

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicant(s): Snug Harbor Associates  
Agent: Francine Shaw  
P.O. Box 2112  
Friday Harbor, 98250

File No.: PSJREV-14-0001

Request: Shoreline Permit Revision

Parcel No: 463532001, 463532007, 463532008, 463532009,  
and 463532012.

Location: 1997 Mitchell Bay Road  
San Juan Island

Summary of Proposal: An application for a revision to a shoreline permit

Land Use Designation: Rural Residential 5

Public Hearing: June 9, 2014

Application Policies and Regulations: WAC 173-27-100  
SJCC 18.80.110(M)

Decision: The application is approved subject to conditions.

S.J.C. COMMUNITY

JUN 26 2014

DEVELOPMENT & PLANNING

1 **BEFORE THE HEARING EXAMINER FOR THE COUNTY**  
2 **OF SAN JUAN**

3 Phil Olbrechts, Hearing Examiner

4

RE: Snug Harbor Associates	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.</b>
Shoreline Permit Revision (PSJREV-14-0001)	

5

6 **INTRODUCTION**

7  
8 The applicant has applied for a revision to a 2007 approved shoreline substantial  
9 development permit for the expansion of Snug Harbor Resort. The revision is  
approved subject to conditions. S.J.C. COMMUNITY

JUN 26 2014

10 **TESTIMONY**

11 Ms. Thompson stated that this application is a revision of a revision for a shoreline DEVELOPMENT & PLANNING  
12 development permit at Snug Harbor in order to add five new cabins to five individual  
13 parcels that are adjacent to the resort. The five new cabins would be used for the same  
14 types of uses as the resort, and the amenities of the resort would be available in the  
15 five new cabins. The revision is in alignment with the original resort developments,  
16 thus Staff recommends approval. Ms. Thompson stated that originally the applicant  
17 wanted to build single family residences, and the county decided that these cabins  
18 could not function as single family residences because they would be managed by the  
19 resort. This revision proposes five new cabins that would be a part of the resort: a  
20 one-bedroom, one-bath, 572 square foot cabin, and four two-bedroom, two-bath, 895  
21 square foot cabins. There will be less than 10 percent lot coverage, which is why this  
application is able to be considered simply a revision. The permit from 2007 proposed  
about 32,000 square feet of impervious surface, but this permit along with the permit  
from 2011 downsizes that to approximately 16,000 feet of impervious surface. The  
applicant stated that the area that is going to be landscaped to downsize the  
impervious surface as the property is gravel currently. In regard to providing  
information to renters about the oyster beds, Ms. Thompson said the applicant would  
address that issue.

22 In regard to posting information at the cabins about the oyster beds, Mr. Nelson stated  
23 that they are not allowed to post a sign on the beach, but they plan to post a sign on  
24 their boat launch, which is no longer going to be used for boats but instead as a path  
25 to the beach. Also, there will be an addition to the resort in-room books about the  
private oyster beds. Mr. Nelson stated that guests do ask about the property alongside  
the resort, and they tell the guests that the property is private. There is an issue with  
cars that turn around in private driveways, but that was an issue before the resort was  
built, and the County does not really provide a way for cars to turn around. The

1 applicant has tried to have better, more visible signage to indicate which roads belong  
2 to the county, which lead to the resort, and which are private.

3 Mr. Rasmussen stated that his concern was the impact to his property, which is  
4 among the nearby, surrounding property, e.g. the noise from the resort, people taking  
5 the oysters from their beaches, turning around in their driveways. He stated that he  
6 wants there to be signage to keep the guests from the resort off the private beaches.  
7 He stated that he is concerned about parking, saying when cars are parked along the  
8 road, it causes congestion, and it makes it difficult at times for him to access his mail.  
9 He stated this his wife is concerned about the noise that results from a change in the  
10 landscape as well as the visual.

11 Ms. Thompson said she does not know about the landscaping in the area.

12 Mr. Nelson stated that last year they removed the large, nasty briars that had grown  
13 up around the alders along the property; therefore, because the alders are there, they  
14 are in compliance with code, but the removal of the briars left the area at the bottom  
15 of the alders a little raw. Mr. Nelson stated that they plan to address this problem,  
16 however, and they plan to do landscaping along Mitchell Bay Road.

## 17 EXHIBITS

- 18 Ex. 1: Staff Report  
19 Ex. 2: Request for review  
20 Ex. 3: Application materials  
21 Ex. 4: Comment letters  
22 Ex. 5: Additional project descriptions

## 23 FINDINGS OF FACT

### 24 Procedural:

- 25 1. Applicant. The Applicant is Snug Harbor Associates.  
26 2. Hearing. The Hearing Examiner conducted a hearing on the subject  
27 application at 10:00 am on June 9, 2014.

### 28 Substantive:

- 29 3. Site and Proposal Description. The Applicant has applied for a revision to  
30 a shoreline substantial development permit approved in 2007. See Examiner  
31 Decision 07SJ002. The 2007 shoreline permit authorized a replacement of all  
32 buildings that compose Snug Harbor resort with 16 new vacation units, a reception  
33 area, a store/office/laundry/maintenance building, a manager's cabin, a swimming  
34 pool and exercise room. A shoreline revision was approved in 2012 that reduced the  
35 size of the project considerably. See PSJREV-11-0003. The 2012 revision still

1 included 16 vacation units, but instead of 1,500 to 2,100 square feet, the vacation  
2 units were reduced to 700 to 900 square feet. The 2012 revision involved the  
3 demolition of an existing with a new store built in the same footprint. The store was  
4 increased from one story to two with the second floor containing three vacation units.  
5 The total building footprint for the revision was approved for approximately 13,250  
6 square feet compared to the 32,000 square feet originally authorized for the 2007  
7 application. The revision also resulted in a 10% reduction in impervious surface due  
8 to a reduction in proposed pedestrian paths and driveways. Overall disturbance to  
9 vegetation and topography as significantly reduced from the 2007 approval. Parking  
10 was increased from 52 to 60 stalls.

11 The existing resort has been in operation for over 30 years and includes a marina.  
12 The marina is composed of a large dock with numerous floats. The resort also  
13 includes a group camp site; a duplex, a four-plex and three park model trailers; resort  
14 and marina amenities such as a store, showers, laundry facilities and landscaping; and  
15 associated parking areas.

16 This current application is requesting to add five new vacation cabins to five parcels  
17 adjoining and owned by the resort. One of the cabins will be a one bedroom/one  
18 bathroom cabin about 572 square feet including the attached patio. The other four  
19 will be two bedroom/two bathroom cabins approximately 895 square feet including  
20 the attached patio.

21 The parcels where the five proposed new cabins will be located are outside the  
22 shoreline jurisdiction, but the resort is within the shoreline. Snug Harbor Resort will  
23 manage the rentals, and the cabins will enjoy the water oriented amenities the resort  
24 offers, so it is an extension of the resort. A shoreline permit for commercial  
25 development allowing for the alteration, modification or expansion of small resorts is  
the appropriate application process per SJCC 18.50.220(8)(3).

The proposal will result in a less than 10% increase in ground coverage over the 2007  
shoreline permit approval along with its 2012 revision. The total amount of  
impervious proposed by the 2012 and current revisions combined still results in an  
almost 50% reduction of proposed impervious surface from that authorized by the  
2007 permit. The 2007 shoreline permit approval authorized the addition of 32,000  
square feet of impervious surface. The 2012 revision reduced this amount to 13,250  
square feet. The current revision request increases the 13,250 square feet to 16,500  
square feet, which is still almost half of the square feet authorized in the 2007 permit.

No overwater construction is proposed in the revision. No increases in height over  
those approved in the 2007 application are proposed.

4. Characteristics of the Area. The neighborhood is rural and residential in  
nature.

1 5. Adverse Impacts of Proposed Use. The only adverse impact evident from  
2 the record is vehicular and pedestrian trespass onto Mr. Rasmussen's adjoining  
3 private property, which Mr. Rasmussen testified about in the 2012 revision as well.  
4 Mrs. Rasmussen also testified that the removal of vegetation from the site has been  
5 removed from the project property, which has resulted in an increase in noise and  
6 privacy. In the 2012 revision decision the traffic and trespass impacts could not be  
7 mitigated because the proposal did not make these conditions any worse (the number  
8 of rental units remained the same as those proposed in the 2007 shoreline  
9 application). In this application the number of units will be increased from 16 to 21.  
10 Consequently, it can be reasonably concluded that the impacts identified by Mr. and  
11 Mrs. Rasmussen will be exacerbated by the increase in the number of units and hence  
12 persons that will use the resort. The conditions of approval will require that these  
13 impacts be addressed.

14 Mrs. Rasmussen also raised concerns about parking related to the kayak and whale  
15 watching services provided by the resort. Since the revision does not alter these  
16 services or the associated parking, that issue cannot be addressed in this decision.  
17 Each of the new proposed five cabins will have one new parking stall linked to it by  
18 a gravel pathway. There is nothing in the record to suggest that the parking for the  
19 new vacation cabins is inadequate.

20 Beyond the impacts identified by the Rasmussens there are no other adverse impacts  
21 reasonably ascertainable from the record. Given the significant reduction in  
22 impervious surface from the 2007 shoreline permit approval, it is anticipated that the  
23 combined 2007 and 2012 revisions will have an overall beneficial impact on the  
24 environment.

## 25 CONCLUSIONS OF LAW

### 26 **Procedural:**

27 1. Authority of Hearing Examiner. Shoreline substantial development permit  
28 revisions are subject to approval by the Hearing Examiner after conducting a public  
29 hearing. SJCC 18.80.110(M).

### 30 **Substantive:**

31 2. Permit Review Criteria. SJCC 18.80.110(M)(2), quoted in italics below, governs  
32 the criteria for approval of revisions to shoreline permits.

33 **SJCC 18.80.110(M)(2):** *If the hearing examiner determines that the proposed  
34 changes are within the scope and intent of the original permit, as defined by WAC  
35 173-27-100(2), the revision shall be granted.*

1 **WAC 173-27-100(2):** *'Within the scope and intent of the original permit' means all*  
2 *of the following:*

3 *(a) No additional over water construction is involved except that pier, dock, or float*  
4 *construction may be increased by five hundred square feet or ten percent from the*  
5 *provisions of the original permit, whichever is less;*

6 *(b) Ground area coverage and height may be increased a maximum of ten percent*  
7 *from the provisions of the original permit;*

8 *(c) The revised permit does not authorize development to exceed height, lot coverage,*  
9 *setback, or any other requirements of the applicable master program except as*  
10 *authorized under a variance granted as the original permit or a part thereof;*

11 *(d) Additional or revised landscaping is consistent with any conditions attached to the*  
12 *original permit and with the applicable master program;*

13 *(e) The use authorized pursuant to the original permit is not changed; and*

14 *(f) No adverse environmental impact will be caused by the project revision.*

15 3. The proposed revision meets all of the criterion above. The proposed revision  
16 does not involve any over-water construction and is compliant with all shoreline  
17 development standards (since the revised part is located outside the shoreline  
18 jurisdiction and no significant impacts are evident in or out of the shoreline  
19 jurisdiction). As determined in Finding of Fact No. 3, the proposal does not result in  
20 any increase in ground coverage. No increase in height over the 2007 approval is  
21 proposed. The conditions of approval require a landscaping plan be submitted that is  
22 in conformance with shoreline regulations. No change in use is proposed. As  
23 determined in Finding of Fact No. 5, as conditioned the proposal will not create any  
24 significant adverse environmental impacts.

25  
DECISION

The revision is approved, subject to the following conditions:

1. The site plan submitted for the revision shall become the revised site plan.
2. The applicant shall schedule a site inspection with staff upon completion of the project to verify compliance with this decision and applicable regulations.
3. To the extent consistent with County regulations, a street sign stating "Only private homes beyond this point" or similar language shall be placed on Mitchell Road at the end of the Applicant's property on the side facing the Rasmussen property. Information shall be provided to all guests identifying the location of adjoining private property and requesting that the guests respect the privacy of adjoining property owners. A fence and site obscuring landscaping shall be placed along the eastern property line at locations specified by staff in order to maintain privacy and reduce trespass.
4. The applicants shall obtain all other required permits and abide by the conditions thereof.
5. The recommendations contained in the archaeological report shall be followed.
6. A landscaping plan shall in conformance with SJCC 18.60.160(D)(1) shall be approved by the Community Development and Planning Department prior to issuing any new building permits for this project.
7. Development under this permit shall be substantially completed by December 15, 2015 or the permit shall become null and void, unless the Hearing Examiner approves a one-year extension.
8. Failure to comply with any terms or conditions of this permit may result in its revocation.

Dated this 23rd day of June 2014.



Phil A. Olbrechts

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.

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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 requirement 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.