



## ZR 2.13.3.2 Promotion of Good Design

- 2.13.3.2 In order to promote good design of projects and to provide open spaces consistent with the regulation requirements, any requirements for *buffers, integral lot areas, designated open spaces, common recreation spaces, floor area, neighborhood area, parking requirements, and non-infringement areas* are to be shown in separate identifiable locations on site plans and the areas required are not to be counted or treated for any of the other areas specified in this section. [EMPHASIS ADDED]

This Staff Commentary is intended to provide the Commission with some guidance and recognition of potential implications relative to an interpretation of Zoning Regulation Section (ZR) 2.13.3.2, which is also specifically located within the Attached Housing Regulations (ZR 6.6.15.6). Because of the nature of this terminology an interpretation of one section affects the interpretation of the other.

The interpretation that is being considered would require applicants to provide all of the required areas as prescribed by the zoning district and use standards, and then calculate the Lot Area for purposes of determining compliance with ZR 5.1.1. This interpretation would result in the creation of a Net Lot Area that is in addition to the Wetland Proration New Lot Yield.

For example, based on the discussion that has been present during the deliberation, the Commission is considering an interpretation that would require a parcel in the GBR-130, RC-120 or HI-60 Zoning Districts to exclude areas that are classified as Non-Infringement Area (NIA) from the Gross Floor Area (GFA) calculations as prescribed in this regulation. This requirement would force a 1:1 reduction in land area associated with the NIA, thereby reducing the building and lot sizes, and potentially creating a number of non-conformities in the process. In addition, the exclusion of the NIA from bulk calculations would create a higher threshold than presently exists for the natural resource that the NIA is intended to protect. Currently, wetlands are prorated at a lower ratio under ZR 7.5. Diagram 1 on Page 2 of this commentary illustrates this point and can also be applied to properties zoned GBR-130 and HI-60 as well.

An area classified as wetland is discounted under ZR 7.5 based on the overall percentage of wetland on a particular parcel of land, allowing some of the wetland land to count towards density and GFA allocations. An interpretation that all of the areas listed in ZR 2.13.3.2 are independently calculated will result in an exclusion of the NIA from GFA calculations and would penalize a property that has adjacent upland at a rate of 100% versus the adjacent

wetland at a prorated rate assigned by the percentage of the attribute. This policy appears to defy conventional logic by regulating the sensitive attribute at a lower standard than you are regulating the area adjacent to the sensitive attribute.

Further, the application of this regulation to districts with variable buffers can make it difficult to determine GFA on properties throughout the community. In diagram 1, a dimension line is labeled "x." This line represents the variable buffers that exist in ZR 3.2.4; 3.3.4; and 3.4.4, which are intended to provide a buffer from a significant natural resource.

The administration of the variable component of this requirement would be almost impossible to handle, as each property owner with property containing, or within 100 feet of, a *significant* natural resource would be required to submit an A-2 Survey and soil mapping to prove compliance with the regulations. In addition, the number of properties that would become non-conforming under these regulations is incalculable, which suggests that additional analysis should be performed prior to an interpretation that requires the GFA to be calculated based on the Net Lot Area resulting from 2.13.3.2.

Finally, keep in mind that this requirement would also apply to commercial sites that are required to provide a buffer of parking areas, these sites will also be required to reduce the GFA of their structures as well. This is of particular concern from a property tax perspective, as a reduction in commercial building size could correspond to a reduction in the potential tax revenue that would be generated from a commercially-used property.

