



## SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250  
(360) 378-2354 | (360) 378-2116  
dcd@sanjuanco.com | www.sanjuanco.com

# SHORELINE MASTER PROGRAM FREQUENTLY ASKED QUESTIONS

---

## PRE-APPLICATION MEETINGS

### **What shoreline applications require a pre-application meeting?**

Preapplication meetings are required for shoreline substantial development permits, conditional use permits, and shoreline variances (San Juan County Code (SJCC) 18.80.110). Preapplication meetings are encouraged for all other project or development permits in the shoreline jurisdiction. Preapplication materials must be submitted to the department a minimum of 10 days prior to the scheduled preapplication meeting. There is no charge for these meetings. The application form is provided here:

<https://www.sanjuanco.com/DocumentCenter/View/11432/Building--Land-Use-Pre-Application-DOC?bidId=>

## SHORELINE PERMIT EXEMPTIONS

### **Is a certificate of shoreline exemption required for residential development, including normal residential appurtenant structures, when a project or development permit application is required?**

No, however, the proposal must comply with the WA. State Shoreline Management Act, San Juan County Shoreline Master Program (SMP) policies, shoreline regulations in SJCC Chapter 18.50 and all other local, state and federal regulations.

### **Does a normal residential appurtenance require a shoreline exemption when it is not being constructed with the residence?**

See SJCC 18.50.050 and LUP-2019-02\_SMP-Res\_Appurt for additional information:

<https://www.sanjuanco.com/DocumentCenter/View/18102/SMP-Residential-Appurtenances>

### **Does a shoreline exemption expire?**

No, a shoreline exemption is not a permit. It does not expire.

### **Is a habitat assessment required to do normal dock maintenance and repair under an exemption?**

See the DCD policy:

<https://www.sanjuanco.com/DocumentCenter/View/14711/Dock-Deck-Replacement-with-Grating-Policy>

## **PERMIT REVISIONS**

**When does a change to a shoreline permit for boating facilities, docks, piers, floats and ramp require a new shoreline permit application instead of a permit revision?**

See the DCD policy:

<https://www.sanjuanco.com/DocumentCenter/View/14626/Dock-Revision-Policy>

## **RESIDENTIAL DEVELOPMENT**

**What is the definition of primary structure?**

The primary structure is a development that houses a principal use on a property. For example, on a residentially zoned property, the main residence would be the primary structure.

**What is the easiest way to get a new home permitted in shoreline jurisdiction?**

The easiest way is to meet the required critical area buffers required by SJCC Chapter 18.35. If the proposal is located within the shoreline jurisdiction, SJCC 18.50.120 requires that you either meet the No Net Loss standard by complying with the critical area buffers or submit a Fish and Wildlife Habitat Assessment and mitigation sequence analysis of the project proposal and impacts that proves No Net Loss. The first step in the mitigation sequence is avoiding the action. If the action can be avoided it would be difficult to pass the first step in the mitigation sequence.

How to prepare a site plan to meet critical area buffers and the shoreline aesthetic setback:

**Step 1.** Request a free critical area and cultural resources review from DCD:

<https://www.sanjuanco.com/DocumentCenter/View/16764/Request-for-Critical-Area-and-Archaeology-Review-PDF?bidId=>

This will let you know if a cultural resources report, geology report and other critical area reports will be necessary for development of the property and what critical area buffers will apply.

**Step 2.** Have a qualified professional (SJCC 18.20.170) determine where the Ordinary High Water Mark (OHWM) and Top of Bank (TOB) are located. County staff can identify these locations and do the critical area and cultural resources review if you apply for a Residential Pre-application site visit (\$400). <https://www.sanjuanco.com/1301/Pre-Application-Assistance>

**Step 3.** Draw a site plan that first shows the exact location of the OHWM and TOB. A surveyor or qualified professional can determine these locations. Measure the required critical area buffers

and the shoreline aesthetic setback from those locations to determine the maximum required setback for the home.

### **What is the aesthetic setback?**

#### **Aesthetic setback (SJCC 18.50.540(C)(3):**

If a lot has screening vegetation within 50 feet of the Ordinary High Water Mark (OHWM) the aesthetic setback is 50 feet from the top of the bank.

In all other cases, the aesthetic setback is 100 feet from the top of the bank.

If there is no top of bank, the setback is measured from the OHWM.

### **What are the critical area setbacks?**

- On nonbedrock parcels: draw the coastal geologic buffer determined in a geologic hazard report prepared by a qualified professional.
- Draw the 75 foot water quality buffer for single family residences with medium land use intensity – not more than 1 unit per acre (See land use intensity: SJCC Table 18.35.100-2).
- Draw the setback from a tidal wetland or other identified wetland consistent with a wetland report from a qualified professional.
- Draw the location of the Tree Protection Zones (TPZ) (OHWM to 35 feet = TPZ 1, 35 feet to 110 feet = TPZ 2).
- Draw the Tree Protection Zones of any applicable stream (See SJCC Table 18.35.130-2). TPZ 2 allows the construction of one primary residential structure with conditions. Other required setbacks might limit the development of the home within TPZ 2 (35 – 110 foot from OHWM) such as the water quality buffer (75 foot from OHWM) or other largest setback (such as tidal wetland setback or coastal geologic buffer, if applicable.)
- Draw the flood hazard zone on the site plan, if applicable and show the building elevation. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) must be elevated one foot or more above the base flood level (SJCC Chapter 15.12).

Once all of the setbacks and buffers are drawn on the site plan, locate a development site outside of them. This is the most direct way of meeting critical area requirements with the fewest required reports.

## **RESIDENTIAL APPURTENANCES**

Please see the DCD policy, procedures and interpretation in LUP-2019-02\_SMP-Res\_Appurt:  
<https://www.sanjuanco.com/DocumentCenter/View/18102/SMP-Residential-Appurtenances>

## **Is a land use permit required to construct a normal residential appurtenance structure landward of a shoreline residence and more than 110 feet from the Ordinary High Water Mark?**

A shoreline exemption may be required if it is in the shoreline jurisdiction (200 feet of the Ordinary High Water Mark) and it is not proposed as part of a single family building permit application. See SJCC 18.50.050(4) and the DCD policy, procedures and interpretation in LUP-2019-02\_SMP-Res\_Appurt for additional information:

<https://www.sanjuanco.com/DocumentCenter/View/18102/SMP-Residential-Appurtenances>

If it is exempt from a building permit, it must still meet all County regulations.

## **Do at-grade walkways, patios and driveways need to meet the side yard setbacks in SJCC 18.60.050?**

No. Please see the DCD policy, procedures and interpretation in LUP-2019-02\_SMP-Res\_Appurt for additional information:

<https://www.sanjuanco.com/DocumentCenter/View/18102/SMP-Residential-Appurtenances>

## **AESTHETIC SETBACKS**

### **To what part of the house is the aesthetic setback measured?**

It is measured to the closest part of the house to the water including eaves and decks that are more than 30 inches tall.

## **LOT WIDTH and AVERAGING**

### **How much lot width may be covered by developments on waterfront lots?**

Please see SJCC 18.50.540(2). Coverage is limited to 50 percent of the lot width measured by the shortest straight line distance from lot line to lot line through the most seaward part of the primary residential structure.

### **What parts of a house are included in the lot width measurements?**

Covered porches, eaves, decks, fences and other structures 30 inches or taller in height must be included in shoreline lot width calculations.

### **Could my shoreline setbacks be modified if existing homes on adjoining properties might block my water view?**

Yes, the director may modify the minimum setback and buffers if the following criteria from SJCC 18.50.540(C)(6) are met:

If existing houses on waterfront lots adjoining the project site are closer to the top of bank or OHWM than any specified minimum setback or buffer, and may potentially block the view of the proposed residential structure, a lesser setback or buffer of not less than 35 feet may be authorized for a residential structure by the director if:

- a. Adverse impacts to shoreline critical areas are identified by a qualified professional;
- b. Adverse impacts are mitigated in conformance with SJCC 18.50.140, 18.50.150 and 18.50.160; and
- c. The proposed setback or buffer is the greater of:
  - i. The waterward side of a line between the most waterward points of the houses on the adjoining lots, and
  - ii. The average of the distances from the OHWM to the most waterward points of the houses on adjoining lots.

### **What if one of the adjoining properties is vacant?**

The lot averaging provisions cannot be used if an adjoining lot is vacant.

### **What if a house on one adjoining property is not located seaward of where the proposed home would be located if it met the required aesthetic setback and critical area buffers for the subject property?**

To use lot width averaging in SJCC 18.50.540(2), the houses on both adjoining lots must be located seaward of the shoreline aesthetic setback SJCC 18.50.540(3), and critical area buffers required to locate a home on the subject property. Also, applicants must prove that the neighboring homes would block the view from the proposed home if it were located to meet the required setbacks and buffers.

If trees on an adjacent lot would block the view from the required location of your proposed home, averaging is not allowed. It is only allowed when an existing house would potentially block the view.

### **What if a house on an adjoining lot is located behind where the subject house would be placed if it were to meet the required aesthetic setback and critical area buffers?**

Lot width averaging is not allowed in this case.

## **ENVIRONMENTAL PROTECTION**

### **How must one protect the environment during shoreline development?**

According to SJCC 18.50.120 General environmental protection:

Land uses and developments that include vegetation removal, fill, excavation or grading on County shorelines must be designed, located, sized, constructed and maintained to result in no net loss of shoreline ecological functions.

In addition, land use and development project proposals that do not meet the critical area requirements for no net loss in SJCC 18.50.130 must include a mitigation sequence analysis that considers avoiding actions, minimizing the scale and scope of the project and possible mitigation actions.

Where a project may cause or increase the intensity of unavoidable adverse impacts on shoreline ecological functions, mitigation to offset the impacts is required and must be consistent with the mitigation sequence and mitigation planning process in SJCC 18.50.140, 18.50.150 and 18.50.160.

**Where land use or development projects meet or exceed the protections required by the critical area regulations in SJCC 18.50.130, mitigation is not required.** All new uses, developments and ancillary activities that do not comply with SJCC 18.50.130 require mitigation of adverse impacts consistent with the provisions of SJCC 18.50.140, 18.50.150 and 18.50.160.

### **How do I know which critical area regulations apply in shoreline jurisdiction?**

SJCC 18.50.130 Critical areas establishes which critical area regulations codified in Chapter 18.35 SJCC are incorporated into the SMP.

### **How do I know what critical area regulations or cultural resources might affect my development proposal?**

Prior to doing your site planning, request a critical area and cultural resources map review from DCD. You can submit the request form online to [dcd@sanjuanco.com](mailto:dcd@sanjuanco.com). This will let you know what setbacks might be applicable and what reports are needed to submit a complete permit application.

<https://www.sanjuanco.com/DocumentCenter/View/16764/Request-for-Critical-Area-and-Archaeology-Review-PDF?bidId=>

### **If I have a very complex site with lots of critical areas especially in the shoreline, should I get a site visit from DCD to identify the Ordinary High Water Mark and/or the Top of Bank, and building setbacks and buffers?**

Yes. Please submit an application for Residential Pre-Application with the \$400 fee and staff will arrange a site visit. This is highly recommended for shoreline properties, especially those with nearby wetlands and streams.

### **If my property is not bedrock will I need to get a qualified geologist to determine the coastal geologic buffer?**

Yes, on all nonbedrock shorelines, coastal geologic buffers are required By SJCC 18.50.120(D). The required geotechnical report must demonstrate that the proposed buffer will be sufficient to avoid the need for new protective structural shoreline stabilization measures for the life of the structure (75 years).

### **Does the critical area exception for pre-existing development area apply in the shoreline jurisdiction?**

No, all development in the shoreline jurisdiction must meet the environmental protection standards in SJCC 18.50.120.

## **VEGETATION/TREE REMOVAL AND PLANTING**

Tree removal in the shoreline requires the approval of a shoreline tree removal permit application unless the work is proposed as part of a building permit application. All trees to be removed must be shown on the building permit application site plan. Tree removal must meet the requirements of the Tree Protection Zones (TPZ 1) in SJCC 18.35.130 and other critical area requirements in SJCC Chapter 18.35. No tree removal is allowed in TPZ 1 except trees approved in as hazard trees in a shoreline tree removal application.

### **Is vegetation removal allowed in a critical area buffer or Tree Protection Zone?**

Not unless specifically permitted by SJCC 18.35.130 or Tables 18.35.100-4 or 18.35.130-3.

### **May hazard trees be removed in the shoreline jurisdiction?**

Yes, with the approval of a shoreline tree removal application.

### **What is a hazard tree?**

A hazard tree (SJCC 18.20.080) is a tree that a certified arborist has determined has:

A high probability of falling due to a debilitating disease or a structural defect; **and**

Potential for significant property damage or personal injury if it falls.

### **Do I need to hire an arborist to assess hazard trees?**

Yes.

### **Is tree removal allowed within a 50 foot shoreline aesthetic setback?**

Not unless removal of the trees is specifically permitted by SJCC 18.35.130. All other trees that are removed must be replanted to maintain the screening required by the 50 foot aesthetic setback. Hazard trees removed in the 50 foot aesthetic buffer must be replaced at a 1:1 ratio.

## **FILL IN FLOOD HAZARD AREAS**

### **Does fill in flood hazard areas pertain to any area at or below the base flood elevation?**

Yes, it applies to the area included in the definition of fill in SJCC 18.20.060:

“Fill” means the placement of soil, rock, gravel, existing sediment, or other material (excluding solid waste) to create new land, tideland, or bottom land, along the shoreline below the ordinary high water mark or on upland areas or wetlands, in order to raise the elevation.

### **Is normal backfill associated with the foundation considered “fill” in the flood plain and prohibited?**

Backfill from the site that is moved around on the site is allowed to balance the development. It is not considered fill for the purpose of the flood hazard regulations in SJCC Chapter 15.12. However, all fill must comply with San Juan County Code. Land clearing, grading, filling, or alteration of natural drainage and topography shall be limited to the area necessary for driveways, buildings, and view and solar access corridors. See SJCC 18.50.110.

### **Is imported fill allowed?**

Imported fill is not permitted unless it is specifically allowed in the regulations.

### **Who else regulates fill below the Ordinary High Water Mark and wetlands and streams?**

The US Army Corps of Engineers and the WA State Department of Ecology.

## **Is fill in flood hazard areas identified on the Flood Insurance Rate Maps (FIRMs) allowed?**

Not unless the director finds that no feasible alternative exists. Land clearing, grading, filling, and altering of wetlands, natural drainage features and topography are also limited to the minimum area necessary for driveways, buildings, and views, and must conform to critical area requirements and SMP setbacks. It is the property owner's responsibility to obtain required state and federal authorizations for work in wetlands, streams or shoreline waters.

## **Are fill and excavation allowed within wetlands or waterward of the OHWM?**

They are only allowed for specific purposes outlined in SJCC 18.50.110(E) when all other codes are met.

## **What shoreline and land use designation/districts prohibit or restrict fill?**

1. Conservancy. Fill is prohibited within this designation.
2. Aquatic. Fill may be allowed in this designation subject to a conditional use permit.
3. Fill is prohibited within the Eastsound subarea.

## **NONCONFORMING STRUCTURES (SEE SJCC 18.50.090)**

### **Where can I find the nonconforming requirements in the shoreline code?**

SJCC 18.50.090 Nonconforming structures, uses, and activities provides the code requirements for nonconforming shoreline structures. These regulations apply to legally established nonconforming structures.

### **Is movement, replacement, redevelopment or expansion or modification of a nonconforming use allowed to increase the nonconformity with a critical area buffer, aesthetic setback or code provision?**

NO. The degree of nonconformity cannot be increased.

### **If we were to leave the foundation walls on a legally established nonconforming use before we apply for a replaced structure can we still take advantage of the nonconforming rules?**

Yes, and no demolition permit is required if the whole structure is not being demolished. Also, after having a surveyor plot the exact location and footprint you could have the entire house demolished.

Complete application(s) for project or development permits for replacement structures must be

submitted within 48 months of removal or destruction of the original structure. The director may extend this time period for good cause after the property owner submits a letter declaring their intent to rebuild the structure in the future. To retain the right to rebuild, a letter of intent must be submitted to the department every 48 months.

### **If I am moving, replacing, redeveloping, expanding or modifying a legal nonconforming structure, what environmental regulations apply?**

You must comply with SJCC 18.50.120 - .160 and either meet the applicable critical area buffers and regulations or do a mitigation sequence and analysis and prove no net loss through the submittal of a fish and wildlife habitat assessment. This report must also address the nonconforming code criteria in SJCC 18.50.090.

### **Is total demolition of a nonconforming structure and then construction with the same nonconforming setback in a previously undisturbed area of a site allowed?**

No, this is considered new construction.

### **If someone is replacing siding on a shoreline residence nonconforming to critical areas do they need a no net loss evaluation to comply with critical area regulations?**

Not if the replacement is like for like materials with no disturbance to the sheathing/decking/ gutter and downspout placement. Such work does not require a building permit.

### **If someone is replacing the roof or re-roofing on a nonconforming shoreline lot do they need a no net loss evaluation?**

It may depend on the specific work. Not when the replacement is like for like siding and roofing materials and there are no changes to structure dimensions, height, or stormwater control – gutters, or a change in to the use of a pollution generating material such as a copper or zinc roof.

When there are changes to the decking, sheathing, dimensions, gutters or height or a change to a base metal roof (copper or zinc) then a response to all of the criteria in SJCC 18.50.090 Nonconforming structures, uses, and activities including a No Net Loss analysis and mitigation sequence analysis would be required.

### **If I have a fence that is legally nonconforming and located landward of the most seaward extent of the house can it be replaced?**

Yes, but only with the **same size, type and style** (split rail for split rail). The replacement must meet the requirements for nonconforming structures in SJCC 18.50.090.

## **EXTREME HIGH WATER**

### **What is the definition of Extreme High Water and what data source should I use to identify it?**

We use the Washington State Department of Natural Resources definition:

Extreme High Water - The highest point the tide reaches during the 18.6-year tidal cycle. Data source: [https://tidesandcurrents.noaa.gov/est/est\\_station.shtml?stnid=9449880](https://tidesandcurrents.noaa.gov/est/est_station.shtml?stnid=9449880)

## **WATER AND SEPTIC**

### **What do I need to know about wells and on-site sewage systems in the shoreline jurisdiction?**

The SJC Health Department approves water sources and on-site sewage disposal systems for the purposes of obtaining a building permit. With respect to on-site sewage systems, the required setback from the drainfield to the Ordinary High Water Mark is 100 feet. The drainfield will also have to be setback from a well by 100 feet, and the septic tank cannot be within 50 feet of a well. The minimum setback from a well to a foundation is only 10 feet.

Some applications for a certificate of water availability to use an existing well on the property will have to go through our seawater intrusion risk assessment review process. This occurs when the property is less than 5 acres and the well is less than 1000 feet to the shoreline. As part of this process, a hydrogeologist must perform a hydrogeologic site evaluation to determine whether the well can be utilized for new construction without degradation due to seawater intrusion. This report is then peer reviewed by our contract hydrogeologist. The applicant is responsible for paying fees to cover the cost of this review. See San Juan County Code 8.06.210.