose a risk to waterways. The current language was written to solve an issue with a residential development and other properties with bulk-heads were not considered at the time. The Water Management District does not use the term setback when discussing the protection of shorelines or water quality, but instead uses information as to soil types and vegetation to establish the conditions for development. It is our understanding that the Water Management District and the Florida Department of Environmental Protection have adequate standards to determine the proper location of development along waterfront properties.

Please find the proposed amendment in the attached draft ordinance.

### **Recommendation**

Staff recommends approval of CPA 2018-3 as proposed in the draft ordinance.