



SAN JUAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT

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Critical Area and/or Shoreline Mitigation Application

For use when no permit or other land use approval is required.

YES NO Check if related to code enforcement

PROPERTY INFORMATION	Land Use/Shoreline and Upland	
Tax Parcel Number: _____	Designation: _____	Water Body: _____
Island: _____	Subdivision: _____	Lot Number: _____
Property Size: _____	Application Type: <input type="checkbox"/> Critical Area <input type="checkbox"/> Shoreline	
Existing and Proposed Use: _____		
Directions to Property: _____		

OWNER AND AGENT INFORMATION:	
Name of Owners: _____	*Name of Agent: _____
Address _____	Address _____
City, State, Zip _____	City, State, Zip _____
Phone Number _____	Phone Number _____
Email _____	E-mail _____

• Provide additional sheets if there is more than one authorized agent

CERTIFICATION (Must be signed by all property owners of record or a notarized agent signature provided.)		
I have examined this application and attachments and know the same to be true and correct, and certify that this application is being made with the full knowledge and consent of all owners of the affected property.		
_____ <i>Signature of Property Owner (or Agent with notarized authorization attached.)</i>	_____ <i>Printed Name</i>	_____ <i>Date</i>
_____ <i>Signature of Property Owner (or Authorized Agent with notarized authorization attached.)</i>	_____ <i>Printed Name</i>	_____ <i>Date</i>
_____ <i>Signature of Property Owner (or Authorized Agent with notarized authorization attached.)</i>	_____ <i>Printed Name</i>	_____ <i>Date</i>
For DCD Use Only	Complete Application: <input type="checkbox"/> YES <input type="checkbox"/> NO	
Amt. Paid: _____	Date Received: _____	Receipt Number: 0000

Note: Current fees, may be found at: <http://sanjuanco.com/permitcenter/applicationforms.aspx>

About Mitigation Plan Review

When no permit or other land use approval is required.

SUBMITTAL: When an underlying permit or approval is **not required** for an activity that requires a mitigation plan under the critical area regulations in San Juan County Code (SJCC) 18.35.020-.140 or the shoreline regulations in SJCC 18.50.120 -.160, applicants shall submit a stand-alone mitigation plan application. The application must meet the requirements of SJCC 18.35.040 or 18.50.150 as applicable. Please review these code sections to make sure that the mitigation plans meet the mitigation requirements. All vegetative planting, monitoring and adaptive management must be developed by a qualified professional(s) (see SJCC 18.20.170).

FEES: DCD CURRENT FEE SCHEDULE (JULY 2018) REQUIRES A \$210 MITIGATION PLAN REVIEW FEE. If review by a third party is necessary because of the complexity of the plans or apparent errors, the Department may require advance payment of fees for this review based on the estimated review time.

REVIEW PROCESS: After an application, fees, and required attachments and information are submitted, DCD will determine whether the application is complete. If it is not complete, the applicant has 90 days to provide all missing information. Once the application is complete, DCD will begin processing it.

DCD staff will determine whether the project is consistent with the County land use and development codes and the criteria for approval. At that point the application may be approved, approved with conditions, or denied. There is no public hearing. The decision may be appealed by any party of record to the County Hearing Examiner by filing a written appeal and appropriate fees within 21 days of the decision.

ISSUANCE OF APPROVAL: Prior to issuing the approval:

- A financial guarantee and associated agreement covering 115 percent of the cost of implementing the mitigation and monitoring plans established to cover a time period of three years or until the project is anticipated to be fully completed and functional as determined by the qualified professional and approved by DCD is required. This guarantee and the associated agreement must meet the requirements of Chapter 18.80 SJCC, and
- A statement, signed by the property owner, agreeing to periodic inspections as established in the monitoring plan must be obtained. Inspections can be performed by either a qualified professional hired by the property owner, or a County representative. If a County representative conducts the inspection(s), the inspector will attempt to make an appointment but is not required to do so.

STATE AND FEDERAL REQUIREMENTS: Projects in wetlands, streams, lakes and marine shorelines are often subject to State and Federal requirements. Submitting a JARPA (Joint Aquatic Resources Permit Application) form to the WA Dept. of Fish and Wildlife, U.S. Army Corps of Engineers and WA Dept. of Ecology is a first step in meeting these requirements (available at: www.epermitting.wa.gov).

CRITICAL AREA MITIGATION REQUIREMENTS – NON-SHORELINE JURISDICTION

Critical area mitigation requirements do not apply in the shoreline jurisdiction. Scroll down to see the mitigation requirements in SJCC Chapter 18.50 that apply in the shoreline jurisdiction.

18.35.040 Critical areas – Mitigation requirements.

- A. This subsection outlines the provisions for mitigating adverse impacts to critical area functions and values when mitigation is authorized or required by the San Juan County Code. Possible mitigation actions may include minimizing impacts as well as reestablishment, rehabilitation, restoration, creation, and enhancement.
- B. Mitigation, monitoring, and adaptive management plans must be developed by a qualified professional(s).
- C. Mitigation, monitoring, and adaptive management plans are reviewed and approved by the decision maker for the underlying permit or approval (director or hearing examiner, depending on type of permit/approval).
- D. Preparation of mitigation, monitoring, and adaptive management plans, and their review by the County, which may include referral to independent qualified professionals, shall be at the applicant's expense. If review by a third party is necessary because of the complexity of the plans or apparent errors, the department may require advance payment of fees for this review based on the estimated review time. As an alternative to third party review, the applicant and the director may jointly select the qualified professional who will complete the plans.
- E. Mitigation options include the use of certified mitigation banks and approved in-lieu fee mitigation sites when they are developed.
- F. Removal of illegal modifications cannot be used to mitigate new adverse impacts to critical areas when those modifications were made by the owner of the property that is the subject of the application.
- G. Mitigation plans must be appropriate for the scale and scope of the project, and include adequate information for the decision maker to determine that the project and application are in conformance with approval criteria. Potential components of an application include the following:
1. For both the area proposed for development or vegetation removal, and the proposed mitigation site, the applicable items listed in SJCC 18.80.020(C) (Project Permit Applications – Forms) as well as photos of both the development and mitigation sites.
 2. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the State Environmental Policy Act.
 3. For both the area proposed for development or vegetation removal, and the proposed mitigation site, applicable critical area reports, critical area delineations and best available science documents supporting the proposal.
 4. For both the area proposed for development or vegetation removal and the mitigation site, copies of any proposed or approved stormwater and erosion control plan required by Chapter [18.60](#) SJCC.
 5. A narrative describing anticipated adverse impacts to critical area functions and values, the mitigation proposal (including the goals of the proposal, performance standards that will be used to gauge the effectiveness of the proposal, construction methods, and the sequence and timing of actions), and explaining how the proposal meets the plan approval criteria. Assessment of adverse impacts to critical area functions and values and of the effectiveness of proposed mitigation shall be based on the best available science.
 6. For off-site mitigation actions, an explanation of why on-site mitigation was not feasible, along with the site selection criteria employed.
 7. Grading and Excavation Details. If grading or excavation is proposed, pre- and post-construction contour plans are required at a scale that is suitable for the site.

8. A planting plan (if planting is proposed) identifying plant species, quantities, sizes, locations, spacing, and density, along with proposed measures to protect and maintain the plants until they are established.

9. Any other drawings necessary to illustrate the proposal.

10. Monitoring and adaptive management plans appropriate for the scale and scope of the project. These plans must describe measurable data that will be collected to assess the effectiveness of the project, must include a monitoring schedule (monitoring is required at least once each year, with a report submitted to the department by November 1st), and must explain corrective actions that will be taken to deal with any problems. The project shall be monitored for three years or until the director determines that it is successful, functioning as designed, and that established performance standards have been met.

11. For mitigation of adverse impacts to wetlands, the plan, including associated wetland replacement ratios, must be consistent with the guidance provided in Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance, Ecology Publication No. 06-06-011a; and Wetland Mitigation in Washington State – Part 2, Publication No. 06-06-011b. As an alternative, mitigation actions may follow the procedures described in Ecology Publication No. 10-06-011, Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington or another mitigation approach or publication approved by Ecology.

12. A description of the report author's education and experience relevant to designing and implementing the proposed actions.

13. A cost estimate, prepared by a qualified professional, for implementing the mitigation plan and monitoring the site for a period of three years or until the project is anticipated to be fully completed and functional as determined by the qualified professional and approved by the decision maker (director or hearing examiner, depending on type of underlying permit).

14. Financial Guarantee. Unless exempt under RCW 36.32.590, a financial guarantee and associated agreement covering 115 percent of the cost of implementing the mitigation and monitoring plans. This guarantee and the associated agreement must meet the requirements of Chapter 18.80 SJCC, and for mitigation of adverse impacts to wetlands and fish and wildlife habitat conservation areas, it must initially be established to cover a time period of three years or until the project is anticipated to be fully completed and functional as determined by the qualified professional and approved by the decision maker (director or hearing examiner, depending on type of underlying permit). Note: The maximum cost to the property owner is the original cost for implementing and monitoring the project, plus 115 percent of that cost.

15. A statement, signed by the property owner, agreeing to periodic inspections as established in the monitoring plan. The purpose of inspections is to determine compliance with approved plans, and inspections can be performed by either a qualified professional hired by the property owner, or a County representative. If a County representative conducts the inspection(s), they shall be by appointment or following advance written notice.

H. Mitigation Plan Approval Criteria. Approval of mitigation plans shall be based on conformance with the following criteria:

1. The application includes the applicable items listed in subsection (G) of this section.
2. Mitigation is authorized or required by the San Juan County Code.

3. The mitigation, monitoring and adaptive management plans were developed by qualified professionals. For wetlands, the plans, including associated wetland replacement ratios, shall be consistent with the guidance provided in Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance, Ecology Publication No. 06-06-011a; and Wetland Mitigation in Washington State – Part 2, Publication No. 06-06-011b. These and other wetland mitigation and monitoring guidance documents are available from the Department of Ecology. As an alternative, mitigation requirements may be determined through application, by a qualified professional, of procedures described in Ecology Publication No. 10-06-011, Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington or another mitigation approach or publication approved by Ecology.
 4. For areas outside shoreline jurisdiction, proposed development is designed and located in such a way as to avoid adversely impacting the functions and values of critical areas, considering the best available science. If adverse impacts cannot be avoided, then they must be mitigated so there will be no net loss of critical area functions and values, considering the best available science. When necessary, mitigation actions shall occur in the following preferred sequence:
 - a. Reduce or minimize adverse impacts by limiting the degree and magnitude of the action, or by applying appropriate technology and engineering;
 - b. Rectify adverse impacts by repairing, rehabilitating, or restoring the affected environment;
 - c. Compensate for adverse impacts by replacing, enhancing, or providing similar resources or environments that will substitute for those functions and values that were adversely affected.
 5. For areas within shoreline jurisdiction, mitigation actions must be consistent with the mitigation sequence outlined in SJCC 18.35.130(G).
 6. When feasible, adverse impacts shall be mitigated on site. If this is not possible, and off-site mitigation is proposed, the mitigation site shall be located on the same island, as close as possible to the development site.
 7. If removal of an illegal modification is proposed as mitigation, the modification was not made by the owner of the property or properties that are the subject of the application.
- I. Recording of Approved Plan and Notice to Title. The County shall record a copy of the approved mitigation plan, along with a notice to title referencing the plan, with the cost of recordation included in the application fee.
- J. If the goals, objectives and performance standards of the mitigation plan are not met, the decision maker (director or hearing examiner, depending on type of underlying permit or approval) may require additional actions or additional monitoring. To allow for successful completion of the mitigation project, the monitoring period, financial guarantee and associated agreement may be extended. (Ord. 1-2015 § 1; Ord. 2-2014 § 6; Ord. 26-2012 § 21; Ord. 15-2005 § 3; Ord. 2-1998 Exh. B § 3.6.4. Formerly 18.30.110(E))

Mitigation Regulations for Development in the Shoreline Jurisdiction

18.50.140 Mitigation of adverse impacts to shoreline ecological functions.

- A. Shoreline development, land uses, structures and activities must meet the no net loss requirement of WAC 173-26-186(8)(b). If project proposals do not comply with the critical area protections in SJCC 18.50.130, applicants must submit a mitigation sequence analysis to the department.
- B. Mitigation measures must be applied in the following sequence. The applicant must demonstrate that each mitigation action is not feasible or applicable before proceeding to the next option or action:
1. Avoiding the impact altogether by not taking a certain action or parts of an action;
 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations;
5. Compensating for the impact by replacing or providing substitute resources or environments; and monitoring the impact and compensation projects, and taking appropriate corrective measures; and
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

C. When feasible, adverse impacts are to be mitigated on site. If off-site mitigation is proposed, the mitigation site must be located on the same island, as close as feasible to the development site.

D. Modifications to wetlands or buffers may be exempt from the requirement to avoid impacts when the wetland is below minimum size thresholds listed in SJCC 18.35.095 provided impacts are fully mitigated according to the remaining mitigation sequence in subsection (B) of this section. (Ord. 11-2017 § 10; Ord. 1-2016 § 19)

18.50.150 Mitigation plans.

A. If a mitigation sequence analysis demonstrates that adverse impacts on shoreline ecological functions are unavoidable, mitigation, monitoring and adaptive management plans to offset the adverse impacts must be developed by a qualified professional.

B. Where the proposal will have an adverse impact on wetland ecological functions, mitigation plans, including associated wetland replacement ratios, must be consistent with the guidance provided in Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance, Ecology Publication No. 06-06-011a (as amended); and Wetland Mitigation in Washington State – Part 2, Publication No. 06-06-011b (as amended). As an alternative, mitigation actions may follow the procedures described in Ecology Publication No. 10-06-011, Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (as amended) or another mitigation approach or publication approved by WDOE.

C. Mitigation options may include the use of certified mitigation banks and approved in lieu fee mitigation sites when they are identified and approved by the County council.

D. Removal of shoreline modifications constructed in violation of this code cannot be used to mitigate new adverse impacts to shoreline ecological functions and critical area functions if those modifications were made by the owner of the property, or if they are located on the property that is the subject of the application.

E. Mitigation, monitoring, and adaptive management plans are reviewed and approved by the decision-maker for the underlying permit or approval (director or hearing examiner, depending on type of permit or approval).

F. Mitigation plans must address the scale and scope of the project, and document compliance with the mitigation approval criteria. Mitigation plans must include at least the following information, as applicable:

1. For both the area proposed for development or vegetation removal, and the proposed mitigation site, the applicable items listed in SJCC [18.80.020\(C\)](#);
2. Photographs of both the development and mitigation sites;
3. The field located OHWM;
4. A mitigation sequencing analysis;

5. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the SEPA;
6. For both the area proposed for development or vegetation removal, and the proposed mitigation site, applicable critical area reports, tree removal plans, and BAS documents supporting the proposal;
7. For both the area proposed for development or vegetation removal, and the proposed mitigation site, copies of any proposed or approved stormwater and erosion control plan required by Chapter [18.60](#) SJCC;
8. A narrative describing anticipated unavoidable adverse impacts to critical area functions, the mitigation proposal (including the goals of the proposal, performance standards that will be used to gauge the effectiveness of the proposal, construction methods, and the sequence and timing of actions), and explaining how the proposal meets the plan approval criteria. Assessment of adverse impacts to critical area functions and of the effectiveness of proposed mitigation must be based on the BAS;
9. For off-site mitigation actions, an explanation of why on-site mitigation was not feasible, along with the site selection criteria employed, including a watershed approach for the selection of mitigation sites;
10. If grading, fill or excavation is proposed, pre- and post-construction contour plans are required at a scale suitable for the site;
11. A planting plan (if planting is proposed) identifying plant species, quantities, sizes, locations, spacing, and density, along with proposed measures to protect and maintain the plants until they are established;
12. Any other drawings necessary to illustrate the proposal;
13. A description of the report author's education and experience relevant to designing and implementing the proposed actions;
14. A monitoring and adaptive management plan appropriate for the scale and scope of the project as determined by a qualified professional and approved by the decision-maker. The monitoring and adaptive management plan must include:
 - a. A description of measurable indicator data to be collected. The description will demonstrate the validity of the collected data to assess the effectiveness of the project;
 - b. A monitoring schedule. Data collection must occur at least once each calendar year. The minimum monitoring schedule is five years, provided the schedule can be reduced after three years if the director makes a written determination that the mitigation plan is successful, functioning as designed and the established performance standards have been met. If the plan is unsuccessful, the director may extend the monitoring requirements; and
 - c. A requirement for a report submitted to the department by November 1st of each calendar year explaining corrective actions that will be taken to address unforeseen adverse impacts;
15. A cost estimate prepared by a qualified professional for implementing the mitigation plan and monitoring the site;
16. Unless exempt under RCW 36.32.590, a financial guarantee and associated agreement are required pursuant to SJCC 18.80.200;

17. The financial guarantee and the associated agreement must meet the requirements of SJCC 18.80.200. For mitigation of adverse impacts to wetlands and fish and wildlife habitat conservation areas, it must initially be established to cover the time period until the project is anticipated to be completed and functional as determined by the qualified professional and approved by the decision-maker; and

18. A statement, signed by the property owner, agreeing to the periodic inspections established in the monitoring plan. The purpose of inspections is to determine compliance with approved plans. Inspections can be performed by either a qualified professional hired by the property owner, or a County representative. If a County representative conducts the inspection(s), they will be by appointment or following advance written notice.

G. If the County's review of a mitigation plan requires a referral to independent qualified professionals, the review will be conducted at the applicant's expense. If review by a third party is necessary because of the complexity of the plans or apparent errors, the department may require advance payment of fees for this review based on the estimated review time. As an alternative to third party review, the applicant and the director may jointly select the qualified professional who will complete the plans. (Ord. 11-2017 § 11; Ord. 1-2016 § 20)

18.50.160 Mitigation plan approval criteria.

A. Approval of mitigation plans will be based on conformance with the following criteria:

1. The applications and projects are consistent with the mitigation sequence in SJCC 18.50.140(B); and
2. The mitigation has been developed consistent with the published mitigation standards for the applicable critical area, including a description of monitoring methods and frequency and measurable performance standards.

B. The County will record a copy of the approved mitigation plan and mitigation monitoring agreement.

C. If the goals, objectives and performance standards of the mitigation plan are not met, the decision-maker may require additional actions and may extend the monitoring period, financial guarantee and associated agreement. (Ord. 1-2016 § 21)