

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Thomas and Laurie Bridge
PO Box 327
Deer Harbor, WA 98243

Agent Jeff Otis
393 Bobbyann Rd.
Eastsound, WA 98245

File No.: PSJ000-140004-0003

Request: Shoreline Substantial Development Permit

Parcel No: 261950051

Location: 8 Circle Road, Crane Island

Summary of Proposal: Single Use Dock

Shoreline Designation: Rural Residential

Hearing Date: July 14, 2013
Application Policies and Regulations: Shoreline Master Program

Decision: Approved with conditions.

S.J.C. COMMUNITY

JUL 29 2014

DEVELOPMENT & PLANNING

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

Phil Olbrechts, Hearing Examiner

RE: Thomas and Laurie Bridge Shoreline Substantial Development Permit (PSJ000-14004-0003)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION. S.J.C. COMMUNITY JUL 29 2014
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INTRODUCTION

DEVELOPMENT & PLANNING

The applicants have applied for approval of a Shoreline Substantial Development Permit to build a single-use dock on Crane Island. The application is approved.

TESTIMONY

Thomas Bridge, the applicant, testified that their driveway is so steep they often just park at the entrance to the driveway and walk down. The driveway is worse when it's wet and very bad when it snows. The only way to access the property is through the community dock and by plane. When the community dock is full the applicants moor their boat close to the shoreline and scramble up the rocks. It takes three people to pull a dinghy up the steep rocks and it is hazardous. There's no way for just one person to get to the property when the community dock is full.

Jeff Otis, applicant representative, testified that there is some kelp close to where the elevated pier and ramp are located. There are no adverse impacts because the pier is oriented north to south, is elevated at the kelp location and is fully grated. Mr. Otis presented three biological opinions showing that kelp is much more tolerant to shading impacts and that the impacts are only significant for shading from a float as opposed to piers or ramps. Mr. Otis also noted that the nearest eelgrass is 28 feet from the float.

EXHIBITS

Exhibits 1-9 identified in the "exhibits" list attached to the June 30, 2013 staff report were admitted into the record.

- Ex. 10: Jen-Jay biological opinion date April, 2014.
- Ex. 11: Shannon and Wilson kelp analysis on Haugen and on Wilson
- Ex. 12: Laura Arbor email dated 2/14/14 regarding Pohl eelgrass.

1 Ex. 13: Email from Jason Westland to Jeff Otis dated March 11, 2014.

2 **FINDINGS OF FACT**

3 **Procedural:**

- 4 1. Applicants. The applicants are Thomas and Laurie Bridge.
- 5 2. Hearing. The Hearing Examiner conducted a hearing on the subject application at 10:00 am on July 14, 2014.

6 **Substantive:**

7 3. Site and Proposal Description. The applicants are proposing to build a residential dock to serve their property located along the north shore of Crane Island facing Deer Harbor at 8 Circle Road. The residential dock will consist of a 5' 2" x 32' fixed pile pier; a 4' 2" x 48' ramp; and a 8' x 42' moorage float. The total area of the pier, ramp and float is 694 square feet. Total length is 85' (82' as measured from the line of ordinary high water).

8 The property is located on Crane Island, a non-ferry served island located south of Orcas and north of Shaw. This 1.86 acre parcel is developed with a single-family residence. There are plans for a new garage/studio further up the slope from the house. It is fairly steep from the water back approximately 200 feet, and then gets less steep further landward. The parcel the dock will be located on faces the waters of Deer Harbor to the north. It is heavily vegetated.

9 The applicants need a dock to access their property and to deliver supplies. They hired an engineer to evaluate the driveway leading from the main road to their residence because they have had past problems using the driveway. The engineer concluded that the driveway is not user-friendly but is in the only place available. He noted "a dock providing access from the shore would be highly beneficial for this property for routing access and/or for emergency response".

10 4. Characteristics of the Area. The surrounding area is developed for residential use or remains undeveloped. The center part of the island is designated Natural and remains undeveloped.

11 5. Adverse Impacts of Proposed Use. As conditioned, there are no significant adverse impacts associated with the proposal.

12 Aesthetic impacts do not appear to be significant as there is already a dock located on the adjoining property to the west and the proposed dock will be somewhat centralized along the shoreline to minimize aesthetic impacts to the shoreline property to the east.

1 The proposal will not significant affect navigation since the dock only extends 85 feet
2 waterward of the shoreline, there is another dock on an adjoining lot and existing
reefs already keep boats away from the shoreline.

3 One issue that will have to be addressed in the conditions of approval is kelp. The
4 dive surveys submitted by the applicant reveal that the west end of the float is located
5 close to some 5% kelp cover and also a 10-30% kelp cover is located at the junction
6 of the ramp and pier. See Ex. 5. Kelp beds are identified as a critical area protected
7 by the County's critical area regulations. See SJCC 18.30.160(A)(5)(a). As
8 determined in the Examiner *Beckwith* decision, PSJ000-10-0006 and reaffirmed in the
9 *Odlin Park* decision, PSJ000-13-0006, kelp serves as habitat for protected aquatic
10 species and docks can damage that habitat by blocking light. In the Examiner
11 *Swindell* decision, PSJ000-13-0005, a dock was allowed to be constructed over kelp
12 beds because the National Marine Fisheries Service had determined that proposed
13 grating would adequately protect underlying kelp. Similarly, in the Examiner *Bryan,*
Milne, Haugen and Ruhnke decisions a dock was authorized over kelp because the
applicants' experts determined that the grated dock would not adversely affect the
types of kelp located at the dock sites. In the Milne decision the expert in part based
his opinion upon the proliferation of the same type of kelp at other dock sites in the
vicinity. In the Examiner Bangs (PSJREV-13-0003) decision, a shoreline revision
was only approved upon condition that the applicant prepare a kelp impact study by
qualified professional and that the proposal be mitigated accordingly.

14 In this case the applicant has provided biological opinions from other dock
15 applications where conclusions were drawn that kelp would not be adversely affected,
16 primarily because of the north-south orientation of the dock and proposed grating.
17 The use of biological opinions from other applications was allowed in Milne, but only
18 because a kelp expert concluded that site conditions were similar enough to use the
19 other studies, which were based on a project site on the same small island, Center
20 Island. In this case there is no kelp expert opinion providing that the conclusions of a
21 kelp study used for other projects would be relevant to the subject proposal. Further,
unlike in Milne, the studies supplied by the applicant are for projects located on
another island. Given that kelp is identified as a critical area, more site specific
assurance is necessary to establish that the proposal will not adversely affect kelp to a
significant degree. The conditions of approval will require an assessment of kelp
impacts by a qualified biologist with adverse impacts mitigated "to the maximum
extent feasible" as required by SJCC 18.30.160(B)(1)(a).

22 No adverse impacts to eelgrass are anticipated as the closest eelgrass is 28 feet away.
23 The staff report notes that one of the eelgrass surveys was not taken at the best time
24 of the year to determine the full extent of eelgrass proliferation, but the best evidence
25 in the record, Ex. 12, establishes that the eelgrass would not extend beyond its current
location at another time of year. The dock is also grated and oriented north to south
to avoid shading impacts.

1 According to the staff report, the project area has good flushing action. There are
2 strong tidal currents, as well as wind, wave, and vessel wake actions.

3 6. Existing and Alternative Moorage. Crane Island has one community dock that is
4 full during peak times of the summer. During those peak times the only way to
5 access the subject property is by mooring buoy. Mooring buoy is not a feasible
6 alternative since the shoreline is too rocky to beach a dinghy. Due to the rocks, the
7 applicants have to beach their dingy further upland, which requires climbing over the
8 rocks. Such an action takes two or three people and is hazardous. Even when the
9 community dock is available, the applicants have difficulty accessing their property
10 because the driveway is very steep.

11 CONCLUSIONS OF LAW

12 **Procedural:**

13 1. Authority of Hearing Examiner. Shoreline Substantial Development
14 permit applications are reviewed and processed by Development Services Department
15 staff, and the Hearing Examiner, after conducting an open-record public hearing,
16 renders a decision on the shoreline permit. SJCC18.80.110(E).

17 **Substantive:**

18 2. Shoreline Designation. The subject property is designated as Rural
19 Residential.

20 3. Permit Review Criteria. SJCC 18.50.190(K)(3) permits docks serving
21 single family homes in the Rural Residential shoreline designation subject to the
22 policies and regulations of the SMP. SJCC 18.50.190(G)(4) requires a shoreline
23 substantial development permit for development of docks on lots intended for single-
24 family development unless exempt. No exemptions apply to this project. SJCC
25 18.80.110(H) establishes the criteria for approval of shoreline substantial
development permits. The criteria include the policies of the Shoreline Management
Act (Chapter 90.58 RCW), the policies and use regulations of the San Juan County
Shoreline Master Program, and the requirements of the San Juan Municipal Code and
Comprehensive Plan. As noted in SJCC 18.50.010(A), Element 3 of the San Juan
County Comprehensive Plan comprises the policies of the San Juan County Shoreline
Master Program. The applicable policies and regulations are quoted in italics below
and applied through conclusions of law.

26 **RCW 90.58.020 Use Preferences**

27 *This policy (Shoreline Management Act policy) is designed to insure the development
28 of these shorelines (of the state) in a manner which, while allowing for limited
29 reduction of rights of the public in the navigable waters, will promote and enhance
30 the public interest. This policy contemplates protecting against adverse effects to the
31 public health, the land and its vegetation and wildlife, and the waters of the state and*

1 *their aquatic life, while protecting generally public rights of navigation and corollary*
2 *rights incidental thereto.*

3 4. As determined in Finding of Fact No. 5, the proposal will not interfere
4 with navigation, there are no significant adverse impacts associated with the proposal
5 and the proposal will provided the applicants with needed reasonable access to their
6 property. For these reasons the proposal is in the public interest and is consistent with
7 the policy

8 **RCW 90.58.020(1)¹**

9 *Recognize and protect the statewide interest over local interest;*

10 5. The statewide interest is protected. As noted above, there are no
11 significant adverse impacts associated with the proposal so the statewide interest is
12 protected.

13 **RCW 90.58.020(2)**

14 *Preserve the natural character of the shoreline;*

15 6. The proposal is relatively small for a dock. The grating and north-south
16 orientation will minimize impacts to natural resources and thereby preserve the
17 natural character of the shoreline.

18 **RCW 90.58.020(3)**

19 *Result in long term over short term benefit;*

20 7. The proposed project provides needed reasonable property access with no
21 associated significant impacts. The benefits are long term.

22 **RCW 90.58.020(4)**

23 *Protect the resources and ecology of the shoreline;*

24 8. The project minimizes adverse impacts through its grating, location
25 (avoiding eelgrass) and orientation (north-south, minimizing shading impacts). As
determined in Finding of Fact No. 5, there are no significant adverse impacts
associated with the proposal, including impacts to the resources and ecology of the
shoreline.

RCW 90.58.020(5)

¹ RCW 90.58.020(1)-(6) applies to shorelines of statewide significance. Section 3.4.F of the San Juan County Comprehensive Plan identifies all saltwater surrounding the islands of San Juan County as shorelines of statewide significance. The policies of 90.58.020(1)-(6) are mirrored in the policies of Section 3.4.F of the Comprehensive Plan and for the reasons provided in assessment of RCW 90.58.020, the Examiner also finds consistency with the policies of Section 3.4.F.

1 *Increase public access to publicly owned areas of the shorelines;*

2 9. Access to the proposed dock will be on private shoreline, as a result, it will
3 not impact public access to a publicly owned area of the shoreline.

4 **RCW 90.58.020(6)**

5 *Increase recreational opportunities for the public in the shoreline;*

6 10. The proposed dock will provide increased private recreational
7 opportunities on the shoreline, but as the shoreline area in question is not public, there
8 will be no impact in public use of the shoreline as a result.

9 **San Juan County Code Regulations**

10 **SJCC 18.50.190(B)(1):** *Boating facilities shall be designed to minimize adverse
11 impacts on marine life and the shore process corridor and its operating systems.*

12 11. As determined in Finding of Fact No. 5, the proposal will not create any
13 significant adverse impacts to the shoreline environment, which includes marine life
14 and shore processes and operating systems.

15 **SJCC 18.50.190(B)(2):** *Boating facilities shall be designed to make use of the
16 natural site configuration to the greatest possible degree.*

17 12. The dock is designed to be located away from the eelgrass of the site
18 while also providing for a north-south orientation to minimize shading impacts to
19 laminaria. Given these factors, the dock has been designed to make use of the natural
20 site configuration to the greatest possible degree.

21 **SJCC 18.50.190(B)(3):** *All boating facilities shall comply with the design criteria
22 established by the State Department of Fish and Wildlife relative to disruption of
23 currents, restrictions of tidal prisms, flushing characteristics, and fish passage to the
24 extent that those criteria are consistent with protection of the shore process corridor
25 and its operating systems.*

26 13. The Washington State Department of Fish and Wildlife (“WDFW”) has
27 approved a hydraulic permit for the proposal. See Ex. 7. In order to acquire
28 hydraulic permit approval, the Applicants had to comply with all applicable WDFW
29 design standards. The criterion is met.

30 **SJCC 18.50.190(B)(4):** *Areas with poor flushing action shall not be considered for
31 overnight or long term moorage facilities.*

32 14. As determined in Finding of Fact No. 5, the site has good flushing action
33 due to strong currents.

1 **SJCC 18.50.190(B)(5):** *In general, only one form of moorage or other structure for*
2 *boat access to the water shall be allowed on a single parcel: a dock or a marine*
3 *railway or a boat launch ramp may be permitted subject to the applicable provisions*
4 *of this code. (A mooring buoy may be allowed in conjunction with another form of*
5 *moorage.) However, multiple forms of moorage or other structures for boat access to*
6 *the water may be allowed on a single parcel if:*

7 *a. Each form of boat access to water serves a public or commercial recreational use,*
8 *provides public access, is a part of a marina facility, or serves an historic camp or*
9 *historic resort; or*

10 *b. The location proposed for multiple boat access structures is common area owned*
11 *by or dedicated by easement to the joint use of the owners of at least 10 waterfront*
12 *parcels.*

13 15. The proposal is conditioned to serve as the only on-site moorage.

14 **SJCC 18.50.190(B)(6):** *Structures on piers and docks shall be prohibited, except as*
15 *provided for marinas in subsection (H) of this section.*

16 16. No structures are proposed on the dock.

17 **SJCC 18.50.190(C)(1):** *Multiple use and expansion of existing facilities are*
18 *preferred over construction of new docks and piers.*

19 17. The requirement quoted above is just a preference. The applicants have
20 no reasonable alternative to access their property other than the proposed dock. They
21 have inquired about joint use of their neighbor's dock but were turned down.

22 **SJCC 18.50.190(C)(2):** *Mooring buoys shall be preferred over docks and piers on all*
23 *marine shorelines except in the cases of port, commercial, or industrial development*
24 *in the urban environment.*

25 18. The shoreline is too rugged to drag dinghies upon it, so a mooring buoy is
not feasible.

SJCC 18.50.190(C)(3): *Moorage floats, unattached to a pier or float, are preferred*
over docks and piers.

19. As stated above, there is no place to beach a dinghy.

SJCC 18.50.190(C)(4): *Every application for a substantial development permit for a*
dock or pier construction shall be evaluated on the basis of multiple considerations,
including but not limited to the potential impacts on littoral drift, sand movement,
water circulation and quality, fish and wildlife, navigation, scenic views, and public
access to the shoreline.

1 20. The considerations identified above are all addressed in Finding of Fact
No. 5.

2 **SJCC 18.50.190(C)(5):** *Docks or piers which can reasonably be expected to*
3 *interfere with the normal erosion-accretion process associated with feeder bluffs*
4 *shall not be permitted.*

5 21. The staff report concludes that the subject property has no feeder bluff.
6 Given the absence of any evidence to suggest otherwise, the staff's determination is
taken as a verity.

7 **SJCC 18.50.190(C)(6):** *Abandoned or unsafe docks and piers shall be removed or*
8 *repaired promptly by the owner. Where any such structure constitutes a hazard to the*
9 *public, the County may, following notice to the owner, abate the structure if the*
10 *owner fails to do so within a reasonable time and may impose a lien on the related*
11 *shoreline property in an amount equal to the cost of the abatement.*

12 22. There are no docks or piers present on the subject lot.

13 **SJCC 18.50.190(C)(7):** *Unless otherwise approved by shoreline conditional use*
14 *permit, boats moored at residential docks shall not be used for commercial overnight*
15 *accommodations.*

16 23. No such use is being proposed by the applicants..

17 **SJCC 18.50.190(C)(8):** *Use of a dock for regular float plane access and moorage*
18 *shall be allowed only by shoreline conditional use permit and shall be allowed only at*
19 *commercial or public moorage facilities or at private community docks.*

20 24. No such use is being proposed by applicants.

21 **SJCC 18.50.190(D)(1)-(11): General Design and Construction Standards**

22 *1. Pilings must be structurally sound prior to placement in the water.*

23 *2. Chemically treated or coated piles, floats, or other structural members in direct*
24 *contact with the water shall be as approved by the Environmental Protection*
25 *Agency.*

3. Pilings employed in piers or any other structure shall have a minimum vertical
clearance of one foot above extreme high water.

4. All floats shall include stops which serve to keep the bottom off tidelands at low
tide.

1 5. *When plastics or other nonbiodegradable materials are used in float, pier, or*
2 *dock construction, full containment features in the design of the structures shall*
3 *be required.*

4 6. *Overhead wiring or plumbing is not permitted on piers or docks.*

5 7. *New boathouses or covered moorages are prohibited on floats, piers, and*
6 *docks. Other structures on floats, piers, and docks shall be limited to three feet in*
7 *height.*

8 8. *A pier shall not extend offshore farther than 50 feet beyond the extreme low*
9 *tide contour.*

10 9. *Dock lighting shall be designed to shine downward, be of a low wattage, and*
11 *shall not exceed a height of three feet above the dock surface.*

12 10. *All construction-related debris shall be disposed of properly and legally. Any*
13 *debris that enters the water shall be removed promptly. Where feasible, floats*
14 *shall be secured with anchored cables in place of pilings.*

15 11. *Materials used in dock construction shall be of a color and finish that will*
16 *blend visually with the background.*

17 25. The proposal complies with all design standards quoted above as
18 determined by staff and evident from the design drawings.

19 **SJCC 18.50.190(E)(2):** *Proposals for joint-use community piers and docks shall*
20 *demonstrate and document that adequate maintenance of the structure and the*
21 *associated upland area will be provided by identified responsible parties.*

22 26. Not applicable.

23 **SJCC 18.50.190(G)(2)(a):** *The maximum dimensions for a dock (including the pier,*
24 *ramp, and float) associated with single-family residences shall not exceed 700 square*
25 *feet in area. In addition, the length of the dock (including the pier, ramp, and float)*
may not extend more than 115 feet in length seaward of the ordinary high water
mark. Docks exceeding these dimensions may only be authorized by variance.

26 27. The proposed pier expansion meets these criteria, as it will be
27 approximately 694 square feet and 85 feet in length measured seaward from the
28 ordinary high water mark.

29 **SJCC 18.50.190(G)(2)(d):** *Maximum length and width of a ramp, pier, or dock shall*
30 *be the minimum necessary to accomplish moorage for the intended boating use.*

1 28. The dock is designed to accommodate a 37 foot sailboat; a 26 foot
2 powerboat; a 16 foot wooden row boat and a 12 foot skiff suitable for travel to Orcas;
3 guest moorage; and emergency access to the island for sheriff and first responders.
4 The dimensions of the dock are the minimum necessary to accommodate all of these
5 uses.

6 **SJCC 18.50.190(G)(3):** *Docks shall be set back a minimum of 10 feet from side*
7 *property lines. However, a joint use community dock may be located adjacent to or*
8 *upon a side property line when mutually agreed to by contract or by covenant with*
9 *the owners of the adjacent property. A copy of such covenant or contract must be*
10 *recorded with the County auditor and filed with the approved permit to run with the*
11 *title to both properties involved.*

12 29. As depicted in the design drawings, the dock is situated well over 10 feet
13 from any side property lines.

14 **SJCC 18.50.190(G)(5):** *Applications for nonexempt docks and piers associated with*
15 *single-family residences shall not be approved until:*

- 16 a. *It can be shown by the applicant that existing facilities are not adequate*
17 *or feasible for use;*
18 b. *Alternative moorage is not adequate or feasible; and*
19 c. *The applicant shall have the burden of providing the information*
20 *requested for in subsections (a) and (b) of this section, and shall provide*
21 *this information in a manner prescribed by the administrator.*

22 30. As determined in Finding of Fact No. 6, existing and alternative moorage
23 is not adequate or feasible for use.

24 **San Juan County Comprehensive Plan Element 3, Section (5)(C) Boating**
25 **Facilities:**

26 *General*

- 27 1. *Locate, design and construct boating facilities to minimize adverse effects upon,*
28 *and to protect all forms of aquatic, littoral or terrestrial life including animals, fish,*
29 *shellfish, birds and plants, their habitats and their migratory routes.*
30 2. *Protect beneficial shoreline features and processes including erosion, littoral or*
31 *riparian transport and accretion shoreforms, as well as scarce and valuable shore*
32 *features including riparian habitat and wetlands.*
33 3. *The location, design, configuration and height of boathouses, piers, ramps, and*
34 *docks should both accommodate the proposed use and minimize obstructions to views*
35 *from the surrounding area.*
36 4. *Boating facilities should be designed to optimize the trade-offs between the number*
37 *of boats served and the impacts on the natural and visual environments.*
38 5. *In providing boating facilities, the capacity of the shoreline site to absorb the*
39 *impact should be considered.*
40 *docks and Piers*

1 6. *The use of mooring buoys should be encouraged in preference to either piers or floating docks.*

2 7. *The use of floating docks should be encouraged in those areas where scenic values are high and where serious conflicts with recreational boaters and fishermen will not be created.*

3 8. *Piers should be encouraged where there is significant littoral drift and where scenic values will not be impaired.*

4 9. *In many cases, a combination of fixed and floating structures on the same dock may be desirable given tidal currents, habitat protection and topography, and should be considered.*

5 10. *The County should attempt to identify those shorelines where littoral drift is a significant factor and where, consequently, fixed piers probably would be preferable to floating docks.*

6 11. *To spare San Juan County from the so-called "porcupine effect" created by dozens of individual private docks and piers on the same shoreline, preference should be given to the joint use of a single structure by several waterfront property owners, as opposed to the construction of several individual structures.*

7 12. *Preference should be given in waterfront subdivisions or multi-family residential development to the joint use of a single moorage facility by the owners of the subdivision lots or units, or by the homeowners association for that subdivision or development, rather than construction of individual moorage facilities. Individual docks and piers should be prohibited, provided that the county may authorize more than one moorage facility if a single facility would be inappropriate or undesirable given the specific site and marine conditions. Such developments should include identification of a site for a joint-use moorage facility and the dedication of legal access to it for each lot or unit. However, it should be recognized that identification of a site for a common moorage facility does not imply suitability for moorage or that moorage development will be approved.*

8 13. *The capacity of the shoreline site to absorb the impacts of waste discharges from boats and gas and oil spills should be considered in evaluating every proposed dock or pier.*

9 14. *Expansion or repair of existing facilities should be encouraged over construction of new docks and piers.*

10 15. *To reduce the demand for single-user docks, multiple-user docks should be encouraged through construction and dimensional incentives.*

11 31. The shoreline policies above essentially repeat the requirements and preferences already assessed in the use regulations, specifically that mooring buoys are generally preferred over docks, that joint-use docks are preferred over single-use docks and that environmental, aesthetic and use impacts should be minimized. The project area has good flushing action and there is only one other dock within a few hundred feet of the proposal so discharges typically associated with moorage are relatively not a significant concern. As previously discussed, the project design, size and location should minimize environmental impacts. For these reasons the proposal is found to be consistent with the shoreline policies applicable to this project.

DECISION

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The proposed dock is consistent with all the criteria for a shoreline substantial development permit. The proposal is approved subject to the following conditions:

1. The dock shall be constructed as proposed in the drawings and other materials submitted with the application, except as the same may be modified by these conditions.
2. The applicants shall obtain all other required permits and abide by the conditions thereof.
3. The General Design and Construction Standards of SJCC 18.50.190(D) shall be met.
4. After construction of the dock, staff shall be contacted in order to perform an inspection.
5. Construction shall not be commenced until all relevant appeal periods have run.
6. Development under this permit shall commence within two years of the date of permit approval and shall be substantially complete within five years thereof or the permit shall become null and void.
7. Failure to comply with any terms or conditions of this permit may result in its revocation.
8. The applicants shall hire a qualified biologist to prepare an analysis of project impacts to kelp. The analysis shall contain recommended mitigation and design revisions as necessary to minimize adverse impacts "to the maximum extent feasible" as required by SJCC 18.30.160(B)(1)(a). Mitigation shall follow the mitigation sequencing required by SJCC 18.30.160(B)(1)(a). Staff may require peer review at the expense of the applicant of the kelp analysis as determined necessary to verify the findings of the biologist.
9. The proposed dock shall serve as the only on-site moorage for the subject property.

Dated this 28th day of July, 2014.



Phil A. Olbrechts

San Juan County Hearing Examiner

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Right of Appeal

An appeal of this decision may be filed with the Washington State Shoreline Hearings Board as governed by RCW 90.58.180, which provides, **in part**, as follows:

(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may, except as otherwise provided in chapter 43.21L RCW, seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of filing as defined in RCW 90.58.140(6)...

Reference should be made to RCW 90.58.180 in its entirety as well as the practice rules of the Shoreline Hearings Board for all the requirements that apply to filing a valid appeal. Failure to comply with all applicable requirements can result in invalidation (dismissal) of an appeal.

Change in Valuation

Notice is given pursuant to RCW 36.70B.130 that property owners who are affected by this decision may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

D. Transportation.

1.1. Purpose.

- a. To provide for the orderly development of roads and paths.
- b. To construct roads and paths consistent with the character of Eastsound and this plan.
- c. To provide for the timely acquisition of road rights-of-way.
- d. To ensure the transportation system serves the land use goals and policies of this plan.
- e. To provide for the participation of property owners in the design of road and path improvements.
- f. To implement a streetscape improvement program for the village that supports the policies of this plan to make the village pleasant and convenient for pedestrians and also provide needed on-street parking.
- g. To create a parking plan that will provide for adequate off-street public parking.

1.2. Vehicular Circulation Policies.

- a. Figure 130–1 is the vehicular circulation plan for Eastsound.
- b. The County should acquire rights-of-way shown in Figure 130–1 not currently owned by the County.
- c. Streets within the village should be developed as access and feeder streets, not through streets.
- d. Property owners are responsible for improvements to unopened rights-of-way at the time their property is developed if alternative vehicular access is unavailable.
- e. The County is responsible for all public road development in Eastsound.
- f. Installation of new utility lines and undergrounding of aerial lines shall be coordinated with construction and improvement of public streets to the extent possible.
- g. If and when an alternative access route is desired to serve Eastsound from the east, south of Mount Baker Road, this should be provided by extension of Rose Street to the east. High School Road should then be extended to connect with Rose Street. This alternative access could lead to a reduction of vehicular traffic on Crescent Beach Road.