

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS, AND DECISIONS**

Applicant(s):	Rosario Signal LLC 1400 Rosario Road Eastsound, WA 98245	<b>S.J.C. DEPARTMENT OF OCT 24 2016 COMMUNITY DEVELOPMENT</b>
Agent Representative:	Mark Otto Strandberg Construction P.O. Box 319 Anacortes, WA 98221	
File Nos.:	PLP000-16-0001, PSJ000-16-0001, PPUD000-16-0001	
Request:	Preliminary Plat, Planned Unit Development, Shoreline Substantial Development and Conditional Use Permits	
Parcel Nos.:	173133002, 173134005, 173152037, 173152038, 160621001, and 173113004	
Location:	1400 Rosario Road, Orcas Island	
Summary of Proposal:	An application for a preliminary plat, a planned unit development, shoreline substantial development, and shoreline conditional use permits to authorize the redevelopment of the existing Rosario Resort	
Land Use Designation:	Rosario Master Planned Resort Activity Center	
Public Hearing:	September 15, 2016	
Application Policies and Regulations:	SJCC 18.90.060(H)(3) Planned unit development SJCC 18.70.060 Subdivision and short subdivision design and development standards SJCC 18.80.110(H) Criteria for approval of substantial development permits SJCC 18.80.110(J)(4) Criteria for approval of shoreline conditional uses	
Decision:	Approved subject to conditions	

**BEFORE THE HEARING EXAMINER  
FOR SAN JUAN COUNTY**

In the Matter of the Application of )  
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**Rosario Signal LLC** )  
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for Approval of Shoreline Substantial )  
Development, Shoreline Conditional Use, )  
Preliminary Subdivision, and )  
Planned Unit Development Permits )  
\_\_\_\_\_ )

Nos. PLP000-16-0001  
PSJ000-16-0001  
PPUD000-16-0001

**Phase 1 of the  
Rosario Resort Redevelopment**

**S.J.C. DEPARTMENT OF  
OCT 24 2016  
COMMUNITY DEVELOPMENT**

**SUMMARY OF DECISION**

The requested planned unit development, preliminary subdivision, shoreline substantial development, and shoreline conditional use permits to redevelop the existing Rosario Resort consistent with the 2007 Rosario Resort Master Plan are **APPROVED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

Rosario Signal LLC (Applicant) requested approval of planned unit development, preliminary subdivision, shoreline substantial development, and shoreline conditional use permits to redevelop the existing Rosario Resort consistent with the 2007 Rosario Resort Master Plan. The subject property is located at 1400 Rosario Road, Orcas Island, Washington.

**Hearing Date:**

The San Juan County Hearing Examiner held a consolidated open record public hearing on the request on September 15, 2016. The record was held open until September 29, 2016 for written comments, and the Applicant agreed to a five business day extension of the decision issuance timeline, resulting in a decision due date of October 20, 2016.

**Testimony:**

At the open record public hearing, the following individuals presented testimony under oath:

Julie Thompson, Planner, San Juan County Department of Community Development  
Christopher Peacock, Applicant Representative, Resort General Manager  
Mark Otto, Applicant Agent/Representative  
Nels Strandberg, Owner/Applicant  
Chris Rust, Studio 29, Applicant Representative  
Carol Rust, Studio 29, Applicant Representative  
Merrill Leonard, Neighbor  
Tom Wheeler, Neighbor  
Michael Murray, Attorney for Carolyn and Charles Crawford, Rosario Estates neighbors

**Exhibits:**

The following exhibits were admitted in the record:

**County Exhibits (identified in the Findings with prefix C)**

- C1 San Juan County Department of Community Development Staff Report to the Examiner, dated September 7, 2016, with the following attachments:
1. Request for Review
  2. Mitigated Determination of Non-Significance
  3. Rosario Resort Redevelopment Phase 1 application materials notebook [Repeat of Applicant's Exhibits R below]
  4. Legal notices
  5. Time extension information
  6. Comments from UW Friday Harbor Labs, date stamped May 23, 2016
  7. Comments from Washington State Department of Ecology, dated May 31, 2016
  8. Memo from John Cook, San Juan County Public Works, dated August 23, 2016
  9. Memo from Christine Coray, San Juan County Public Works, dated August 26, 2016
  10. Memo from Robert Low, San Juan County Fire Marshal, dated August 30, 2016
  11. Memo from Julie Thompson regarding Cultural Resources Assessment, date stamped September 2, 2016
  12. Email from Merrill Leonard to Rosario neighbors regarding upcoming hearing, dated August 18, 2016
  13. Email from Patrick Kirby regarding proposed fire protection, dated August 25, 2016
  14. Letter from Francine Shaw regarding recreational easement, dated August 18, 2016
  15. Declaration of Easement for recreational use, Auditor's File Number 2004 0820033
- C2 Letter from Kenneth Davidson, Attorney, on behalf of the Conver Family, dated September 8, 2016, with attached Quit Claim Deed
- C3 Email from Mark Otto, dated September 13, 2016 (response to C2)
- C4 Letter from State of Washington Department of Archaeology and Historic Preservation, dated August 31, 2016
- C5 Letter from Merrill Leonard, dated September 13, 2016, with attached Chapter 5 of the Rosario Resort Master Plan (2007)
- C6 Resort Conceptual Plan, Figure 4.1-1, Chapter 4.0 Redevelopment Concept, from the Rosario Resort Master Plan

- C7 Letter from Washington Trust for Historic Preservation, dated September 14, 2016
- C8 Post Hearing Public Comment Letters
  - 1. Letter from Dick Hansen, dated September 22, 2016
  - 2. Letter from Attorney Michael Murray, dated September 22, 2016
- C9 Applicant Response to public comment at and post hearing, dated September 29, 2016

**Applicant Exhibits Submittal (labeled in the Findings with Prefix R<sup>1</sup>)**

*Tab A: Resort Core & Hilltop Redevelopment Planned Unit Development (PUD)*

- R1 San Juan County Land Use Application Form
- R2 Resort Core and Hilltop PUD Application Checklist Submittal Matrix
- R3 Rosario Resort Redevelopment Project Overview
- R4 Rosario Resort Redevelopment Project SEPA Checklist

*Tab B: Resort Core Land Division Approval Application*

- R5 San Juan County Land Division Application Form
- R6 Rosario Resort Redevelopment Land Division Checklist Submittal Matrix
- R7 Rosario Resort Redevelopment Land Division Overview

*Tab C: Resort Core Shoreline Permit Application*

- R8 San Juan County Shoreline Permit Application Form
- R9 Rosario Resort Redevelopment Shoreline Permit Application Checklist Submittal Matrix
- R10 Rosario Resort Redevelopment Shoreline Development Overview

*Tab D: Application Exhibits*

- R11 Site Plans

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<sup>1</sup> Note: Applicant's exhibits were renumbered to provide a numbered list of exhibits (R1 through R23) to simplify the citation to exhibits in findings. Thus, exhibit numbers cited in the Staff Report are not consistent with the exhibit numbering scheme used for citations in this document.

- R12 Preliminary Plat Drawings
- R13 Title Report
- R14 Draft Design and Development Standards and Guidelines
- R15 Stormwater Reports, Resort Core, and Hilltop
- R16 Critical Areas Report
- R17 Consistency Analysis and SEPA Mitigation Report
- R18 Archeology Report
- R19 Concurrency Analysis
- R20 Employee Housing Rules of Conduct
- R21 2007 Rosario Resort Master Plan
- R22 2006 Rosario Resort Master Plan FEIS
- R23 List of Property Owners within 300 feet

**Other Documents:**

Post Hearing Order, dated September 15, 2016

Upon consideration of the testimony and exhibits submitted at the open record public hearing, the Hearing Examiner enters the following findings and conclusions:

**FINDINGS**

*Background*

1. The Applicant requested approval of planned unit development, preliminary subdivision, shoreline substantial development, and shoreline conditional use permits to pursue Phase 1 redevelopment of the existing Rosario Resort consistent with the 2007 Rosario Resort Master Plan (RMP). The property subject to the instant Phase 1 proposal includes the 15-acre Resort Core, which abuts the bay within the 20.7-acre resort area, and the 39-acre Hilltop employee housing area. The resort is located at 1400 Rosario Road, Orcas Island, Washington.<sup>2</sup> *Exhibits C1, R1, R5, R8, and R11.*

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<sup>2</sup> The subject property is also known as Tax Parcel Nos. 173133002, 173134005, 173152037, 173152038, 160621001, and 173113004. *Exhibit C1.*

2. The property subject to the applications has a land use designation of Rosario Master Planned Resort Activity Center. Surrounding land uses include developed and undeveloped residential parcels to the north, east, and west. The resort abuts Cascade Bay to the south. Upland areas within 200 feet of the bay's ordinary high water mark (OHWM) have a Rural shoreline environment designation and are subject to the jurisdiction of the Washington Shoreline Management Act as implemented through the San Juan County Shoreline Master Program in the County Code at Title 18.50. *Exhibit C1; Thompson Testimony.*
3. The Rosario Resort is recognized statewide as a place to engage with the marine shoreline environment of the San Juan Islands in an historic setting. It opened in 1960 and has changed ownership several times since. The Resort was placed on the National Register of Historic Places in 1978. Due to the seasonality of typical patronage, the ages of the various structures and amenities, and the wear and tear resulting from time and exposure to the environment, the resort has been in need of substantial renovations for some time. Due to the historic, beloved characteristics of the property and structures on-site, and the desire of the owners to maintain good neighbor relations, redevelopment has undergone an extensive public process. The first public meeting, hosted by Rosario Resort in September 2000, sought community input on an initial draft of the Rosario Resort Master Plan (RMP). The public comments received drove the creation of the revised RMP, which was presented and discussed at a community workshop in May 2003. That was followed by a third community workshop on a third revised RMP in May 2004. Six advisory committee meetings followed between June 2004 and June 2005, including presentations to the Rosario Property Owners Association (RPOA). A draft environmental impact statement (DEIS) scoping meeting was held on June 6, 2005 and followed by a fourth community workshop in December 2006 which presented revisions to the RMP addressing DEIS comments. The final Rosario Resort RMP was adopted by the County in Ordinance 11-2007 on June 4, 2007. *Exhibits C1 and R18; Peacock Testimony.*
4. RMP Condition 7 required the Applicant to hold at least one public meeting in the Resort area prior to submitting a planned unit development application for any phase of the project in order to solicit further public participation and keep the community informed. The meeting was held at the Resort on February 20, 2015.<sup>3</sup> *Exhibit C1.*
5. Existing development in the Resort Core along the shore of Cascade Bay includes the historic Moran Mansion, 44 hotel units in five separate buildings, two outdoor swimming pools, a conference center building, a historic structure called the Boatel, a separate bar and grill restaurant building, a man-made water feature call Bow Tie Lagoon, driveways, paths, lawns, and landscaping typical of a waterfront vacation resort. The existing

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<sup>3</sup> Of note, a February 4, 2013 administrative determination concluded that the time limitation established in SJCC 18.90.060(1)(1) does not apply to the redevelopment of Rosario, which had been recognized as an existing resort without an approved master plan pursuant to SJCC 18.90.060(A)(2)(b) at the time of the County Council's approval of the RMP in June 2007. *Exhibit C1.*

historic Moran Mansion is in the process of being renovated and remodeled. In addition to the commercial uses in the Resort Core, there are also recreational uses inherent in the upland portion of the waterfront property, including viewpoints, pathways, and other public access features. While there are no publicly owned shorelines within the resort, the resort-owned shorelines have been available to guests and the public since before adoption of the County's shoreline master program. The waterfront location has been a principal attraction, much as the site's historic features are, since Rosario opened; guests are able to arrive by both car and boat. *Exhibits R3, R11 Sheets 3, 5, and 14, and R17.*

6. Land uses surrounding the Resort Core include the marine waters of East Sound to the southwest, south, and southeast. Parcels to the west, northwest, and north of the Resort Core are comprised of lots within the residential subdivision Rosario Estates, some of which are developed with year round and seasonal housing. Land adjacent to the northeast and east of the Resort Core area is owned by the Resort and developed with a hotel and privately owned vacation units in multifamily structures. The Cascade Harbor Inn property, to the southeast of Bowman Creek, is also owned by the Resort. *Exhibits R3 and R11 Sheets 3 and 5.*
7. The Hilltop Employee housing area parcel covers approximately 39 heavily wooded acres abutting Olga Road, from which it takes access. Existing development in the Hilltop Employee housing area includes an employee housing structure consisting of 20 dormitory style housing units accommodating two employees each, for a total of 40 persons. Other existing improvements include an outdoor recreation area, driveway, and parking. All existing improvements on the site are situated in the central portion of the parcel, oriented towards Olga Road. The Hilltop Employee housing parcel contains several wetlands, associated streams, and seepages. *Exhibits R3 and R11, Sheets 16 and 17, Existing Conditions.*
8. The Hilltop Employee housing area abuts Moran State Park to the east and Olga Road to the south. A 10-acre parcel southwest of the site is privately owned, wooded, and undeveloped. Abutting the north boundary to the east is a 20-acre parcel developed with a single-family residence (accessed off of Siskin Lane). The parcel to the northwest is approximately 12 acres on which, at the time of application, a single-family residence was under construction. Both parcels to the north are substantially wooded. *Exhibits R3 and R11, Sheets 16 and 17, Existing Conditions.*
9. Within the area between the Marina East condominium units and the Bowman Bluff Cottages is a privately owned land parcel labeled on the site plans as the Geiser Parcel, which is one of two privately owned parcels within what most people consider the exterior boundary of the Resort site. The other privately owned parcel, the Scharnhorst property and residence, is further southeast along the shoreline and surrounded by the Cascade Harbor Inn property. These two parcels are no longer within the Rosario Resort MPR and have been redesignated as Rural Residential by San Juan County Ordinance 11-2007. The Geiser Parcel is within the Resort Core area of Rosario Resort but not part of

the Resort; its land area was included in the calculation of open space for the Resort. *Exhibits C1 and R3.*

10. No work water-ward of the ordinary high water mark (OHWM) is included in the instant proposal. All improvements constructed or proposed to the existing marina and fish ladder are outside the scope of the instant request for Phase 1 PUD approval. Marina improvements are underway and are expected to be complete by January 2017. *Exhibits R17 and R18; Peacock Testimony; Strandberg Testimony.*

*Proposal*

11. Proposed Phase 1 Resort Core redevelopment includes the following components:

Demolition/Removal:

1. Removal of three existing hotel structures containing a total of 42 units. The existing single-unit Round House Building and existing single-unit Honeymoon Suite would remain.<sup>4</sup>
2. Removal of the Discovery House building, the Boatel building, the Cascade Bay Grill building, and the swimming pool adjacent to the Bar and Grill building.
3. The removal of an existing non-historic office/kitchen addition to the Mansion.
4. Continuation of the renovations underway at the Moran Mansion, designed to retain the architectural character of the historic structure while continuing its traditional function as an historic attraction. Mansion improvements completed or underway include renovation to the dining and kitchen facilities, indoor pool, and spa/exercise area. Additional improvements are scheduled to begin in the near future.

New Structures and Facilities:

1. Hotel/Vacation Units

A total of 95 new hotel/vacation units and two single-family residences are proposed, resulting in a total of 97 new units in the Resort Core area.

- a. Out of the 97 new hotel/vacation units, a total of 55 new resort owned hotel units would be constructed which, in addition to the two existing hotel units (Honeymoon Cottage and Roundhouse), would bring the resort owned hotel unit count to 57 units, being an increase of 13 units from the current 44 units. Of the 55 new units, 19 hotel units are proposed to be located in 19 single-unit cottage style buildings, 28 units are proposed to be located in seven four-plex units, and the remaining eight units are proposed to be located in a single eight-plex structure.

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<sup>4</sup> See Exhibit R4 page 14.

- b. In addition to the 55 new resort owned hotel units, a total of 40 new privately owned vacation units are proposed for the Resort Core. Twenty-two of these units are located at the west end of the Bow Tie Lagoon Green. Twelve vacation units would be located in 12 new single-unit cottages, six more vacation units would be located in two new tri-plex buildings, and four more would be located in a single four-plex unit.
- c. The remaining 18 privately owned vacation units are proposed to be located at the eastern end of the Resort Core. Fifteen of these vacation units would be located in a single new structure. The remaining three vacation units would be located in three detached new single-unit structures at the far eastern end of the Resort Core.
- d. Finally, two single-family residential units on separate lots are proposed on the portion of the resort property that encroaches into the single-family residential area to the west of the entrance drive leading to the roundabout in front of the mansion. These two residential units are the Cliffhouse Court Units shown on the site plan. The units would face west into the adjoining residential area and would access off of Cliffhouse Court, a private dead-end residential street abutting along the west edge of the lots.

## 2. Resort Guest Amenity and Support Structures and Improvements

- a. A new two-story cabana building is proposed to be located at approximately the same location as the existing Boatel structure. The Cabana would serve Resort guests, visiting boaters, vacation unit owners, and eligible local residents of all ages seeking outdoor activities such as swimming, sunbathing, soaking, and casual dining. The new Cabana would feature a bar and grill with outdoor patio seating oriented around a new pool. The upper level of this building is proposed to have interior space for events, weddings, gatherings, etc. This facility would also include showers, restrooms, and locker service for swimmers/marina guests.
- b. Adjacent to the Cabana, a small office/grocery structure for the convenience of Marina and Resort guests is proposed which could also provide another check-in location for future guests in the Hillside Phase 2 master plan redevelopment area.

## 3. Infrastructure Improvements

- a. In addition to the redevelopment items discussed above, improvements to the vehicle and pedestrian circulation system are proposed, including realignment of existing driveways and parking areas. A new path system has been designed to encourage foot travel throughout the Resort Core.
- b. New utility lines would be installed to support the new development and to replace existing lines as necessary to assure reliable sewer, water, and electrical service.

- c. A new stormwater management system meeting state and local stormwater management standards incorporating runoff treatment best management practices is proposed as part of the redevelopment plan.
- d. New landscaping would be installed in areas disturbed by construction, and additional landscape plantings are proposed to enhance the existing landscape. Plants native to the northwest and to the island would be the predominant species.

Areas proposed for redevelopment in the Resort Core were expressly selected to minimize view impacts. *Exhibits R3 and R17.*

- 12. Proposed Phase 1 Hilltop Employee housing redevelopment includes the following components:
  - 1. Forty New Employee Housing Units
    - a. Twenty units would be added in a new building located southwest of the existing dormitory structure.
    - b. Five additional structures are proposed in the form of five resort-owned, detached, single-unit housing units to provide management accommodations.
    - c. The remaining 15 housing units would be located in a separate new building east of the existing dormitory.
  - 2. Additional Amenities
    - a. An employee dining and recreation building is proposed immediately to the south of the dormitory structure.
    - b. New buildings to provide maintenance, laundry, and storage space to support the Resort operation.
    - c. Parking areas to serve the employees and overflow parking for the resort.
    - d. A shuttle service to shuttle employees and overflow parkers to and from the resort center.

*Exhibit R3.*

*Subdivision*

- 13. The proposed subdivision would be known as the Plat of Rosario Point. The property subject to the plat application is comprised of five existing tax parcels covering 20.7 acres. The land area within the boundary of the proposed plat is greater than the area

included within the boundary of the proposed PUD because the PUD boundary crosses through an existing tax parcel. Thirteen lots are proposed to be created, ranging from 0.2 to 7.4 acres, as follows:

- Lot 1 (7.4 acres) includes the Moran Mansion and grounds and the proposed Resort owned hotel units.
- Lots 2 and 3 (0.3 acres each) would each contain one of the two Cliffhouse Court single-family residences.
- Lots 4, 5, and 6 (0.6, 0.6, and 0.5 acres respectively) are proposed to be developed with privately owned vacation units, whether condominiums or other multifamily structures. Future applications for subdivision of these three lots may be submitted to better facilitate the creation of vacation unit development.
- Lot 7 (4.4 acres) contains the proposed PUD activity center, including open space, outdoor event space, the swimming pool, and the cabana building.
- Lot 8 (0.7 acres) would contain the site of the Marina Village East condominium vacation units.
- Lots 9, 10, and 11 (0.2 acres each) are the sites for the Bowman Cottage privately owned vacation units.
- Lots 12 and 13 (0.8 and 4.3 acres respectively) are not proposed for development under the Phase 1 PUD. They are remainder lots resulting from the creation of the Bowman Cottage vacation unit sites in the PUD.

The subdivision is proposed to be developed in phases. Division 1 would include Lots 1, 4, 5, and 6, and possibly also Lots 2 and 3. All remaining lots would be included in Division 2. The lot numbering scheme may change at final plat for each phase to avoid confusion. *Exhibits C1, R5, R6, and R7.*

14. The record contains a letter from Washington Water Service Company indicating that sewer and water service is available to serve the proposed redeveloped resort. *Exhibit R19.*
15. The traffic consultant that prepared the traffic impact assessment provided during the development of the Resort Master Plan, provided a report evaluating the original traffic study with regard to presently proposed improvements and resulting new traffic. This updated traffic report concluded that the development proposed in the instant Phase 1 proposal is, for the purposes of traffic study, essentially the same as that contemplated in the original traffic study: the road network and parking provided are unchanged; the 2012/2013 trip volumes were substantially lower than those projected for 2010,

suggesting that no background traffic conditions planned for have materialized; trip generation and distribution characteristics remain unchanged from the time of the original study; and safety conditions have not changed. In summary, the updated letter concluded that the findings of the original traffic study remain valid and no changes in the traffic mitigation required under the earlier study are necessary as a result of the current proposal. Mitigation measures implemented through the RMP conditions of approval would remain in effect. *Exhibits R17 and R19.*

#### *Shoreline Permits*

16. Pursuant to SJCC 18.50.220(B)(2), a shoreline conditional use permit (SCUP) is required for all commercial development in the Rural shoreline environment. The standard setback from the ordinary high water mark (OHWM) required for commercial development in a Rural shoreline environment is 100 feet; however, a smaller setback can be approved through shoreline conditional use review. The proposed redevelopment would develop new commercial uses in the Resort Core, some of which are proposed to be within 50 feet of the OHWM, including a proposed 22-foot setback for the eastern Marina Village West vacation unit building and a proposed 35-foot setback for the western Marina Village West attached vacation unit building.<sup>5</sup> The requested setback reductions are consistent with the setbacks established in the Resort Master Plan, which stipulated that such reductions would SCUP review. *Exhibits C1, R8, and R14 (see R14, page 41).*
17. Specific development activities proposed within shoreline jurisdiction in the instant project include:
  1. Shoreline Activities Related to Existing Structures
    - a. Removal of three existing hotel structures containing a total of 42 units. The existing single-unit Round House Building and existing single-unit Honeymoon Suite would remain.
    - b. Removal of the Discovery House building, the boatel building, the Cascade Bay Grill building, and the swimming pool adjacent to the Bar and Grill building.
    - c. The removal of an existing non-historic office/kitchen addition made to the Mansion.
    - d. Continuation of the improvement program underway at the Moran Mansion. The program is designed to retain the architectural character of this historic structure and to continue its traditional function as an historic attraction to the public. Mansion improvements completed or underway include renovation to the dining

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<sup>5</sup> Two existing structures that are being retained, the Round House and the Honeymoon Suite, are both already located within 50 feet of the OHWM. *Exhibit R14, Sheets 17 and 41.*

and kitchen facilities, indoor pool, and spa/exercise area. Additional improvements are scheduled to get underway in the near future.

## 2. New Structures and Facilities in the Shoreline

### a. Hotel/Vacation Units

A total of 95 new hotel/vacation units and two single-family residences are proposed, resulting in a total of 97 new units in the Resort Core area. (Three of these units are located further than 200 feet from the OHWM).

- i. Of the 97 new hotel/vacation units, a total of 55 new Resort owned hotel units would be constructed which, in addition to the two existing hotel units (Honeymoon Cottage and Roundhouse), would bring the Resort owned hotel unit count to 57 units, an increase of 13 units from the current 44 units. Of the 55 new units, 19 hotel units would be located in 19 single-unit cottage style buildings (single-unit mansion cottages), 28 units (multi-unit mansion cottages) would be located in seven four-plex units, and the remaining eight units would be located in a single eight-plex structure.
- ii. In addition to the 55 new Resort owned hotel units, a total of 40 new privately owned vacation units are proposed for the Resort Core. Twenty-two of these units are located at the west end of the Bow Tie Lagoon Green. Twelve vacation units are proposed to be located in 12 new single-unit cottages, six more vacation units are proposed to be located in two new triplex buildings, and four more are proposed to be located in a single four-plex unit.
- iii. The remaining 18 privately owned vacation units would be located at the eastern end of the Resort Core. Fifteen of these vacation units would be located in a single new structure. The remaining three vacation units would be located in three detached new single-unit structures at the far eastern end of the Resort Core (Bowman Cottages).
- iv. Finally, two single-family residences on separate lots are proposed to be constructed on the portion of the Resort property that encroaches into the single-family residential area to the west of the entrance drive leading to the roundabout in front of the mansion. These two residential units are the Cliffhouse Court Units shown on the site plan (one of these units is located within 200 feet of the OHWM). The units would face west into the adjoining residential area and would access off of Cliffhouse Court, a private dead-end residential street abutting along the west edge of the lots.

### b. Resort Guest Amenity and Support Structures and Improvements

- i. A new two-story cabana building would be located at approximately the same location as the existing Boatel structure. The Cabana would serve Resort guests, visiting boaters, vacation unit owners, and eligible local residents of all

ages seeking outdoor activities such as swimming, sunbathing, soaking, and casual dining. The new Cabana would feature a bar and grill with outdoor patio seating oriented around a new pool. The upper level of this building is proposed to have interior space for events, weddings, gatherings, etc. This facility would also include showers, restrooms, and a locker service for swimmers/marina guests.

- ii. Adjacent to the Cabana a small office/grocery structure is proposed for the convenience of Marina and Resort guests which could also provide another check-in location for future guests in the Hillside Phase 2 master plan redevelopment area.

c. Infrastructure Improvements

- i. In addition to the redevelopment items discussed above, improvements to the vehicle and pedestrian circulation system are proposed, including realignment of existing driveways and parking areas. A new path system has been designed to encourage foot travel throughout the Resort Core. Most of the proposed parking areas are further than 200 feet from the OHWM.
- ii. New utility lines are proposed to be installed to support the new development and to replace existing lines as necessary to assure reliable sewer, water, and electrical service.
- iii. A new stormwater management system meeting state and local stormwater management standards incorporating runoff treatment best management practices is proposed as part of the redevelopment plan.
- iv. New landscaping would be installed in areas disturbed by construction and additional landscape plantings are proposed to enhance the existing landscape. Plants native to the northwest and to the island are proposed to be the predominant species.

*Exhibits C1, R8, R10, and R11.*

*Critical Areas and Archaeological Resources on-Site*

- 18. Pursuant to SJCC 18.35.025(A), existing uses, structures, and development within the Rosario Resort Core (shoreline) area are allowed to continue as conforming uses and may be redeveloped or modified if the redevelopment or modification is consistent with applicable requirements of the shoreline master program and the proposed redevelopment or modification would result in no net loss of shoreline ecological functions. The Applicant's submittal included a professionally prepared critical areas report addressing the environmentally sensitive areas within the project site that are regulated pursuant to the County's critical areas ordinance. In the existing condition within the Resort Core project area, the nearshore is affected by historic development and ongoing activities

including an active marina, a fuel dock, and a floatplane docking facility. Onshore within the Rural shoreline environment, existing buildings, roofs, roads, and parking lots have no stormwater treatment. Generally, the project proposed to ensure no net loss of ecological function by providing stormwater management and treatment for retained and redeveloped structures and uses, through specific construction and design techniques, and by implementing best management practices. The following findings summarize critical areas on-site, whether or how proposed development affects them, and recommended mitigation to address impacts to a point of no net loss of ecological function. *Exhibits C1 and R16.*

19. Geologic Hazards: At the time the Hilltop Employee housing parcel was partially developed with the dormitory, parking lot, driveway, utility corridor, lawn, and a large clearing, a large terrace and cut slopes were excavated and graded. According to the Applicant's critical areas study, the Hilltop parcel shows no sign of apparent geologic hazard within the area proposed for new or redevelopment, except that soil maps indicate that slope, depth to bedrock, and depth to saturated layers could be limiting factors. Proposed development in the Hilltop Employee housing parcel would border areas with steep slopes and erodible soils. The critical areas report recommended that site specific geotechnical analyses of the areas proposed for improvements be conducted and the recommendations of such analyses be implemented during engineering and design. *Exhibit R16 (page 5).*
20. In the Resort Core north of the marina, the proposed marina view residential units, expanded parking, and other new development or replacement structures are proposed on moderate to gentle slopes; no geologic instabilities have been identified. The County soil maps indicate similar limitations for the soil in this area as on the Hilltop parcel. While no direct geologic hazards were identified, the report recommended geotechnical analysis for building foundations and roads to provide specific data on the extent of limitations for design and engineering components of proposed improvements. The report also recommended that a minor seasonal seepage in the vicinity upgradient of the Figure 8 pond and near the west end of the shuffleboard court could be further evaluated during such an analysis and noted that the marina terrace also contains archaeological deposits that would influence redevelopment. The Applicant submitted and Planning Staff concurred that both the Resort Core area and the parcel proposed to be developed with the Bowman Bluff cottages are existing development areas within 200 feet of the marine shoreline OHWM that have been previously cleared, developed, and/or maintained for the last century, qualifying for redevelopment and modification consistent with SJCC 18.35.025.A, discussed in Finding 16 above. *Exhibits R16 and C1.*
21. With regard to regulated frequently flooded areas, the Resort Core development abutting Cascade Bay is built within a special flood hazard zone identified by the Federal Insurance Administration on its Flood Insurance Rate Maps (FIRMs). The Applicant commissioned a professionally prepared habitat assessment for fisheries concerns, which concluded that impacts to listed species and habitats from redevelopment within the 100-year floodplain would be insignificant. This report is included as an appendix to Exhibit

RR-6. New developments in areas of special flood hazard must meet the requirements of SJCC 18.35.075, which in turn requires compliance with the requirements of applicable County Code subarea or activity center plans, the County health and building codes in Chapters 13.04 and 15.04 SJCC, respectively, and the requirements for floodproofing or construction established in Chapter 15.12 SJCC, Flood Hazard Control Regulations. There are no feeder bluffs on the subject property. *Exhibits R16, R17, and C1.*

22. All San Juan County terrestrial lands are regulated as critical aquifer recharge areas. Development, redevelopment, and operational activities must be conducted to prevent contamination of ground or surface waters. The Applicant's critical areas study acknowledged that where redevelopment activities could utilize solvents, petroleum products, or other potentially hazardous chemicals, the Applicant would be required to prepare and implement approved spill containment and waste disposal plans consistent with SJCC 18.35.080. *Exhibit R16.*
23. As noted previously, the Hilltop Employee housing parcel contains wetlands, three of which were identified and delineated within 300 feet of the proposed improvements. Existing development on this parcel includes a dormitory-style building, gravel parking lot, an unimproved driveway, and an actively managed clearing around the building and driveway. The parcel also contains two seepage complexes and several small Category III and IV wetlands located 315 to 950 feet from all proposed development and redevelopment activities. Wetland A, west of the existing dormitory and driveway, is closest to project activities. As a Category III wetland, it requires a 150-foot buffer, which in the existing site conditions extends to the edge of the access road (to be retained) and to the edge of the northwest work area clearing (north of the driveway, northwest of the parking lot) where new improvements are proposed. It is anticipated that buffer width would be reduced by approximately 10 to 20 feet as a result of development activities; however, there is a moderate rise in topography between the wetland and the proposed development site that would cause runoff from construction to be unable to reach the wetland. Wetlands were not encountered in the Resort Core project area. *Exhibits R14 Sheets 50 and 51, and R16.* Planning Staff determined that required wetland buffers would be provided consistent with the County's critical areas standards by the proposal. *Exhibit C1.*
24. With regard to fish and wildlife habitat conservation areas (FWHCA), the Resort Core project area abutting and in Cascade Bay has long been developed with numerous buildings, restaurants, the marina, homes, condominiums, apartments, parking lots, and open and landscaped areas. According to the Applicant's critical areas review, the built Resort Core environment lacks terrestrial FWHCAs. Two types of aquatic FWHCAs occur within the Resort development area: a seasonal stream known as Bowman's Creek and the Bay's nearshore marine waters. New cottages and condominiums proposed west of Bowman's Creek in the approximate location of the existing swimming pool and shuffleboard court, new hotel buildings, new structures in place of the Boatel building, and parking expansion would be developed adjacent to or in the vicinity of these FWHCAs. Once again, pursuant to SJCC 18.35.025(A), the existing uses and structures

comprising the Resort that were legally within the shoreline vested on or before the effective updates of the County's critical areas ordinance and may be redeveloped or modified provided redevelopment maintains consistency with the County's shoreline master program and there would be no net loss of shoreline ecological functions. The Applicant asserted, and Planning Staff concurred, that strict adherence to best management practices to avoid and minimize erosion and sedimentation during construction, and implementation of an approved stormwater management plan, would maintain current ecological functions in both the offshore marine habitat and within the lowest reach of Bowman's Creek. *Exhibits C1 and R16.*

25. The Hilltop parcel contains two aquatic FWHCAs consisting of two non-fish bearing seasonal streams within 200 feet of the development area. Both streams require a 100-foot undisturbed buffer. The larger of the two streams occurs further west of the parcel's primary driveway; most segments of this stream are located more than 200 feet from the driveway; this stream's 100-foot buffer, which extends through on-site coniferous forest, would be retained unchanged. The second, smaller seasonal stream occurs northwest of the Hilltop parcel's development area. Historically, this smaller stream was ditched at the point it entered the property in order to route water easterly around and through the development area. Some portions of this ditched seasonal stream pass through buried tightlines. This smaller stream also requires a 100-foot water quality buffer when adjoining natural areas, and the existing 100-foot buffer of the stream's northern natural (unditched) portion would not be altered by the proposal; however, the ditched segment bisecting the development area does not require undisturbed buffers. In the existing condition, the ditched portion of the stream is within 100 feet of the existing dormitory and access/parking areas. Proposed new improvements within 100 feet of the ditched stream segment would include new access/maneuvering for the existing dormitory and a future employee building with access driveways. *Exhibits R14 (Sheets 50 and 51) and R16.* Planning Staff submitted that development in the vicinity of the FWHCAs of the Hilltop parcel would comply with applicable critical areas provisions. *Exhibit C1.*
26. Due to the 1978 listing of the property on the National Register of Historic Places and the presence of a previously recorded prehistoric archaeological site at the resort, 45SJ242, the Applicant commissioned a professionally prepared cultural resources assessment and archeological site survey. The prehistoric site had not been previously formally evaluated. The Applicant's consultants conducted a surface survey of the Resort Core in August 2014 and a subsurface survey in September 2014 in order to determine the extent and nature of archaeological material within the Resort Core. Material observed during extensive auger probe/shovel turnover field survey included shell, mammal, fish, and bird bone; one lithic flake; fire-modified rock; charcoal; and ashy and organically stained sediments. One possible combustion feature was encountered. Historic items including a clay pipe stem and two square nails were found. The survey enlarged the boundaries of 45SJ242 south and west of the marina onto Rosario Point and found that both disturbed and apparently intact prehistoric cultural deposits remain at the resort. They survey also identified a small historic component. In general, areas containing the majority of intact shell midden deposits are in the main waterfront area east of the Family Swimming

Pool/Bathhouse and marina, extending from about 12 meters inland from the shoreline bulkhead to about 25 to 30 meters from the shore in most places. The extent of the archaeological site within the Resort Core suggests that some proposed redevelopment activities have the potential to adversely affect site 45SJ242. The report concluded with management recommendations including archaeological monitoring of construction in areas within and near the site, with possible testing and, if potentially intact archaeological deposits are encountered that cannot be avoided, mitigation in the form of data recovery excavations. These results suggest that site 45SJ242 is eligible to the National Register of Historic Places based on its potential to yield important information on prehistoric economies and land use. *Exhibit R18.*

*Compliance with the 2007 Resort Master Plan*

27. The Applicant submitted a document containing a consistency analysis that reviewed the proposal's compliance with each of the 26 conditions of approval imposed through the 2007 Resort Master Plan ordinance and identified how the mitigation measures imposed in the RMP's Final EIS would be implemented as appropriate in the instant permits. *See Exhibit R17.* The consistency analysis indicated instant PUD, plat, and shoreline permit applications fulfill the requirement of RMP conditions 3 and 4, and the uses and bulk dimensions of structures proposed were based on RMP Chapter 6 and RMP Section 7.1's description of the "first phase of development" pursuant to the approved RMP. The County conducted SEPA review and adopted existing environmental documents, consistent with RMP condition 6. The required public meeting addressing the Phase 1 proposal was conducted on February 20, 2015, fulfilling RMP condition 7. The Applicant acknowledges the limitation imposed by RMP condition 8 on the use of condominium vacation units as a primary residence of the condominium owner and that the only exceptions are for the Cliffhouse Court residences and employee housing and that this requirement would be a condition of PUD approval. The state-approved wastewater treatment system plan for the Rosario sewer system submitted with the concurrency analysis in Exhibit R19, consistent with RMP condition 9. *Exhibits R17, R19, R21, and R22.*
  
28. Applicant consultants submitted a stormwater management plan consistent with RMP condition 10, which was subsequently approved by the County Stormwater Engineer, as detailed below. The intersection of the Hilltop access road and Olga Road was studied and designed consistent with safety recommendations of the study, in fulfillment of RMP condition 11. Food service and recreation facilities sized to adequately serve the needs of all employees residing on-site are proposed concurrently with the expansion of employee housing, implementing RMP condition 12, and employee rules of conduct have been submitted, implementing RMP condition 13. The employee housing area and support functions are substantially consistent with the Hilltop Concept Plan approved in the Resort Master Plan, consistent with RMP condition 14. However, to protect the park entrance and minimize intrusive visuals of human activity in an otherwise natural setting, the RMP's site plan for the Hilltop was redesigned to move the maintenance buildings further away from the park boundary and entrance and vegetative screening along the

Olga Road frontage would screen the maintenance facility from the road. *Exhibits R11, R15, R17, R19, and R20.*

29. The required emergency helicopter landing site is shown on the Fire and Emergency Access Plan, and maintenance standards for the helicopter landing area are included, fulfilling RMP condition 15. Transportation improvements and management required by the FEIS would be implemented through a transportation management plan overseen by a Transportation Coordinator and would include measures to manage (reduce or divert) traffic demand and to install physical improvements such as signage and road surface markings to alert drivers to impending sight distance limitations and horizontal curves on Rosario Road. The transportation management plan would be prepared in consultation with the County Public Works Department and all applicable improvements installed prior to final plat approval, thereby implementing RMP condition 16. *Exhibits R14 and R17.*
30. RMP condition 17 imposes a requirement that the Moran Mansion be renovated in the first PUD application for development of more than the two Cliffhouse Court homes. Requirements of condition 17 include: a) a plan for renovation of the Mansion adequate to ensure a useful life of at least 50 years; and b) a proposed construction schedule that restricts the pace of resort development such that the Mansion rehabilitation is prioritized in time. Addressing condition 17, the Applicant noted that the rehabilitation of Moran Mansion is currently under way, driven by the need to retain the architectural character of the historic structure to continue its function as an historic public attraction. Ongoing renovations include recently completed improvements to the dining and kitchen facilities, indoor pool, and spa/exercise area. Additional renovation/remodeling in Phase 1 would include a redevelopment of the mansion entry point, proposed to include a covered pickup and drop off area (port cochere), renovation of the circular arrival drive, rehabilitation of selected exterior surfaces, new landscaping, and improvements to the pool area. Proposed improvements are intended to extend the useful life of the structure by at least 50 years. *Exhibits R11, R14, R17, and R21.*
31. In conformance with RMP condition 18, the removal of the shoreline revetment and restoration of the shoreline in the Resort Core to a natural condition is not proposed in Phase 1, because it cannot be completed until the marina is provided with the proposed floating breakwater in a future marina expansion. However, rehabilitation of the shoreline above the ordinary high water mark, including construction of paths, landscaping installation, and other shoreline restoration landward of the OHWM to improve public access along the waterfront, is proposed in the instant project. Consistent with RMP condition 19, the Mansion remains open consistent with public safety during construction. *Exhibits R11, R14, and R17.*
32. In order to provide for adequate short term visitor accommodations, RMP condition 20 requires notice on the title of properties within the shoreline jurisdiction of a restriction to commercial use, with which the instant proposal would comply. RMP condition 21 establishes setbacks for uses restrictions on numbers of certain types of lodging units

within the shoreline jurisdiction. As proposed, the Bowman Bluff Cottages meet the required 50 foot setback. Architectural techniques and landscaping consistent with the above requirements will be described and included in future building permit applications. The number of Luxury Waterfront Cottages provided in the RMP, now named simply hotel cottages, has increased from seven to nineteen. The 12 additional hotel cottage units replace 12 of the proposed 24 units approved in a proposed multistory addition to the Moran Mansion. As explained in the consistency analysis, the originally envisioned multistory Mansion addition was determined to be architecturally unappealing, adversely affecting the visual character of the historic structure. The instant proposal changes the units from the approved multistory hotel addition to dispersed detached single hotel units distributed around the Mansion. All are proposed landward of the 50-foot setback line consistent with RMP condition 21a. It is intended that the view of the small, detached, one story cottages from the water would be more in character with the developed shorelines of the islands, and would help preserve the primacy of the Mason Mansion's presence. Consistent with RMP conditions 21b, they would be landscaped with native vegetation to provide partial visual screening and designed with the architectural techniques described in Exhibit 5-10 to make them less visible from the water. Consistent with RMP condition 21c, the two story four-plex Waterview Cottage units (renamed hotel cottages) have a 75 foot setback. *Exhibits R11 and R17.*

33. In fulfillment of RMP Condition 23, the instant applications for Phase I resort redevelopment include the removal of 42 of the existing 44 hotel units and the construction of a total of 97 new units, which would result in a total unit count of 99 through Phase I. The remaining 41 units approved in the Resort Master Plan would be developed in a later phase. Compliance with RMP condition 22's requirement for building sprinklering, including the renovated Mason Mansion, would be reviewed and ensured through building permit processes. The Applicant's consistency analysis acknowledged that failure to comply with the RMP conditions would be grounds to withhold new building permits within the MPR, to initiate proceedings to revoke or modify approval of the Master Plan, or to take other enforcement action (RMP condition 24), that the RMP did not waive required permits or constitute approval of any specific development (RMP condition 25), and that all future development must comply with the RMP conditions of approval (RMP condition 26). *Exhibit R17.*

#### *Procedural Findings*

34. The PUD, preliminary subdivision, and shoreline permit application materials were submitted to the County on March 11, 2016 and deemed to be complete on May 18, 2016. *Exhibits C1, R1, R5, and R8.*
35. Pursuant to the State Environmental Policy Act (SEPA), San Juan County was designated lead agency for review of the proposal's probable, significant, adverse environmental impacts. Rosario Resort Master Plan Condition 1 requires all new development, renovation of existing development, and operation and uses of the Rosario Master Planned Resort to be consistent with the provisions of the approved RMP and to follow the mitigation measures identified as "Option B" in the final environmental impact

statement. Condition 6 requires that each PUD or phase of a PUD shall be subject to environmental review under SEPA and acknowledged that the environmental documents prepared during RMP review could be adopted by reference. San Juan County did adopt the previously prepared environmental documents in its mitigated determination of non-significance (MDNS), dated May 18, 2016, to which was appended a summary of impacts, mitigation measures, and other management practices from the Rosario RMP Chapter 7. No comments were submitted on the MDNS during the comment period that extended through June 1, 2016. *Exhibits C1 and C1.2.*

36. On May 18, 2016, the Department of Community Development requested comments from the following agencies: San Juan County Public Works, San Juan County Fire Marshal, University of Washington Friday Harbor Labs, and Washington State Department of Ecology. On September 2, 2016, Department Staff asked the Department of Archaeology and Historic Preservation, the Samish Tribe, and the Lummi Nation to review the archaeology report. *Exhibits C1, C1.1, and C1.11.*
37. Noting that they had previously participated in the development of the Resort Master Plan, University of Washington Friday Harbor Labs submitted comments opining that the proposed mitigation measures appeared adequate to reduce impacts to marine and nearshore areas to a point of non-concern. *Exhibit C1.6.*
38. Washington State Department of Ecology commented that the proposal may be subject to a National Pollutant Discharge Elimination System General Permits for Stormwater Discharges. *Exhibit C1.7.*
39. The San Juan County Public Works Stormwater Engineer reviewed the conceptual stormwater management plans for the proposed development in both locations (Resort Core and Hilltop parcel) proposals and approved them, based on their compliance with the 2005 Stormwater Management Manual for Western Washington, with the understanding that the plans would be finalized for phased development and submitted for final engineering approval with future building permits. *Exhibit C1.8.*
40. San Juan County's Public Works Project Engineer reviewed the preliminary subdivision and all development proposed with the instant Phase I PUD and approved them subject to conditions addressing the following:
  - a. Requiring an update of the 2005 traffic safety study to be performed for the Olga Road intersection to the Hilltop site and along Rosario Road and implementation of any safety improvement recommendations;
  - b. Approval of a right-of-way access permit application for the private road access to the Hilltop site;

- c. Expansion of the existing right-of-way along the County roads abutting the parcels being developed to 30 feet measured from the existing County road centerline and dedication of needed right-of-way on Olga Road;
- d. Development of all affected existing and proposed private roads to comply with County road standards;
- e. Development of affected existing and proposed parking areas to comply with current County parking standards; and
- f. Revised, current concurrency evaluation.

The County Engineer's comments acknowledged that plat approval included reliance on the information the Applicant provided regarding the 1891 Road #1. *Exhibit C1.9.*

- 41. The San Juan County Fire Marshal reviewed the proposed plat and PUD and submitted comments indicating that the proposed hydrant locations depicted on the Fire Access Diagram (Exhibit R14 page 37) do not meet the requirements of San Juan County Code 13.08.130. He recommended a condition requiring that no hydrant shall be located in excess of 10 feet from the edge of any given road. *Exhibit C1.10.*

*Public Comment*

- 42. The County received public comments on the proposed redevelopment before, during, and after the public hearing. Pre-hearing comments involved the following concerns. One comment letter, from Merrill Leonard, was a courtesy notice from one neighbor to other neighbors about the public hearing. Ms. Leonard's main concern her opinion that addition measures are needed for providing respectful historic preservation stewardship for the Moran Mansion and the Bow-tie feature. Patrick Kirby submitted comments on the fire access plan, alleging discrepancies from code requirements, which were subsequently confirmed by the Fire Marshal. Brad Henke, through an agent, submitted concerns about whether the application would make any changes to an existing easement between the subject property and his. Community Development Staff responded, assuring Mr. Henke's agent that the easement would remain intact following approval. *Exhibits C1, C1.10, C1.11, C1.12, C1.13, C1.14, and C1.15.*
- 43. Prior to the hearing, the County received comments from the Conver Family through their attorney, Ken Davidson expressing concerns about the following. Project plans show a path across Lot 18, Conver Family property, for use by shuttles and service vehicles. Mr. Davidson disputed the Resort yet has legal authority to place such a path on Conver Family property, although discussion between the parties have begun, and argued that the plat cannot be approved absent a showing of a legally recorded easement. He requested a condition of approval requiring the Applicant to revise the Resort Core circulation plan to include vehicular access to the Conver Family property (Lot 18), which is now vacant but will someday develop. *Exhibit C2.*

44. During the public hearing, neighboring property owner Merrill Leonard submitted additional public comment questioning whether historical integrity of the property would be maintained. Her specific concerns related to the plan to construct a port cochere on Moran Mansion and the location of the swimming pool in the Bow-tie pond area. She noted the 2007 Rosario Resort Master Plan clearly stated the standards of the Secretary of Interior are to be followed. Ms. Leonard also expressed concern with moving uses from west to east due to increased impacts to the nearby residences, and about adding new structures within a recreation easement area that is encumbered by use rights afforded to the homeowners with Rosario Estates. *Leonard Testimony; Exhibit C5.*
45. At hearing, neighboring property owner Tom Wheeler testified that he liked the cottage design and was pleased with the change from the original master plan. However, he cautioned that correct procedures be followed and mitigation measures be carefully implemented and/or enforced, noting that Eastsound is extremely sensitive and fragile. He testified that boat dumping has been known to occur. *Wheeler Testimony.*
46. Attorney Michael Murray provided comment at hearing objecting to the construction of the proposed port cochere on Moran Mansion, stating it is not consistent with the character of the building and arguing that the master plan requires the preservation of the mansion's historic character. He stated he had been involved in the renovation of the roundhouse and generally supports the renovation of the mansion, but he argued there should be a requirement for consultation for historic preservation. He testified that the Boatel should have been removed years ago. He questioned whether the Bow-tie feature is subject to the existing easement, noting property owners have had "free use of the recreation area" and maintenance in the area (c1.15) as in the original plat (easement 20040820033). *Murray Testimony.*
47. The County received comments on the proposal from Washington Department of Archaeology and Historic Preservation (DAHP), specifically calling out Chapter 3, Goal 2, Objectives 2.1, 2.2, and 2.3 of the 2007 approved Resort Master Plan (RMP). DAHP characterized the proposal, with relationship to the existing historic resources on-site, as a Rehabilitation, "characterized by identifying and preserving prominent character defining features of a National Register listed property while making carefully selected alterations in order to accommodate for modern needs such as code upgrades or change of use." DAHP opposed some of the proposed changes, arguing they would not be consistent with the *Secretary of the Interior's Standards for Rehabilitation* applicable to listed buildings. Specifically, DAHP objected to the proposed port cochere<sup>6</sup>, which they argued would compromise the historic integrity of the mansion, and asserted that the proposed large additions to the sides of the Mansion should be sited or scaled differently to allow the front of the mansion to remain the key centerpiece of the development. DAHP opposed the addition of site elements around the Bow-tie pond, which they asserted would

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<sup>6</sup> The examiner notes that a port cochere is typically a covered entrance large enough for vehicles to pass under, opening into a courtyard, for the purpose of allowing guests and luggage to be out of the rain while transferred into the main structure.

compromise the integrity of "this important original landscape feature", and argued that demolition of the Boatel would compromise "the overall integrity of the historic district." To address these concerns, DHAP highly recommended the Applicant obtain the services of a professional consultant or architect who meets the *Secretary of the Interior's Professional Qualification Standards* with extensive professional experience rehabilitating historic sites and structures. With regard to archaeological resources, DAHP also an archaeological boundary determination and formal testing take place under a DAHP permit in order to characterize and define the site area proposed for development. *Exhibit C4.*

48. During the hearing, a letter was submitted from the Washington Trust for Historic Preservation, addressing concerns related to proposed changes to the Mansion with respect to Resort Master Plan Goal 3, Objective 2, which "highlights not just the historic buildings..., but the integration of the historic buildings with significant landscape features and retention of the overall natural splendor of the site." The Trust objected to the port cochere, to what they described as incompatible landscaping elements, and to the demolition of the Boatel. The Trust seconded DAHP's strong recommendation for the retention and use of the services of a qualified professional historic preservation consultant and compliance with the *Secretary of the Interior's Standards for Rehabilitation*, noting that such compliance retains the resort's eligibility for certain tax-based incentive programs. *Exhibit C7.*
49. After the hearing, members of the public who were present were given the opportunity to submit additional written comments in response to some of the comments entered in the record at hearing. *See Post-Hearing Order.* Michael Murray submitted additional comments on behalf of the Crawfords, owners of Rosario Estates Lot 38, who noted that they concurred generally with the comments from DAHP and the Washington Trust for Historic Preservation. The Crawfords requested conditions of Phase I PUD, preliminary subdivision, and shoreline permit approval requiring: compliance with RMP's conditions of approval; retention of the existing entry elevation to the Mansion without a port cochere or changes to the historic details of the entry elevation; retention of the entry elevation to the Bow Tie lagoon without addition of other features that change the historic details of the entry elevation; and requiring that any proposal or application for permit or other approval that would have the effect of modifying or violating the Resort Master Plan shall require an application for amendment of the approved Resort Master Plan. *Exhibit C8.1.*
50. During the post-hearing public comment period, the County also received one comment in favor of approval from Dick Hansen, who claims that he and his wife are the closest full time year round residents to the current and proposed swimming pool locations. Mr. Hansen wrote that the swimming pool new location would not increase existing noise from the resort's pool at their property. He stated that the addition of a port cochere to the Mansion would be a minor change compared to the large building additions and that functionality for current and future use of the structure should be given some weight. *Exhibit C8.2.*

*Applicant Responses to Public Comment*

51. The Applicant was afforded an opportunity to respond to the public comments provided at and after the hearing. An Applicant representative provided written responses to the Conver Family letter prior to hearing, indicating that the proposed interior roads have been modified to provide the access requested in Mr. Davidson's letter of September 8, 2016. The Applicant's response did not dispute the assertion that no easement has yet been obtained to use the proposed area across Lot 18 for shuttle and service vehicles, and did not object to a condition requiring the access be legally obtained via easement prior to plat approval. The Applicant representative noted there is already easement area reserved on Lot 18 for the benefit of the resort. *Exhibit C3*. In a post-hearing additional response to the Conver Family letter (*Exhibit C2*), the Applicant acknowledged, again, that a formal agreement should be reached if the Resort intends to access across Lot 18 to reach the "Mansion Cottages" and noted that discussions have been initiated and at the time of comment were ongoing. Regarding the request to relocate the main shuttle/service vehicle route or obtain an easement, the Applicant agreed, but noted that agreement to the requests was not intended to preclude use of any access or easement rights reserved (to Rosario) that may currently exist on Lot 18, or other legal remedies. With regard to the request for a condition requiring revision of the circulation plan to include vehicular access to Lot 18, the Applicant commented that the plans shown in *Exhibit R14* (page 33 Circulation Plan and page 37 Emergency Access Plan) demonstrate compliance with this Conver Family request, asserting that the circulation plan in the application would not modify access so that it no longer touches Lot 18. No change to the plan or added condition is necessary. *Exhibit C9*.
52. In response to DAHP's comments, the Applicant asserted that while Resort Master Plan Chapter 3 clearly enumerates goals and objectives for Rosario's redevelopment, it expressly "does not establish standards for design or the location of uses in the Resort", and argued that any reference to RMP Chapter 3 should be reviewed in context with RMP condition 2, which states:

Chapters 1 through 3 of the Master Plan provide introductory and background information about the Resort and about the development of the Master Plan. These chapters do not establish standards for design or the location of uses in the Resort but may be used to interpret or clarify the intent of the requirements in the redevelopment concept as set forth in Chapter 4 of the Plan, the design and functional elements as set forth in Chapter 5 of the Plan, the development standards and land use requirements of Chapter 6 of the Plan, and phasing and implementation provisions of Chapter 7 of the Plan.

*Exhibit C9, citing Exhibit R21.*

53. With respect to the comments and assertions of both DAHP and the Washington Trust for Historic Preservation, the Applicant submitted that in order for the historic Moran Mansion, its accessory structures, and landscape features to remain accessible to the public, Rosario Resort must be a financially viable business. This fact was

acknowledged in the 2006 Final Environment Impact Statement (FEIS) in its No Action alternative analysis.

#### 3.8.2.1 No Action Alternative

##### Historic Resources

As long as Rosario Resort and Spa remain operational, existing historic resources would likely continue to be protected and displayed to the public. Rosario is proud of its listing on the National Register of Historic Places which it prominently displays on all its literature. Rosario is also a member of the Historic Hotels of America. The Historic Hotels of America is a program of the National Trust for Historic Preservation for a limited number of quality hotels that have faithfully maintained their historic architecture and ambience. To be selected for this program, a hotel must be at least 50 years old, listed in or eligible for the National Register of Historic Places or recognized locally as having historic significance.

Unfortunately financial limitations have prevented Rosario from undergoing overdue maintenance projects such as replacement of the Mansion's heavily weathered copper roof or upkeep of the long-vacant Boatel building. Though falling short of an adverse effect classification, such maintenance concerns threaten the long-term viability of the Resort's historic legacy unless substantial investments are made by the Resort's owners. Because both of these projects would require substantial investments but offer little opportunity for new revenue, neither project is likely to get funded.

One potential scenario is closure of Rosario Resort. This would likely pose a significantly greater threat to historic resources at Rosario that may not be avoidable. The Mansion and other contributing historic resources suffered damage during previous closures and irreplaceable artifacts from the Moran period were lost or stolen. Without the substantial marketing and financial incentives offered by Rosario's listing on the National Register or membership in the Historic Hotels of America, future owners would likely be less inclined to protect and restore unique historic resources. Even if they did, privatization of the property could make these cultural treasures inaccessible to the public.

If the property were subdivided into a collection of private residential estates permissible under a Rural – R land use designation, the expansiveness and contiguity of the historic landscape would be lost and replaced with new, private individual developments.

The Applicant asserted that the proposal's primary goal is to remedy the Resort's programmatic and operational shortcomings in order to protect the Resort's historical resources and contribution to the community into the future. *Exhibit C9, citing Exhibit R22; Peacock Testimony.*

54. The Applicant asserted that Section 3 of the National Register of Historic Places Nomination Form submitted for the resort in November 2, 1977 indicates the then-owner's intent to classify the Moran Mansion and its supporting structures as historic 'Building(s)' rather than a collective 'District.' In an attempt to comply with *Secretary of the Interior's Standards for Rehabilitation* for historic Buildings, the project architect communicated twice with DAHP and once with National Parks Service (NPS), presenting

the project site plan and a preliminary three dimensional computer generated mass model depicting proposed additions and alterations to Moran Mansion. The Applicant was informed by Nicholas Vann of DAHP that while that agency

[C]an condition a permit with a requirement to consult with our historical architect to ensure that any alterations do not jeopardize the National Register listing status of the historic property, they cannot necessarily require certain design elements or alterations to the project. ...[A] successful tax credit project proposal would have the top floor addition on top of the existing dining hall be physically separated from the historic portion of the building, and ... eliminate the porte cochere from the project. Seeing as how the water-side porch is the rear of the building, it may or may not be possible to construct it, but my advice is to eliminate it from the project in order to find your path of least resistance. Ultimately, I cannot say whether or not NPS would deny a project based on the rear porch, and they have the final decision making authority on tax credit projects.

*Exhibit C9.*

55. In following up with Gary Sachau of the NPS, the Applicant was told that his office considered the property a historic 'District' rather than individual historic 'Building(s)'. He described the requirements of this designation as restoration of the entire site to its 'period of historical significance', which would be pre-1925, meaning all later-constructed structures and landscape features would have to be demolished and no new structures could be built. Pursuant to Mr. Sachau's "period of historic significance" determination, the existing development and any new development proposed under the approved 2007 Resort Master Plan (RMP) would not satisfy the DOI requirements for a historic 'District.' The Applicant contends that this fact supports interpreting the existing Historic Register designation as historic 'Building(s)' rather than as an historic 'District.'  
*Exhibit C9.*
56. While electing not to pursue participation in the federal 20% income tax credit program, the Applicant proposed to retain the services of licensed and experienced historical architect to guide the design process for programmatically and financially feasible components of the Secretary's rehabilitation standards. In reaching the proposed Phase 1 design, the Applicant's goal was to harmonize preservation of the Mansion and its supporting structures and landscape elements with the need to develop a sustainable business generating sufficient revenues to continue to care for the historic buildings. The proposal allows for the continued use of the mansion as the Resort arrival point and is intended to enhance its stature as the center piece of Rosario. The design team remains in communication with DAHP in search of a way to make the necessary port cochere consistent with the historical character of the Mansion. The Applicant asserted the proposed enhancements, including the port cochere, are in keeping with the intent of the Rosario Resort Master Plan. *Exhibit C9; Strandberg Testimony; Peacock Testimony.*
57. With respect to public comments opposing landscape and other changes surrounding the Bow-Tie lagoon, the Applicant responded that the resort hired landscape architecture firm with expertise in Cultural and Historic work. The Crawfords and Ms. Leonard raised

concerns about impacts to the "Bow Tie pond", which is a 1915 canoe pond identified in the FEIS as a "Contributing Historic Resource", as a result of moving the pool and related amenities nearer to it. The pond itself is to be retained intact and would be undisturbed under the proposed PUD. The Applicant argued that comments regarding impacts from "site elements" in an area around a historic "landscape feature" rely on the resort's misidentification as a historic District, which if it were accurate, would prohibit new development or redevelopment that was not consistent with the site condition in 1925. The Applicant contended that the approved Resort Master Plan cannot be read to have intended to prohibit new or redevelopment inconsistent with the site's pre-1925 condition. *Exhibit C9.*

58. Regarding the Boatel, the Master Plan states at Section 7.1.1, page 130, paragraph 4: "If the Boatel cannot be reused, it will be razed and replaced with historically compatible new construction." The FEIS addressed the Boatel in Section 3.8.2.3 paragraph 6, noting it 'is in a serious state of disrepair' and that 'if the Boatel cannot be saved, it would likely be replaced with new construction...'. *Exhibit R21.* The Boatel has been abandoned for many years and was partially demolished in 1994, having the floors removed and the beams cut. The Applicant asserted that due to its current condition, the expense to rehabilitate the Boatel could never be recouped. The Applicant points out that the FEIS acknowledged this financial constraint in Section 3.8.2.1 paragraph 2. *Exhibits C9 and R22.*
59. Regarding various neighbors concerns about access to the recreational easement area, the Applicant agreed with Mr. Hansen's comments that the relocation of the pool should result in minor changes in noise experienced by adjacent property owners, and noted that any change in location resulting from the neighbors' concerns would simply move the noise closer to other homes. With regard to neighbor access, the Applicant offered information from the recorded easement that resulted from settlement pursuant to litigation intended to clear up the very vague original language. The settlement acknowledges the Resort's right to relocate the swimming pool within the recreation easement. Presently, if a Rosario Estates property owner shows their property title, the Resort allows them the use of the family outdoor pool for a fee of \$48 (\$4 x 12 months) per property per year. Nothing in the instant proposal would change this neighbor access. *Exhibit C9; Peacock Testimony.*
60. With respect to Mr. Murray post-hearing comments on behalf of the Crawfords, the Applicant responded that condition 1 of the Resort Master Plan already requires the instant proposal and all future proposals to be consistent with the approved 2007 RMP. Regarding the Crawfords' request for a condition of approval on the instant permits requiring "any application for permit or other approval that would have the effect of modifying or [violating]" the Resort Master Plan or its conditions of approval to obtain a resort master plan amendment, the Applicant noted that this is already established as a code provision that would apply in the current application and would apply in the future pursuant to SJCC 18.90.060.D.4. *Exhibit C9.*

## CONCLUSIONS

### Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide the applications required for the proposal pursuant to Chapter 36.70.970 of the Revised Code of Washington and San Juan County Code Chapter 2.22.

### Planned Unit Development Criteria for Approval

Pursuant to SJCC 18.90.060.H.3, a PUD associated with an approved master planned resort may be approved if the Applicant demonstrates the following:

- a. The proposed activities, developments and uses will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;
- b. The proposal is consistent in design, character and appearance with the goals and policies for the MPR land use designation in which the proposed use is located, and the approved master plan;
- c. The proposal meets or exceeds the requirements of SJCC 18.60.190;
- d. If the PUD requires land division or a binding site plan, it meets the requirements of SJCC 18.70.090;
- e. The proposal identifies and protects environmentally sensitive areas, archaeological and historic resources, and visual and aesthetic resources; and environmental considerations are employed in the design, placement and screening of facilities and amenities;
- f. The proposal will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;
- g. The appropriate County officials have certified that the proposal will be served by adequate facilities including access, fire protection, water, stormwater control, and sewage disposal facilities;
- h. The proposal passes all concurrency tests as provided in SJCC 18.60.200;
- i. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use, shall not hinder allowable development or use of neighboring properties; and
- j. The proposed land uses, activities, and structures comply with applicable development standards of Chapter 18.60 SJCC and performance standards specified in Chapter 18.40 SJCC, and with any required mitigation measures.

### **2007 Resort Master Plan Conditions of Approval**

1. All new development, the renovation of existing development, and the operation and uses of the Rosario Master Planned Resort (“MPR” or the “Resort”) shall be consistent with the provisions of the approved Rosario Resort Master Plan dated May 2007 (the “Master Plan”) and shall follow the mitigation measures identified as “Option ‘B’” in the Draft Environmental Impact Statement and Final Environmental Impact Statement.
2. Chapters 1 through 3 of the Master Plan provide introductory and background information about the Resort and about the development of the Master Plan. These chapters do not establish standards for design or the location of uses in the Resort but may be used to interpret or clarify the intent of the requirements in the redevelopment concept as set forth in Chapter 4 of the Plan, the design and functional elements as set forth in Chapter 5 of the Plan, the development standards and land use requirements of Chapter 6 of the Plan, and phasing and implementation provisions of Chapter 7 of the Plan.
3. A Planned Unit Development (PUD) application shall be approved prior to development of each phase of development in the Rosario MPR. A Planned Unit Development shall satisfy the requirements of SJCC 18.60.190 Master Planned Resort Development and SJCC 18.60.220 Planned Unit Development, provided that the development standards and allowable land uses established in Tables 6.1-1 and 6.2-1 of Chapter 6 of the Rosario Resort Master Plan shall be used in place of similar provisions contained in or referenced by SJCC 18.60.220.G.
4. When required, applications for shoreline development or uses for the portions of a PUD within shoreline jurisdiction shall be submitted at the same time as the PUD application and shall be processed along with the PUD application. A complete application for preliminary subdivision or binding site plan approval, as appropriate, shall be submitted with each PUD application.
5. Development under the Master Plan will proceed in the phases described in Chapter 7 of the Resort Master Plan, unless a change to this phasing is approved by the County Council, after receiving a recommendation from the Director of the Department of Community Development and Planning. The Council may allow changes in the overall phasing, including smaller phases and phasing within a single PUD, if concurrency standards, the criteria in SJCC 18.90.060.H.1.c, and other applicable requirements are met, without modifying the Master Plan.
6. Each PUD or phase of a PUD shall be subject to environmental review under SEPA. The environmental documents for the Master Plan may be adopted by reference or supplemented as allowed by SEPA. Each application submitted for approval shall identify which mitigation measures identified in the FEIS have been adopted and incorporated into the proposal and which mitigation measures identified in the FEIS are not adopted and incorporated into the proposal. The County Department of

Community Development and Planning and the County Engineer shall review the adopted mitigation to determine whether those measures adequately address the impacts of the proposal. Nothing shall prevent the applicant from substituting different but equally effective mitigation measures than those identified in the FEIS to address a specific impact, nor shall the requirement to adopt mitigation measures from the FEIS prevent the County from imposing additional or different mitigation measures in response to potential environmental impacts identified during environmental review of the specific Planned Unit Development proposal and/or Shoreline Permit application.

7. At least one public meeting shall be held by the applicant in the Rosario Resort area prior to the submittal of a Planned Unit Development application for any phase of development. The meeting shall be for the purpose of explaining the development proposed in the Planned Unit Development application and soliciting comments on the development proposal.
8. The resort shall be operated in a manner which assures that adequate capacity exists for short term use of condominium units, in a manner consistent with the operational objectives stated in the Master Plan. Except for the Cliffhouse Court residences, and also except for housing for employees of the resort, the condominium units that will be developed under the approved plan shall not be occupied as a primary residence or main home. The limitation on the use of condominium units as a primary residence or main home shall be included in the conditions of any subsequent Planned Unit Development approval.
9. When the first PUD application is filed the County Public Works Department and the County Engineer shall review the State approved Rosario Utilities Sewer System Plan, prepared by an engineer licensed in the State of Washington. The Sewer Plan shall include specifications for a sewer treatment plant of sufficient size to serve the anticipated demand from the build out of the Resort. The specifications shall include sufficient detail to identify the amount of land needed to support the expanded treatment plant and to determine whether sufficient land is available within the utility tract.
10. The preliminary stormwater analysis prepared for the Rosario Resort Master Plan FEIS identified the natural drainage basin that affect and are affected by the Resort. Under the County's Unified Development Code, applications for PUD approval include a requirement that a stormwater management analysis be submitted in support of the application. To assure that sufficient long term planning for stormwater management is included in the analysis, and to assure that short term construction is coordinated with long term stormwater management needs, the stormwater analysis for the first PUD application shall include a description of the stormwater management strategy for all the drainage basin(s) in which the Master Planned Resort is located. The sizing of stormwater facilities shall be based on long term anticipated stormwater management needs. For planning purposes, this stormwater management

plan shall assume full development under the Master Plan within areas in the basin(s) covered by the Master Plan, and shall assume development at existing densities or maximum allowable densities for areas outside the Master Plan (whichever is greater). The stormwater plan shall be certified by an engineer to show evidence that it is technologically sound, and the plan shall be reviewed by the County Engineer.

11. The intersection of the Hilltop access road and Olga Road shall be studied, designed and any improvement required by such Traffic Study shall be completed prior to issuance of final approval of any building constructed on the Hilltop Parcel. The intersection Traffic Study shall be provided with the application for any PUD that proposes development on the Hilltop, and that study shall be reviewed by the County Engineer.
12. The employee food service and recreation building planned for the Hilltop parcel shall be constructed concurrently with or before new dormitory buildings are constructed. The food service and recreation facility shall be sized to adequately serve the needs of all employees who will live at the dormitory buildings.
13. The applicant shall develop rules of conduct for the people living at the employee housing facility. These rules of conduct shall be provided at the time of application for any PUD that proposes development on the Hilltop.
14. At the time an application is submitted for a PUD which proposes construction on the Hilltop Parcel, the County Department of Community Development and Planning will review the application for compliance with the Hilltop Conceptual Site Plan which is included in the plan as Figure 4.7-2, and the following:
  - a. The overflow parking lot shall be located on the elevated bench between the Eastsound to Olga Road and the maintenance yard, placing the yard about 300 ft. from the road and the buildings approximately 400 ft. away.
  - b. A naturalistic system of bio-filtration swales and settling ponds with planted wetland vegetation shall be used to treat stormwater rather than a visually obtrusive, engineered basin.
  - c. Vegetative screening within and around the detention basin shall consist of native vegetation consistent with the findings and recommendations of the Historic Resources Management Plan.
  - d. Buildings at the Hilltop shall be designed to maximize visual subordination through the use of non-reflective building materials, dark exterior colors (green or brown), large overhangs, etc. If the Resort ceases to operate as a resort, the uses on the Hilltop property shall be vacated until the Plan is amended to allow alternate uses, or until the County Council takes other action.

15. The existing emergency helicopter landing zone is currently used and shall continue to be dedicated for emergency flight operations only. This landing zone currently consists of a concrete-paved area located on the center of the jetty, which is marked with a painted cross and is clearly visible from the air. To enhance operational safety, the site marker will be re-painted, the flag pole will be relocated, and the landing zone area will be maintained by the Resort as stipulated by Airlift Northwest and the Orcas Fire Department. This maintenance includes (but is not limited to) removal of debris, unsecured materials, and tall vegetation. When flight conditions require, the grass lawn area between the Figure-8 Lagoon and Cascade Bay will continue to be used as an alternate landing location.

The entire Cascade Bay waterfront from the Discovery House to the jetty functions as a natural wildfire safety zone due to the fire breaks provided by the waters of the Figure-8 Lagoon and Cascade Bay, and the lack of ladder fuels (large dry vegetation) in this area. This waterfront area shall continue to serve as a wildfire safety zone under Section 5.8 of the Master Plan. With application for the first PUD, the applicant shall provide documentation showing that these, or other acceptable wildfire safety and the emergency helicopter landing zones have been approved by the Orcas Island Fire Chief and a helicopter medivac service provider.

16. The Resort Owner shall pay for all roadway and other traffic related improvements to mitigate the traffic impacts of new development, as identified in section 3.9 of the Master Plan FEIS and as may be modified by the provisions of Condition #6 above.
17. The Moran Mansion is an integral component of the on-site recreational amenities necessary for this Master Plan. To assure that the Moran Mansion is renovated in a timely manner, the first PUD application for development of more than the two Cliffhouse Court homes shall include, for approval of the County, a) a proposed plan for renovation of the Mansion adequate to ensure a life of at least 50 years, and b) a proposed construction schedule for the Mansion and the other development proposed under the PUD. This schedule may allow for construction of the 21 rooms and 3 suites proposed in the Mansion Annex, and up to 40 new and replacement resort units including condominium units. The 48 units to be constructed on the 9.13 acre Rosario Harbor Tract shall not be counted toward this limit, so this will allow construction of 66 of the remaining 134 rooms and units. Once the limit of 66 units is reached, no building permits will be issued until the Moran Mansion renovation, as set forth in the schedule, is completed and final approval is granted by the Building Official. If the Moran Mansion renovation is not completed in accordance with this schedule, or any extension which may be granted, the County may suspend issuance of building permits within the MPR for non-compliance with this condition, with notice.
18. The shoreline in the Resort Core area shall remain open to the public, as provided in Plan Objective 2.6 and Section 5.3.2. Proposed rehabilitation of the shoreline will occur during construction proposed for that area as described in the Resort Master Plan and Final EIS, and this rehabilitation will be included in future shoreline permit

applications. With the first PUD application, the applicant shall submit a proposed schedule for shoreline rehabilitation actions for County review and approval.

Explanation: The timing of shoreline restoration and enhancement is described in the RMP and FEIS. In general, the restoration accompanies the project in that particular area. One restoration, for example, can only occur during Phase II -- elimination of the revetment and restoration of the shoreline to natural, soft shoreline conditions can only occur in coordination with the marina expansion because the new, natural shoreline has to be protected from storm damage, which would be provided by the proposed floating breakwater as part of the marina expansion.

19. Operation of Rosario Resort under the approved Master Plan shall include the establishment of uses in the Mansion that provide the public with the opportunity to see this historic resource. The range of uses shall be generally consistent with the uses proposed in Section 4.4.1 of the Master Plan including food service, public performances and tours. With the exception of construction or health, safety or security concerns, the Mansion will be open during normal business hours for those types of uses, and under reasonable operational limitations.
20. To meet the requirements of the Shoreline Master Program, and to provide for adequate short term visitor accommodations, only commercial structures may be built within 200 feet of the ordinary high water mark of the shoreline. Structures owned by the Resort, and operated to provide retail sales and services related to the Resort, shall be considered commercial. For condominium units to be considered commercial the units must be included in, and remain in the Rosario Resort or Cascade Harbor Inn Rental Programs. For all property located within 200 feet of the ordinary high water mark, the applicant must include these requirements in a "Notice to Title", and provide a copy of the recorded notice to the Community Development and Planning Department before a building permit will be issued. Following is the language that must be used in the Notice to Title:

*Notice to Title*

Rosario Resort Shoreline Structures. To meet the requirements of the San Juan County Shoreline Master Program within the Rosario Resort Master Plan land use zone, only commercial structures may be built within 200 feet of the ordinary high water mark (OHWM) of the shoreline. Commercial structures include a) structures owned by the Resort and operated to provide retail sales and services related to the Resort, and b) condominium units included in the Rosario Resort or Cascade Harbor Inn Rental Programs. Commercial structures located within 200 feet of the OHWM may not be converted to non-commercial uses.

21. The following minimum requirements are established for the sections of the Resort subject to the requirements of the Shoreline Master Program. These minimums do not supersede requirements that may subsequently be imposed by the Hearing Examiner or the Department of Ecology, and if there is a conflict the more restrictive

requirement shall apply. If the applicant is unable to meet the required setbacks they may relocate and/or combine units in upland areas, without a loss in the total number of approved units.

- a. The Bowman's Bluff Cottages shall be located at least 50 feet from the Ordinary High Water Mark (OHWM), shall be screened with native vegetation, and shall be designed using non-reflective surfaces, dark colors and other architectural techniques to help them blend into the hillside. These techniques are described in Exhibit 5-10 which has been added to the Plan.
  - b. The Luxury Waterfront Cottages (Number 2 on Figure A-1, located between the Mansion Annex and Cascade Bay) shall be located at least 50 feet from the OHWM, shall be landscaped with native vegetation to provide partial visual screening and will use the architectural techniques described in Exhibit 5-10 to make them less visible from the water. In addition the two eastern most cottages will be set further back as shown in the attached plan. This will reduce the developed footprint near the shoreline and will allow stormwater to be more easily managed.
  - c. The Waterview Cottages (Number 5 on the attached site plan, located near the Roundhouse) shall be located at least 75 feet from the OHWM, and may be combined with other upland structures or configured as stacked flats or town-homes located at the former quarry (jetty site) to meet this requirement (see Figure A-1). Relocating two cottages as shown, changes the unit mix from 30 Marina View Condos and 19 Marina Village Cottages to 32 Marina View Condos and 17 Marina Village Cottages.
  - d. Changes in the location of the OHWM as a result of shoreline restoration approved by the County shall not result in an increased setback requirement (i.e. the OHWM prior to restoration will be used to determine this setback).
22. To reduce the risks associated with structural fires, the renovated mansion and all new development shall be provided with automatic fire sprinklers.
  23. The approved Rosario Resort Master Plan includes removal of 42 existing rooms and units with overnight accommodations, and the construction of up to 182 new and replacement rooms and units, for a net increase in 140 units with overnight accommodations.
  24. Violation of these Conditions of Approval may be considered grounds for the County to withhold new building permits within the MPR, to initiate proceedings to revoke or modify approval of the Master Plan, or to take other enforcement action as allowed by law.

25. Nothing in these conditions shall be evidence of the approval of a permit to be issued in the future or waiver of any requirement of county, state or federal law.
26. These conditions are binding.

**Preliminary Plat Criteria for Approval**

Pursuant to SJCC 18.70.050.F, a preliminary plat shall be granted by the County only if the following criteria are met:

1. The application meets the requirements in SJCC 18.70.020 and this section, the standards in SJCC 18.70.060 and the applicable standards in SJCC 18.40, 18.50 and 18.60 SJCC; and complies to the policies and requirements of Chapter 58.17 RCW, the Shoreline Management Act (Chapter 90.58 RCW) and the policies in Element 3 of the Comprehensive Plan and the applicable regulations in Chapter 18.50 SJCC (the Shoreline Master Program), the State Environmental Policy Act, and the Comprehensive Plan.
2. The application satisfactorily addresses the comments of the reviewing authorities and is in the public interest (RCW 58.17.100 and 58.17.110).
3. Action has been completed on any shoreline permit that is required for subdivision improvements.
4. The associated planned unit development application, if required, is approved.

In Washington State, preliminary plats must be consistent with RCW 58.17.110(2), which stipulates that a proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:

- (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) The public use and interest will be served by the platting of such subdivision and dedication.

**Shoreline Conditional Use Permit Criteria for Approval**

Pursuant to SJCC 18.80.110.J.4, uses that are classified in the Shoreline Master Program as conditional uses may be authorized only if the applicant can demonstrate all of the following:

- a. The proposed use is consistent with the policies of RCW 90.58.020 and the policies of the Shoreline Master Program;

- b. The proposed use will not interfere with the normal public use of public shorelines;
- c. The proposed use of the site and design of the project is compatible with other permitted uses within the area;
- d. The proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located;
- e. The cumulative impacts of additional requests for like actions in the area, or for other locations where similar circumstances exist, shall not produce substantial adverse effects to the shoreline environment, e.g., the total of the conditional uses shall remain consistent with the policies of RCW 90.58.020 and the Shoreline Master Program; and
- f. The public interest will suffer no substantial detrimental effect.

**Shoreline Substantial Development Permit Criteria for Approval**

Pursuant to SJCC 18.80.110.H, a shoreline substantial development permit shall be granted only when the applicant meets the burden of proving that the proposal is:

- 1. Consistent with the policies of the Shoreline Management Act and its implementing regulations, Chapter 90.58 RCW and Chapter 173-27 WAC, as amended;
- 2. Consistent with the policies and regulations of the Shoreline Master Program in Chapter 18.50 SJCC;
- 3. Consistent with this chapter;
- 4. Consistent with the applicable sections of this code (e.g., Chapter 18.60 SJCC);
- 5. Consistent with the goals and policies of the Comprehensive Plan; and
- 6. All conditions specified by the Hearing Examiner to make the proposal consistent with the master program and to mitigate or avoid adverse impacts are attached to the permit.

**Applicable Provisions of the San Juan County Shoreline Master Program**

**SJCC 18.50.050 Archaeological and historic resources**

- A. When an application for a development permit is received for an area known to be archaeologically significant, the County will not take action on the application and the applicant will not initiate any excavation or development activity until the site has been inspected by a qualified archaeologist. No application will be delayed more than 10 working days for such an inspection. If the application is approved by the County, conditions will be attached reflecting the recommendations of the archaeologist regarding preservation or protection of the site.

- B. All development permits will contain a special provision advising the permit holder that if during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find must be halted immediately, and the administrator must be notified at once. Activities authorized by the permit will not be delayed more than five working days for a finding of significance by the administrator, following the administrator's receipt of notification, unless the permit holder agrees to an extension of that time period.
- C. All development proposed for location adjacent to sites which are included in the state or national registers of historic places, or are determined to be eligible for listing, must be located so as to complement the historic site. Development which degrades or destroys the historical character of such sites is not permitted.
- D. Prior to the issuance of a permit in areas known to contain archaeological artifacts and data, the County requires that the developer provide for a site inspection and written evaluation by an archaeologist. Significant archaeological data or artifacts must be recovered before work begins or resumes on a project.
- E. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve archaeological artifacts or data, the project may be exempted from the permit requirements of these regulations. The County shall notify the Washington Department of Ecology, the State Attorney General's Office, and the Washington Office of Archaeology and Historic Preservation of such a waiver in a timely manner.
- F. Archaeological sites located both in and outside the shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Records) and must comply with Chapter 25-48 WAC (Archaeological Excavation and Removal Permit) as well as the provisions of this code.
- G. Archaeological excavations are allowed subject to the provisions of this master program and applicable state laws.
- H. Identified historical or archaeological resources must be considered in park, open space, public access, and site planning, with access to such areas designed and managed so as to give maximum protection to the resource.

*SJCC 18.50.060 Clearing and grading.*

- A. Clearing and grading activities are allowed only if: (1) associated with an approved shoreline development; (2) conducted only landward of a required building setback from shorelines; and (3) disturbed areas not converted to another use within one year are replanted with native species. Replanted areas shall be maintained so that the vegetation is fully reestablished within three years of planting.

*SJCC 18.50.070 Environmental impacts.*

- A. The location, design, construction, and management of all shoreline uses and activities must protect the quality and quantity of surface and ground water adjacent to the site and must adhere to the policies, standards, and regulations of applicable water quality management programs and related regulatory agencies.
- B. Solid waste disposal and liquid waste treatment facilities are prohibited on shorelines. Solid and liquid wastes, biosolids, and untreated effluents shall not be allowed to enter any bodies of water or to be discharged onto land.
- C. The release of oil, chemicals or hazardous materials onto land or into the water contrary to state or federal law is prohibited. Equipment for the transportation, storage, handling, or application of such materials in association with a lawful shoreline use must be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- D. All shoreline uses and activities shall be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and must be aesthetically compatible with the affected area.
- E. All shoreline uses and activities must utilize effective erosion control methods during construction and operation. Proposed methods must be included in the project description submitted with any permit application.
- F. All shoreline uses and activities must be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to fish and wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes.
- G. All shoreline uses and activities must be located, designed, constructed, and managed to minimize interference with natural shoreline processes such as water circulation, sand and gravel movement, erosion, and accretion.
- H. Land clearing, grading, filling, and alteration of natural drainage features and land forms must be designed to prevent maintenance problems or adverse impacts to adjacent properties or shoreline features.
- I. All shoreline developments must be located, constructed, and operated so as not to be a hazard to public health and safety.
- J. All shoreline uses and activities must be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works, such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties, or substantial site regrades.

- K. Herbicides and pesticides may not be applied to or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.

*SJCC 18.50.080 Environmentally sensitive areas.*

When located in an environmentally sensitive area overlay district or its buffer, shoreline uses and activities must be located, designed, constructed, and managed in accordance with the applicable requirements of SJCC 18.35.020 through 18.35.140, environmentally sensitive areas.

*SJCC 18.50.090 Parking.*

- A. Parking is prohibited on structures located over water.
- B. Parking facilities must be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Landscaping must consist of native vegetation and be planted before completion of the parking area in such a manner that plantings provide effective screening within three years of project completion and through maturity of the species.
- C. Parking facilities serving individual buildings on the shoreline must be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or where an alternative location would result in a lesser environmental impact on the shoreline.
- D. Parking facilities for shoreline activities must provide safe and convenient pedestrian circulation within the parking area and to the shoreline.
- E. Parking facilities shall be designed to prevent contamination of water bodies from surface water runoff. Parking facilities must be provided with the best available technologies and include a maintenance program that will assure proper functioning of all drainage facilities to prevent degradation of surface water quality.

*SJCC 18.50.100 Public access.*

- A. Except as provided in subsections (B) and (C) of this section, shoreline substantial development permits or conditional uses shall provide public access where any of the following conditions are present:
  - 1. Where a development or use will create increased demand for public access to the shoreline, the development or use shall provide public access to mitigate this impact;
  - 2. Where a development or use will interfere with an existing public access way, the development or use shall provide public access to mitigate this impact. Developments may interfere with access on their development site by blocking access or by discouraging use of existing on-site or nearby accesses;

3. Where uses which are not a priority shoreline use under the Shoreline Management Act will locate on the shoreline of the state, the use or development shall provide public access to mitigate this impact; or
  4. Where a use or development will interfere with a public use of lands or waters subject to the public trust doctrine, the development shall provide public access to mitigate this impact. Whenever public access is required, the permit file shall describe the impact, the required public access conditions, and how the conditions address the impact.
- ...
- D. Developing uses and activities shall be designed and operated to avoid blocking, reducing or interfering with the public's physical accesses to the water and shorelines.
  - E. Public access provided by shoreline street ends, public utilities, and rights-of-way may not be diminished (RCW 35.79.035 and RCW 36.87.130).
  - F. Public access sites shall be connected directly to the nearest public street and shall include provisions for handicapped and physically impaired persons, where feasible.
  - G. Required public access sites shall be fully developed and available for public use at the time of the occupancy of the use or activity.
  - H. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat for a subdivision or short subdivision as a condition running contemporaneously with the authorized land use. Said recordings shall occur at the time of permit approval (RCW58.17.110).
  - I. The standard state-approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. Signs may control or restrict public access as a condition of permit approval.
  - J. Future actions by the permit holder shall not diminish the usefulness or value of the public access provided.
  - K. A public access plan for Eastsound, consistent with the Eastsound Subarea Plan (Chapter 16.55 SJCC), has been developed by the County (Resolution 29-1996) in cooperation with waterfront property owners and adopted as part of this master program for the village commercial waterfront.

*SJCC 18.50.120 Signs.*

In addition to the standards in SJCC 18.40.370 through 18.40.400, the following apply:

- A. Regulations.

1. Plans and designs for nonexempt signs must be submitted for review at the time of shoreline permit application.
2. All signs must be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline. Signs located outside of activity centers shall not be facing or directed towards the water, except as provided in subsection (A)(3) of this section.
3. ...
4. Light sources for externally lighted signs must be hooded, shaded, or aimed so that direct light will not result in glare when viewed from surrounding properties or watercourses. Internally lighted signs are prohibited.
5. Signs related to specific on-site uses or activities must not exceed the maximum size limits specified in SJCC 18.40.370 through 18.40.400. On-site freestanding signs must not exceed six feet in height. When feasible, signs must be mounted flush against a building.
6. Allowable Signs. The following types of signs may be allowed in all shoreline environments:
  - a. Water navigational signs and water way and roadway safety and directional signs.
  - b. On-premises public information signs directly relating to an allowed shoreline use or activity.
  - c. Off-premises, freestanding signs for community identification, information, or directional purposes, if consistent with this section and SJCC 18.40.370 through 18.40.400.
  - d. National, state and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.
  - e. Temporary directional signs to public or quasi-public events if removed within the 10 days following the event.
  - f. No-trespassing signs and no-hunting signs, not to exceed two square feet.
  - g. Political signs.
7. Signs mounted flush to the wall of a building must not extend above the highest point on the wall to which they are mounted. Signs mounted at right angles to the wall of a building and freestanding signs must not be more than 15 feet above grade, measured from the top of the sign.

*SJCC 18.50.110 Shorelines of statewide significance.*

The legislature has designated all salt water surrounding the islands of San Juan County, seaward from the line of extreme low tide, as shorelines of statewide significance (RCW 90.58.030(2)(e)). Use and development of such areas is subject to compliance with policies in Element 3, Section 3.4.F of the Comprehensive Plan.

*SJCC 18.50.130 Vegetation management.*

- A. All shorelines shall be protected from degradation caused by the modification of the land surface within the shoreline area or the adjacent uplands.
- B. Development on shorelines that have been identified as unstable or sensitive to erosion in SJCC 18.35.055 through 18.35.070 is not allowed unless the applicant demonstrates that the development is located a sufficient distance from the shoreline to prevent contributing to its instability.
- C. Restoration of any shoreline that has been disturbed or degraded shall be done with native plant materials with a diversity and type similar to that which originally occurred on-site.
- D. Commercial nursery stock used in the restoration of disturbed or degraded shorelines shall, at maturity, emulate the previously existing vegetation in size, structure, and diversity.

*SJCC 18.50.140 View protection.*

- A. Shoreline uses and activities must be designed and operated to avoid blocking or adversely interfering with visual access from public areas to the water and shorelines except as provided for in SJCC 18.50.130.
- B. The vacation of public road ends and rights-of-way which provide visual access to the water and shoreline may be allowed only in accordance with RCW 36.87.130 and local rules.
- C. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.
- D. In order to limit interference with views from surrounding properties to the shoreline and adjoining waters, development on or over the water shall be constructed only as far seaward as necessary for the intended use.
- E. Development on or over the water must be constructed of materials that are compatible in color with the surrounding area.
- F. Visual shoreline access must be maintained, enhanced, and preserved on public road ends and rights-of-way.

SJCC 18.50.150 Water quality.

- A. During and after construction, all shoreline developments shall minimize any increase in surface runoff through control, treatment, and release of surface water runoff so that the receiving water quality and shore properties are not adversely affected. Control measures include dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls. All surface water shall be retained on site unless discharge to road ditches or other drainage channels is approved in writing by the County engineer.
- B. All industrial, institutional, commercial, residential, recreational, and agricultural uses shall adhere to all required setbacks, buffers, and standards for stormwater. (Refer to shoreline use and environment designation regulations for specific limits.)
- C. All shoreline development must comply with the applicable requirements of the Stormwater Management Manual for the Puget Sound Basin or a County-approved program that meets or exceeds the requirements of the manual.

SJCC 18.50.220(B)(2) Commercial Development

- B. Regulations by Environment
  - 2. Rural. Commercial development which will not significantly alter the character of the area shall be permitted in the rural environment only by conditional use and subject to the policies and regulations contained in this SMP. Such development would include, but not necessarily be limited to, farm produce sales, activities directly related to the commercial fishing industry, small campgrounds, and other low intensity recreational facilities. All other commercial development shall be permitted by conditional use only. Except as provided for in subsection (A)(4) of this section, all commercial structures and facilities shall be set back at least 100 feet from the OHWM unless otherwise provided for by conditional use.

SJCC 18.50.320 Recreation.

- A. General Regulations.
  - 1. Recreational areas shall be designed to take optimum advantage of and to enhance the natural character of the shoreline area.
  - 2. Parking areas associated with shoreline recreational areas must be (a) located inland away from the water and beaches, (b) designed to control surface runoff, (c) prevent the pollution of water bodies, and (d) subject to the provisions of SJCC 18.50.090, Parking, and SJCC 18.50.340, Transportation facilities. Safe access from parking areas to recreational areas shall be provided by means of walkways or other suitable facilities.
  - 3. Land vehicles are prohibited on beaches, dunes, or fragile shoreline areas except as necessary for official maintenance activities for the protection of the public health or safety, or for the launching of boats at permitted marine railways and boat launches.

4. Intensive recreational development, including overnight camping areas and recreational vehicle or trailer parks, shall be permitted only where water supply, sewage, and solid waste disposal can be provided to meet public health regulations without adversely affecting the natural resources and features of the area.
5. Drainage and surface runoff from recreational areas shall be controlled so that pollutants will not be carried into water bodies.
6. Recreational facilities which normally require the use of large quantities of chemical fertilizers and herbicides, such as golf courses and playing fields, shall not be located on shoreline areas unless adequate provisions can be made for the protection of water areas from drainage and surface runoff.
7. Structures shall be set back a safe distance behind the tops of feeder bluffs.

B. Regulations by Environment.

1. Urban. Recreational uses shall be permitted in the urban environment, subject to the policies and regulations contained in this SMP.
2. Rural. Same as urban.

...

**Conclusions Based on Findings**

A. PUD

1. The subject property is designated as a Master Planned Resort Activity Center pursuant to the Comprehensive Plan, and the Resort Master Plan (RMP) was approved in 2007. The instant proposed redevelopment work was designed to be consistent with the RMP with regard to both actual improvements and phasing. With regard to the requirements of SJCC 18.90.060.H.1 and 18.90.190, the San Juan County Council determined that the 2007 RMP met or exceeded the requirements established in those sections. Therefore, proposals consistent with the RMP are consistent with SJCC 18.90.190. No evidence or argument were submitted that the proposed activities, developments and uses would be contrary to the intent or purposes and regulations of the County code or Comprehensive Plan. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 26, 27, 28, 29, 30, 31, 32, 33, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60.*
2. The final environmental impact statement (FEIS) prepared for the RMP disclosed potential impacts of all development contemplated under the master plan and identified a range of mitigation measures that, if implemented, would mitigate impacts to a point of non-significance. The mitigation measures imposed in the FEIS were made conditions of RMP approval. Therefore development in compliance with the RMP conditions would not result in significant adverse impacts to all elements of the environment reviewed pursuant to the State Environmental Policy Act, including critical areas, archaeological

and historic resources, and views/aesthetic considerations. In conducting required environmental analysis for the instant proposal, the Applicant commissioned several professionally prepared studies, including critical areas and stormwater studies. Based on the results of these studies, the Applicant designed the proposal to avoid and minimize impacts to critical areas and archaeological resources. Primary mitigation would be provided through implementation of construction best management practices and through construction of stormwater management facilities addressing runoff from existing and proposed impervious surfaces, providing water quality treatment for runoff previously not treated, and resulting in a net ecological benefit. No direct impacts to wetlands, streams, or the marine shoreline environment are proposed. Conditioned to require geotechnical analysis prior to site specific construction, among other conditions, no significant adverse environmental impacts would result from the proposal. *Findings 1, 2, 3, 4, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 35.*

3. The San Juan County Stormwater Engineer, County Public Works project reviewer, and County Fire Marshal have reviewed the complete proposal and determined that, with conditions, the proposal would be served by adequate facilities for access, fire protection, water, sewer, and stormwater management. The record demonstrates compliance with all County concurrency requirements by approval of the proposal as conditioned. *Findings 34, 35, 36, 37, 38, 39, 40, and 41.*
4. As conditioned, the Phase 1 PUD would comport with applicable requirements in SJCC Chapters 18.60 and 18.40. The location, height, and size of proposed landscaping and structures is consistent with the conceptual design approved in the Resort Master Plan. All setbacks proposed are consistent with the approved RMP. Water and sewer service are available. The project's stormwater management conceptual plan was approved by County Public Works. All utilities service lines would be installed underground. Existing and proposed private roadways are proposed to be brought into compliance with current County road standards, with final design reviewed and approved prior to construction. Pedestrian improvements in both the Resort Core and the Hilltop parcel are consistent with the conceptual plans approved in the RMP. As conditioned, the project would undergo concurrency review prior to building permit issuance and an updated traffic study would be required prior to construction. *Findings 11, 12, 13, 14, 15, 16, 17, 27, 28, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, and 41.*
5. The only question presented in the record regarding whether the Phase 1 PUD proposal as a whole is consistent in design, character, and appearance with the goals and policies of the approved Resort Master Plan related to proposed changes to or near historic features on-site. Neighbors and representatives of DAHP and the Washington Trust for Historic Preservation objected to the proposed port cochere, to removal of the Boatel, and to relocation of the swimming pool in the vicinity of the Bow-Tie pond on the grounds of alleged incompatibility with the approved Resort Master Plan. Some of these comments specifically alleged conflict with RMP

Chapter 3, Goal 2, Objectives 2.1, 2.2, and 2.3 as the basis for non-compliance of the instant proposal with the approved Resort Master Plan.

With regard to the question of whether the National Historic Register listing of the resort is as an historic Building(s) or an historic District, the record shows that the intent at the time of application for listing was to list the Mason Mansion itself, rather than create an historic District of the waterfront portion of the resort as whole. Clearly, the approved Resort Master Plan did not intend for the redevelopment of Rosario to return the property to its pre-1925 site condition. The Applicant has determined that the project cannot be made to comply with the qualifications for tax incentives through the National Historic Register listing; however, nothing in the proposal reflects an intention on the part of the Applicant to abandon the historic character of the Mansion and its setting a primary attraction bringing the public to the Resort.

Regarding the questions of whether adding a port cochere, removal of the Boatel, and/or relocating the pool would conflict with the RMP, it is of note that RMP condition 2 expressly states that Chapters 1 through 3 of the Master Plan provide introductory and background information but do not establish standards for design or the location of uses in the Resort. The FEIS expressly acknowledged both that changes to the Mansion and the property as a whole were required to maintain Rosario as an functional, operating business, and that without its financial success, the property would be sold to private owners with potentially less motivation and fewer means for the preservation of any historic resources on-site. The Boatel was expressly called out as potentially needing to be removed due to its poor condition; the structure has been abandoned for more than 20 years. Relocation of the pool within the recreation easement is expressly allowed by both the language of the easement and the conceptual plan approved in the RMP.

The record does not contain adequate information to answer the questions of either 1) whether the addition of a port cochere would compromise the historic integrity of the Mansion, or 2) if its addition did to some extent compromise the historic character of the Mansion, whether that would render the entire proposal null under the RMP. The Applicant has repeatedly expressed willingness to consult with and have final design be guided by a professional with historic preservation qualifications that meet the Secretary of the Interior standards. A condition of approval requiring such consultation to occur with regard to design for any and all proposed improvements affecting historic features within the Resort Core is adequate to ensure compliance with the intent of the RMP that Rosario's history be preserved. All development in any phase of the Resort redevelopment is required to comply with the approved RMP. No additional conditions restating this requirement of both the County Code and the approved Resort Master Plan are required. *Findings 3, 26, 27, 28, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, and 41.*

*B. Preliminary Subdivision*

1. As proposed and conditioned, the proposed preliminary subdivision creating 13 lots comports with the specific application requirements of SJCC 18.70.020. Compliance with the general standards of SJCC 18.70.060.A. Access to the shoreline and to the established recreational easement located within proposed Lot 7, benefitting homeowners of adjacent subdivisions, is provided. Lot clustering is not proposed. Except for the two Cliffhouse residence lots, all lots created are intended for and restricted to commercial use. In designing the lots and their intended uses, the existing topographic and environmental conditions of the land were considered and each lot design contains an appropriate amount of useable space for its proposed use. None of the proposed lots would be divided by roads. All buffers and setbacks proposed, as well as the density, open space, building footprints, and dimensional requirements, are consistent with those established in the approved Resort Master Plan. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 27, 28, 29, 30, 31, 32, and 33.*
2. All existing and proposed roadways in the resort are private and would be paved. Maintenance of the private roads would be the Applicant's responsibility. Mitigation of traffic impacts and concurrency evaluation were addressed above. Water and sewer services are available and would be extended to each lot and each use within the lots would be connected as appropriate by the Applicant. The proposed stormwater concept site plan, designed to comply with the 2005 Department of Ecology Stormwater Management Manual for Western Washington, has been approved by County Public Works. The Resort's existing fire flow system, which is separate from the potable water system, would be upgraded with redevelopment and additional fire hydrants would be added. Conditions of approval would ensure compliance with all applicable Fire Code provisions. *Findings 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 36, 37, 38, 39, 40, and 41.*
3. The associated shoreline permits required to complete the improvements proposed are reviewed in the next section, and the required planned unit development was previously addressed. As conditioned, all appropriate provisions would be made for the public health, safety, and welfare. Redevelopment of the resort consistent with the approved Resort Master Plan would contribute to the preservation of the site's historic features, protection of environmentally sensitive areas, and would benefit the public interest in extending the useful life of the Resort for a planned period of 50 years. Access of the public to the shorelines and recreation within the shoreline area would be enhanced. *Findings 16, 17, 27, 28, 29, 30, 31, 32, and 33.*

*C. Shoreline Permits*

1. Shoreline Conditional Use: As conditioned, the proposal would be consistent with the Shoreline Management Act (SMA). The policy of the SMA, as set forth in RCW 90.58.020, is to "provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses." This policy "contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally

public rights of navigation and corollary rights incidental thereto.” *RCW 90.58.020*. Pursuant to the County's Shoreline Master Program, commercial uses and uses within 100 feet of the ordinary high water mark are allowed subject to shoreline conditional use permit review. The proposed reduced setbacks for three lodging and associated amenity structures to a minimum setback of 22 feet was specifically called out in the Resort Master Plan. Provision of stormwater management to include treatment of runoff from pollution generating impervious surfaces, a change over the existing, untreated runoff conditions, building design, and proposed landscaping would ensure that these reduced setbacks have no impact to the shoreline environment. The RMP underwent extensive environmental analysis. The 2007 final environmental impact statement contained mitigation measures designed to reduce the overall redevelopment project's impacts to the maximum extent possible. Those mitigation measure were imposed as conditions of RMP approval, with which the instant Phase I PUD, as conditioned, would comply. The record contains no evidence suggesting harm to the public interest or to the shoreline ecological functions if the proposed developments are built as conditioned. *Findings 2, 3, 5, 6, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, and 35.*

2. Regarding public shoreline access, redeveloped pedestrian paths and new viewpoints would improve shoreline access for passive and active recreation along the resort-owned shorelines. The uses proposed within the shoreline environment were considered through a intensive public process and approved in the Resort Master Program. The commercial nature of the proposed uses would be consistent with the sit's historic condition predating the shoreline master program. The three reduced shoreline setbacks are sufficiently distant from Resort property boundaries that they would have no impact on surrounding land uses. *Findings 2, 3, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, and 17.*
3. The proposed commercial development and reduce shoreline setbacks would not create new development encroachment into the shoreline jurisdiction, but instead would occur where encroachment already exists, some of it of a less desirable nature than is proposed. With regard to cumulative impacts, Rosario Resort is sufficient unique as to have only one existing (and foreseeable) parallel resort within the San Juan Islands, which is the Roche Harbor Resort, and therefore the potential for cumulative impacts from similar proposals is extremely small. *Findings 2, 3, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, and 17.*
4. Shoreline Substantial Development: As noted above, the proposal would be consistent with the policies of the Shoreline Management Act. Evidence in the record demonstrates compliance with applicable provisions in the County's SMP as follows. An archaeology report was prepared, establishing discovery protocols and monitoring requirements that would be required as a condition during construction. Clearing and grading are proposed to be limited only to those areas where development would occur and vacant disturbed areas would be revegetated. The FEIS for the Resort Master Plan process thoroughly reviewed environmental impacts and implemented required mitigation measures that would minimize impacts to the extent possible. Critical areas reports were prepared assessing environmentally sensitive areas within proposed development sites. All proposed development would be able to comport

with critical requirements. A condition of approval would ensure that the recommended geotechnical evaluation occurs prior to commencement of construction and that geotechnical recommendations are implemented in design and construction. Proposed new parking areas are located landward of buildings and a pedestrian pathway is connected to the parking areas. Landscaping would buffer proposed parking. The PUD's stormwater management concept plan has been approved; as proposed and conditioned, the project would improve the stormwater runoff over the existing condition, reducing potential impacts to the marine and freshwater habitats on-site. All proposed development has been designed to minimize view impacts. The proposal is intended to improve existing shoreline access for guests of the resort and the public. No draining or filling of water bodies is proposed. No in-water work would occur in the instant Phase 1 PUD; improvements in the marina are proceeding under a separate project. No aquacultural or agricultural product processing is proposed. No golf course, playing fields, or other large lawn areas are proposed adjacent to the shoreline that would necessitate the use of large amounts of chemicals. As proposed and conditioned, all signs would comply with shoreline sign regulations. While the proposed new guest accommodations are not themselves water-dependent uses, their construction would facilitate to shoreline activities for a large number of people. There is no evidence in the record of failure of the proposal to comply with any applicable policy or regulation within the County's shoreline master program. *Findings 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60.*

## DECISION

Based on the preceding findings and conclusions, the request for planned unit development preliminary subdivision, shoreline conditional use, and shoreline substantial development permits to redevelop the existing Rosario Resort consistent with the 2007 Rosario Resort Master Plan are **APPROVED** subject to the following conditions:

### A. General:

1. The subject proposal shall comply with all applicable local, state, and federal laws and regulations in effect at the time of subdivision application or which may otherwise be legally deemed to apply to the proposal.
2. Compliance with the San Juan County Council Conditions of Approval in Section 7 of the Rosario Resort Master Plan, Exhibit R21, is required.
3. Compliance with SJCC 18.35.020 through .140, Critical Areas, is required.
4. Fire protection requirements of SJCC 13.08.130 shall be met both in the Resort Core and on the Hilltop parcel.
5. Site-specific geotechnical analysis shall be prepared in each proposed location for building foundations and roads to provide specific data on the extent of limitations for

design and engineering components of proposed improvements, consistent with the recommendation in the critical areas report in the record at Exhibit R16. Further, the minor seasonal seepage in the vicinity upgradient of the Figure 8 pond and near the west end of the shuffleboard court should be further evaluated by geotechnical consultants prior to development in the vicinity.

6. In order to ensure preservation of the historic character of the existing historic site features consistent with the intent and express requirements of the approved 2007 Resort Master Plan, the Applicant shall consult with architectural professionals who have experience and expertise that qualifies them pursuant to the Secretary of the Interior Professional Qualification Standards. All improvements to existing historic site features shall be guided by the recommendations of these consultants and shall be designed in consultation with the Washington State Department of Archaeological and Historic Preservation.
7. Approval of the Phase 1 PUD is contingent on final approval of all four permits - planned unit development, preliminary subdivision, shoreline conditional use permit, and shoreline substantial development permit. Should approval of one or more permit be reversed on appeal, approval of the other permits shall be suspended.

B. Planned Unit Development:

1. Development of Phase 1 under PUD #1 shall conform substantially to the development proposed in the Planned Unit Development Application, Preliminary Subdivision Application, the Shoreline Substantial Development Permit Application, and Shoreline Conditional Use Application and shall be subject to the following building development thresholds:
  - a. 97 new hotel/vacation units in the Resort Core area
    - i. 19 hotel units in 19 single-unit cottage style buildings
    - ii. 28 units in seven 4-plex units
    - iii. 8 units in a single 8-plex
    - iv. 22 privately owned vacation units at the west end of the Bow Tie Lagoon Green
    - v. 18 privately owned vacation units at the eastern end of the Resort Core
    - vi. 2 single-family residences on separate lots to the west of the entrance drive
  - b. A new two-story cabana building at approximately the same location as the existing Boatel
  - c. A small office/grocery located adjacent to the Cabana
  - d. 40 additional units of employee housing
    - i. 20 units added in a new building to be located south and west of the existing housing structure
    - ii. 5 more units to be located in 5 Resort-owned detached single-unit structures

- iii. 15 employee units in a separate building to the east of the existing employee housing structure
  - e. An employee dining and recreation building immediately south of the existing employee housing structure
  - f. New buildings to provide maintenance, laundry, and storage space to support Resort operations
2. The minimum parking space and aisle dimensions for permanently installed parking shall be consistent with the requirements of Table 6.5 in Chapter 18.60 SJCC. A parking layout plan shall be submitted to the administrator for approval consistent with the requirements of Table 6.5 at the time of application for a building permit (or occupancy permit if no building permit is required) or application for any permit required by San Juan County Code (SJCC). The parking layout plan shall include a landscape plan consistent with the Rosario Resort Planned Unit Development landscape plan, Exhibit R14, pages 57-62.
  3. The landscape screening standards of SJCC 18.60.160 shall apply to new Resort development abutting public roads and the exterior property lines of the Resort. Parking lots shall include landscaping as required by SJCC 18.60.160(G), provided that the administrator may authorize variations of these requirements pursuant to SJCC 18.60.160(B). Landscape screening between dissimilar uses in the Resort is not required.
  4. Public Works approved the concept SWMP. Stormwater Management Plans will be finalized for each phased development and shall be submitted with future building permits.
  5. Compliance with SJCC 18.35.080, Critical Aquifer Recharge Areas, is required. Where development or redevelopment could utilize solvents, petroleum products, or other potentially hazardous chemicals, the County may request a list of the quantities and types of chemicals that will be used, proposed spill containment plans, and a plan for disposal of waste material.

### C. Shoreline Development

1. Development in the shoreline shall conform substantially to the development proposed in the Shoreline Substantial Development Permit and Shoreline Conditional Use Permit application as shown on page 41 of Exhibit R14 and identified on page three of the Shoreline Overview, section C, Tab C.
2. No development under this approval shall occur below the ordinary high water mark (OHWM) of Cascade Bay.
3. Construction or substantial progress toward construction of a project for which a shoreline permit is granted must be undertaken within two years after the permit

approval. Substantial progress toward construction shall include the letting of bids, making of contracts, purchase of materials involved, utility installation, and site preparation, but shall not include use or development inconsistent with the master program or the terms of permit approval. However, the two-year period shall not include time during which development could not proceed due to reasonable related administrative appeals or litigation, nor include time necessary to obtain other required permits for the project from state and federal agencies. The Hearing Examiner may, with discretion, extend the two-year time period for a reasonable time. (SJCC 18.80.110(G)(7))

4. Unless specified otherwise in permit conditions, all development authorized by a shoreline permit shall be completed within five years of the date of permit approval or the permit shall become null and void. A permittee may request a time extension before the permit expires by making a written request to the administrator, stating the reasons. The Hearing Examiner will review the permit and, upon a finding of good cause:
  - a. Extend the permit for one year; or
  - b. Terminate the permit.

However, nothing in this section shall preclude the Hearing Examiner from issuing a shoreline permit with a fixed termination date of less than five years. (SJCC 18.80.110(G)(8))

#### D. Preliminary Plat

1. The design and configuration of the lots on the final plat shall substantially conform to the design and configuration of the lots shown on preliminary plat drawings for Rosario Point, sheet one of five, dated August 24, 2016; sheet two of five, dated April 20, 2015; and sheets three through five of five, dated April 28, 2015.
2. Phasing of the subdivision shall comply with SJCC 18.70.070(E). Portions of an approved preliminary long subdivision may be processed separately with the review and approval of the approval authority, for the purpose of recording divisions, if:
  - a. All divisions are approved within the prescribed time limits for preliminary subdivisions;
  - b. All conditions of approval are met; and
  - c. The division does not violate the intent of the preliminary subdivision approval.
3. This preliminary long subdivision approval shall expire if the subdivision is not recorded within 60 months of the approval date. The final long subdivision application shall be submitted to the Community Development and Planning Department at least 90 days in advance of the expiration date.
4. Subdivision roads shall be built as specified in SJCC 18.60.100, unless variances are obtained.

5. All roads serving three or more lots shall comply with the road design and construction standards specified in SJCC 18.60.100.
6. Drainage from roads shall be controlled by following the approved Stormwater Site Plan.
7. The subdivision shall be served by an approved community water system. Prior to final subdivision approval, the water lines must be installed to the lot corners.
8. All survey standards and requirements shall be complied with pursuant to SJCC 18.70.070(F)(2).
9. Building locations shall be shown on the final plat.
10. Prior to approval of any final subdivision phase, an update of the 2005 traffic safety study shall be performed for the Olga Road intersection to the Hilltop site and along Rosario Road. This report shall be reviewed and approved by Public Works. Recommendations from safety improvements in the report shall be implemented as part of the development.
11. Right-of-way access permit application for the private road access to the Hilltop site shall be submitted and approved by the County prior to final subdivision approval.
12. Right-of-way along the County roads abutting the properties being developed shall be 30 feet measured from the existing County road centerline. The final plat shall show the proposed road right-of-way dedication on Olga Road.
13. Private roads shall comply with SJCC 18.60.100, Private Roads. Construction drawings will be submitted to the County Public Works Department with the final application for subdivision. Roads will be inspected at final application to confirm that they meet the County Standards.
14. Parking areas shall comply with SJCC 18.60.120, Parking. A parking layout plan shall be submitted to the County for approval, consistent with requirements of SJCC 18.60.120 Table 6.5, with each phase of the final subdivision plan.
15. Concurrency was evaluated in accordance with SJCC 18.60.200 for the 2005 Rosario Resort Master Plan. However, based on the length of time that has elapsed, the concurrency shall be re-evaluated prior to any final subdivision approval.
16. Approval of the design as proposed including the proposed main pathway for shuttle and service vehicle use across Lot 18 of the Rosario Estates Plat requires the Applicant to provide proof to San Juan County of legally recorded easement access to Lot 18 or to redesign the project to avoid use of the off-site property owned by the Conver Family Limited Partnership.

**The following conditions shall be shown as restrictions on the face of the plat, in addition to those restrictions and dedications required by SJCC 18.70.070:**

17. This subdivision has been approved by the responsible County official on the premise that each lot shall conform to the applicable provisions of the San Juan County Planned Unit Development for Rosario Resort approved under PLP000-16-0001 and such other approvals and amendments applicable to the properties as may be subsequently authorized by San Juan County.
18. Parcels are subject to the master plan concept for managing stormwater for Rosario Resort Redevelopment Rosario Hilltop Housing/Maintenance, both dated October 2015. Stormwater management plans will be finalized for each phase of development and submitted with future building permits.
19. All utilities shall be placed underground.
20. All disturbed areas shall be restored to pre-project configurations, replanted with local vegetation, and the vegetation maintained until it is firmly established.
21. There may be additional private declarations, conditions, covenants, or restrictions in addition to those shown on the face of this plat. If any private declarations, conditions, covenants, and/or restrictions which appear on the face of this plat are different, the more restrictive provisions shall govern. Any private deed restrictions are supplemental to the requirements of this code. The County shall not be party to any private restrictions.
22. Any excavation or construction activity will cease immediately if any material of potential archaeological significance is discovered during such excavation or construction until the administrator is notified and inspections and disposition of the archaeological material are provided for.
23. The approved water source for this subdivision is Washington Water Service Company. If, in the future, another source of water is desired for any or all of the lots within the subdivision, the source shall be approved by the Department of Health and Community Services for quality and quantity.
24. The approved sanitary sewer system for the lots within this subdivision is Washington Water Service Company.

**Decided October 21, 2016.**

By:



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Sharon A. Rice  
San Juan County Hearing Examiner

**Effective Date, Appeal Right, and Valuation Notices**

Hearing Examiner decisions become effective when mailed or such later date in accordance with the laws and ordinance requirements governing the matter under consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be subject to review and approval by the Washington Department of Ecology pursuant to RCW 90.58.140, WAC 173-27-130 and SJCC 18.80.110.

This land use decision is final and in accordance with Section 3.70 of the San Juan County Charter. Such decisions are not subject to administrative appeal to the San Juan County Council. See also, SJCC 2.22.100.

Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to the Washington State Shorelines Hearings Board. State law provides short deadlines and strict procedures for appeals and failure to timely comply with filing and service requirements may result in dismissal of the appeal. See RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal deadlines and procedural requirements and consult with a private attorney.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.