

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS, AND DECISION

Applicant(s): San Juan County Parks and Fair
in care of
Dona Wuthnow
350 Court Street #8
Friday Harbor, WA 98250

S.J.C. DEPARTMENT OF
SEP 11 2017
COMMUNITY DEVELOPMENT

File No.: PSJ000-17-0006

Request: Shoreline Substantial Development Permit

Parcel No(s): 242413008

Location: Agate Beach County Park, Lopez Island

Summary of Proposal: An application to install additional parking spaces at Agate Beach County Park, Lopez Island

Shoreline Designation: Rural Farm Forest

Public Hearing: July 13, 2017

Application Policies and Regulations:

- SJCC 18.60 Development standards
- SJCC 18.50.050 Archaeological and historic resources
- SJCC 18.35.070 Geologically hazardous areas – geotechnical reports
- SJCC 18.35.130 Fish and wildlife habitat conservation areas – protection standards
- SJCC 18.50.090 Parking
- SJCC 18.80.110 Shoreline permit and exemption procedures

Decision: Approved subject to conditions

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

In the Matter of the Application of)
)
San Juan County Parks and Fair) NO. PSJ000-17-0006
)
)
)
for approval of a shoreline permit to)
install additional parking spaces at Agate)
Beach County Park, Lopez Island)

S.J.C. DEPARTMENT OF
SEP 11 2017
COMMUNITY DEVELOPMENT

SUMMARY OF DECISION

The requested shoreline substantial development permit to install nine additional parking spaces at Agate Beach County Park on Lopez Island is **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request:

San Juan County Parks and Fair (Applicant) requested a shoreline substantial development permit to install nine additional parking spaces at Agate Beach County Park, Lopez Island.

Hearing Date:

The San Juan County Hearing Examiner held an open record public hearing on the request on July 13, 2017. On the record, the Applicant agreed to extend the decision issuance deadline by five business days.

Testimony:

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

Julie Thompson, Planner, San Juan County Department of Community Development
Dona Wuthnow, San Juan County Parks and Fair, Applicant representative
Jeff Sharpe, San Juan County, Assistant County Engineer, Applicant representative
Barbara Fulton
Mike Rust
Sally Reeve
Ralph Bladt

Exhibits:

The following exhibits were admitted in the record:

1. Department of Community Development staff report, dated June 30, 2017
2. Request for review
3. Determination of non-significance, dated May 17, 2017
4. Environmental checklist

5. Application materials
6. Stormwater Management Plan and Construction Stormwater Pollution Prevention Plan, dated March 7, 2017
7. Geology Hazard Assessment, dated March 2, 2017
8. UW Friday Harbor Labs comments, dated May 29, 2017
9. San Juan County Public Works comments, dated June 8, 2017
10. Washington State Department of Ecology comments, dated May 24, 2017
11. Samish Indian Nation comments, dated May 17, 2017
12. Public comments from Mike Rust, dated June 19, 2017
13. Public comments from Sorrel North, dated June 13, 2017
14. Public comments from Heather Mitchell, dated June 13, 2017
15. Legal ad
16. Notification materials
17. San Juan County Inadvertent Discovery Plan
18. Article from Islands Weekly, dated June 27, 2017
19. Sally Reeve comments, dated July 3, 2017
20. Photos of sign posted at Agate Beach Park, date stamped July 10, 2017
21. Article from Lopez Rocks posted by Sally Reeve, dated July 9, 2017
22. Lyn Sorenson comments, dated July 9, 2017
23. Tamara Shane comments, dated June 28th, dated received July 10, 2017
24. Gretchen Wing comments, dated July 7, 2017
25. Char Rigic comments, dated July 12, 2017, with two attached photos of the site
26. Department of Community Development post-hearing submittal, dated August 25, 2017
27. San Juan County Parks and Fair post-hearing submittal, dated August 23, 2017

Also included in the record of the matter are two post-hearing orders dated August 7, 2017 and August 29, 2017.¹

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

¹ Exhibits 26 and 27 were submitted in response to the August 7, 2017 first post-hearing order. Both are admitted. Based on the date of submittal of the final document, the decision issuance deadline is September 11, 2017 as was announced in the second post-hearing order.

FINDINGS

1. San Juan County Public Works (Applicant) requested a shoreline substantial development permit (SSDP) to install nine additional parking spaces at Agate Beach County Park, Lopez Island.² The project would install gravel parking spaces within the County road right-of-way on MacKaye Harbor Road inside the 3.9-acre park. The proposed location of the parking stalls is within 200 feet of the shoreline of Puget Sound and is designated Rural Farm Forest shoreline environment by the San Juan County shoreline master program (SMP). *Exhibits 1, 2, and 5; Julie Thompson Testimony.*
2. Agate Beach County Park is located in the southwest portion of Lopez Island, with a view of Iceberg Point, part of the new San Juan Islands National Monument lands. Behind the existing parking area is forested land with a series of walking trails. Across MacKaye Harbor Road, the shoreline along Outer Bay is an unstable high bank. At low tide, access to the sandy beach is possible by existing stairs. Surrounding land uses include residential development to the north and south, and undeveloped agricultural and forest land to the east. Outer Bay is to the west. *Exhibits 1 and 4; Dona Wuthnow Testimony.*
3. The proposal would install nine gravel parking spaces on the north (upland) side of MacKaye Harbor Road in the park for the use of visitors to both the park and to the National Monument at Iceberg Point. The proposed project site, partially within the County road right-of-way and partially within the park property, is flat. The stalls would measure nine by 18 feet, and would either be 90 degree or angled in parking. Minimal earthwork would be required. Excavation is estimated at 70 cubic yards. Aside from crushed gravel from an island gravel pit, no fill is proposed. The grading would create positive drainage away from the bluff into the park. The parking area would be approximately 1,458 square feet, increasing impervious surfaces in the park by less than 1%. Development of the proposal would require removing Salal and Nootka rose, which would be replanted between the proposed parking area and the nearest wetland. No trees would be removed. No work is proposed in, over, or adjacent to Outer Bay. Heavy construction equipment would be present for the few days construction takes place, which would occur exclusively during daylight hours. *Exhibits 1, 4, and 5; See Exhibit 5, Wetland Reconnaissance Map for visual depiction of project and photos of the project location's existing condition; Jeff Sharpe Testimony; Dona Wuthnow Testimony.*
4. Currently, access to the shoreline in the park is limited due to scarcity of parking. Across from the shoreline access stairs is a small parking area with space for 12 to 15 cars. Once that is full, park visitors frequently park along the road, making vehicle and pedestrian travel along the road less safe. The purpose of the project is to eliminate or at least reduce unsafe parking occurring during peak season when a portion of the roadway is typically blocked by cars parked at the side of the road. To address the unsafe overflow parking already occurring during peak park use, the road through the park has been striped to be one-way in this section and Jersey barriers have been placed in the area where unsafe parking has occurred. The Jersey barriers would likely be replaced with a

² The subject property is known as Tax Parcel Number 242413008. *Exhibit 1.*

log barricade. The proposed additional parking would increase public access to the park and promote recreation activities. The project is anticipated to be temporary. MacKaye Harbor Road is scheduled to be relocated away from the shoreline to the eastern side of the County park within the next five to six years. When that happens, the proposed parking together with all existing parking areas would be removed and the areas restored. *Exhibits 5, 18, and 27; Jeff Sharpe Testimony; Dona Wuthnow Testimony.*

5. The Applicant submitted a stormwater management plan prepared by County Public Works addressing Minimum Requirements #1 through #5. The plan stated that drainage would cross the construction area by roadside ditch and then along the natural contours of the land from southeast to northwest. The protect the drainage ditch and to help reduce tracking of dirt from the construction site, a valley gutter would be built. The project would not alter the site's natural drainage from southeast to northwest. The project would employ best management practices (BMPs) T5.11 (concentrated flow dispersion), T5.20 (preserving natural vegetation), T5.21 (better site design), and T9.10 (basic biofiltration swale). *Exhibit 6.*
6. Because the project site is within 200 feet of an unstable bluff that meets the County Code definition of Category I landslide hazard area and within 200 feet of the ordinary high water mark, the Applicant submitted a geologic hazard assessment prepared in March 2017 by a licensed engineering geologist. The geologist conducted a site visit and reviewed a geologic survey completed in support of the MacKaye Harbor Road Relocation Feasibility Study that provides information on site geology and soils in the vicinity of the proposed parking project (Plateau Geoscience Group 2016). The geologist confirmed that the project area includes no portion of the unstable bluff or any other geological hazardous area and that the creation of parking spaces as proposed would not increase the risk of erosion. *Exhibit 7.*
7. There are three wetlands within 300 feet of the proposed parking area. Wetland A is Category II wetland located 100 feet at its nearest point south from the proposed parking area. Wetland B is a very small Category IV wetland 210 feet to the east/southeast.³ Wetland C is a Category III wetland 265 feet to the northeast. The submitted Stormwater Management Plan indicates that runoff from the gravel parking spaces would flow into the County's vegetated drainage swale rather than towards any of the three wetlands. No water quality buffer is required to be provided to any of the three wetlands; however, the parking area is farther away the required water quality buffer for any of the wetlands per SJCC Table 18.35.100-1. The proposed parking area is outside the required habitat buffers for Wetlands B and C. Pursuant to SJCC Table 18.35.100-3, the required the required habitat buffer for Category II Wetland A is 225 feet, meaning the proposed parking area is located entirely within Wetland A's required habitat buffer. *Exhibit 5, Wetland Reconnaissance Map for visual depiction of project and photos of the project location's existing condition; Exhibit 27.*

³ At 174 square feet in area and with a Category IV rating, Wetland B is not regulated pursuant to the County critical areas ordinance. *Exhibit 27.*

8. Planning Staff noted that while development activities and site modifications are prohibited within wetlands buffers, pursuant to SJCC 18.35.085, any use legally located within shorelines of the state established before the effective date of the County's critical areas ordinance may be redeveloped or modified if the redevelopment or modification is 1) consistent with SJCC Chapter 18.50 and 2) will result in no net loss of shoreline ecological function. The proposed additional parking would supplement the existing parking in the adjacent gravel parking area that was developed with the park, and County Staff submitted that this "supplementation" (expansion) meets the intent of SJCC 18.35.085. *Exhibits 26 and 27.*
9. With regard to consistency with SJCC Chapter 18.50, the shoreline master program, County Staff considered the SMP regulations for parking at SJCC 18.50.090. No parking is proposed over water. The additional parking spaces were designed to minimize impacts to the surrounding area, including wetland buffer and shoreline, in that no trees would be removed and native vegetation would be retained surrounding the new temporary parking stalls. The parking is not intended to serve individual buildings; no new buildings are proposed. The expanded parking area was sited to facilitate and enhance pedestrian circulation to the existing park restrooms and the stairs down to the shoreline. Again, the new parking area would drain to an existing County road and drainage system. A stormwater management plan was developed to ensure stormwater is effectively collected and treated prior to discharge. *Exhibits 5, 6, 26, and 27.*
10. With regard to the requirement to demonstrate no net loss of shoreline ecological function, County Staff noted that the parking area is on the landward side of MacKaye Harbor Road, which separates the park from the shoreline. Runoff would drain towards the park, away from the shoreline, and be treated in the County grass-lined stormwater system. The proposal would reduce the existing, ongoing occurrence of vehicles parking outside developed parking spaces on the seaward side of the road, which activity does have the potential to adversely impact the unstable shoreline bluff. The submitted geology hazard assessment concluded that the project would not cause erosion or affect the stability of the site. Trees would be labeled and protected with construction fencing; none would be removed. No habitats of local importance have been identified in the project site, meaning none would be affected. Planning Staff asserted that these factors demonstrate no net loss of shoreline ecological function. *Exhibits 6, 26, and 27.*
11. Parks Staff submitted that the proposal would also comply with SJCC 18.25.100.F, which allows new or expanded roads, driveways, and trails within wetland buffers if conditions are met. The existing overflow parking is occurring in the road. Parks Staff noted that the proposed temporary gravel parking stalls would supplement the existing parking area, protecting wetland uses and functions consistent with the intent of this provision, though it is parking and not additional road that is proposed. The proposed parking area is downslope of the Category II wetland, would not involve tree removal, would direct stormwater runoff to the County swale, and would be accessed directly from the existing road through the park. *Exhibit 27.*

12. Pursuant to SJCC 18.50.050, a report by a qualified archaeologist must be prepared when archaeological resources are known to be present. The Applicant retained the services of a qualified archeologist to review the site plan for the proposed parking, who provided a letter containing their assessment with regard to cultural resources and recommendations for the project. The letter concluded that the project site is in an area of high risk for encountering historic or precontact deposits. Recommendations included having an archaeologist present to monitor all ground disturbing activity, that inadvertent discovery procedures be implemented, and that the County contact the Lummi and Samish Nations for comment. The County sent a request for review to the Department of Archaeology and Historic Preservation on May 17, 2017. The Samish Tribal Historic Preservation Officer submitted comments concurring with the archeologist's recommendations. The San Juan County inadvertent discovery plan would be implemented during construction. *Exhibit 1, 11, and 17.*
13. General parking standards are established in SJCC 18.60.120. County Staff submitted the proposal meets the general parking standards because: the parking spaces are sized to be compliant with Table 6.5, depicted on the site plan; the proposed number of parking spaces was set at nine to minimize impact to the surrounding area and to eliminate possible tree removal; and nine stalls is a useful number of overflow parking spaces during peak park use. *Exhibits 1 and 5.*
14. Consistent with the State Environmental Policy Act (SEPA), San Juan County assumed lead agency status for review of the proposal's environmental impacts. A determination of non-significance (DNS) was issued May 17, 2017. No comments were received on the DNS. *Exhibits 1, 3, and 4.*
15. The application was submitted March 17, 2017 and deemed complete on March 31, 2017. Notice of the application was published on May 17, 2017, mailed to surrounding property owners and posted on-site on May 19, 2017. Notice of the proposal was specifically sent to San Juan County Public Works, Samish Indian Nation, UW Friday Harbor Labs, and Washington State Department of Ecology, both SEPA and Shoreline divisions, and Washington State Department of Natural Resources. *Exhibits 1, 2, and 16; Julie Thompson Testimony.* The public hearing was also mentioned in an article in Islands Weekly on June 27th. *Exhibit 18.*
16. The County received comments from UW Friday Harbor Labs noting the project "is clearly necessary" and given that construction would be across from the shoreline with careful management of the stormwater, the Labs had no concern of impact to marine resources in Outer Bay. *Exhibits 1 and 8.*
17. San Juan County Public Works Assistant County Engineer reviewed and approved the Stormwater Management Plan. *Exhibits 1 and 9.*
18. The Washington State Department of Ecology submitted comments questioning whether a NPDES permit would be required for the project. Staff indicated no permit was required since less than one acre of land would be disturbed by the project and

stormwater runoff would be released into the County-managed stormwater system. *Exhibits 1 and 10; Julie Thompson Testimony.*

19. Written public comments were received on the application. Concerns expressed included: worry about impacts from cutting and clearing within 200 feet of the bank, noting it is unlawful for individuals; doubt whether the project is actually needed, as overflow occurs a few times each year; concern that adding parking may encourage overuse of the park and doesn't benefit the County; and concerns that the notice provided was not sufficient to allow opportunity for community input. *Exhibits 1, 12, 13, 14, and 23.* There were also several written public comments prior to the hearing supporting the proposal, some with photos and descriptions of unsafe conditions resulting from overflow parking. *Exhibits 19, 21, 22, 24, and 25.*
20. At hearing, members of the public who opposed the project presented the following concerns. Gravel placement over tree roots, which is then compacted through parking use, can damage trees' ability to collect sea mist; the trees could die. Some felt that the County needs to focus on source of problem, which is the eroding seabank, rather than increasing parking at this location, and asserted that with or without additional parking the road is jeopardy. One suggested that habitat neutral shoreline armoring would benefit bank and should be a higher priority for County resources. One of the 15 residential property owners beyond the park who use the road for access to their homes testified, indicating that eight of the 15 are full time residents who need more than one lane for access. He asked that additional parking be placed further back, south, in the park and that the road be returned to two lanes. One noted that MacKaye Harbor Road will be widened in the future and that risking damage to the bluff and other resources in the area shouldn't be undertaken until the studies and plans for the road widening are complete. *Testimony of Mike Rust and Ralph Bladt.*
21. Others who testified at hearing are in favor of the additional parking, noting that the overflow parking along the bluff has been a problem for years resulting in increasing public safety concerns. One who commented participates in Lopez Island emergency response; she testified that it would be very hard to get through the area where overflow parking is occurring with a fire truck. She noted that there are no 'No Parking' signs, which might an easy, low impact method of deterring unsafe parking, and also noted that people are using the Jersey barriers as a pedestrian walkway out of traffic, because there is no designated pedestrian path. She noted that the recently designated national monument is still in the resource management/ development process. This process, which has been delayed due to national Department of Interior policies, would likely result in additional resources to develop access to the monument in the future, meaning the temporary nature of the proposed parking is appropriate to address the emergent need. Another who testified in favor of the proposal is a San Juan County Parks Commissioner. She lives in one of the 15 residences beyond the park and drives by the project site twice a day. She is not opposed to the one-lane road in this location, noting that it slows traffic speeds. She testified that there are often 10 to 13 cars parking in the area, several unsafely. With regard to whether promoting access to the shoreline in this location is a

good use of County resources, she stated that County parks are for everybody.
Testimony of Sally Reeve and Barbara Fulton.

22. In response to public comment, County Staff noted that the narrowing of the road to one lane was done to prevent unsafe parking along the bluff. County Public Works Staff confirmed that widening MacKaye Harbor Road road is not on the County's six-year capital improvement plan, and submitted that the current safety issues need to be addressed sooner than road widening can be expected. The proposed parking is not intended to be permanent; gravel parking areas can be removed and restored. The temporary solution proposed could be in place by this fall, alleviating the public safety concerns in the coming peak seasons while the planning for National Monument is undertaken. Addressing the concern that gravel parking would damage tree roots and prevent sea mist uptake, County Staff noted that the existing gravel parking in the area has not apparently damaged trees severely. Local tree damage is believed to be wind related. *Dona Wuthnow Testimony; Jeff Sharpe Testimony.*
23. Upon review, Planning Staff determined that the installation of the proposed nine parking spaces would be consistent with these goals and policies and recommended approval with conditions. *Julie Thompson Testimony; Exhibit 1.* The Applicant representative waived objection to conditions. *Dona Wuthnow Testimony.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits, pursuant to Chapter 36.70.970 of the Revised Code of Washington and Chapters 2.22 and 18.80 of the San Juan County Code.

Criteria for Review:

Criteria for Approval of Substantial Shoreline Development Permits

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

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

Other Applicable Provisions of the San Juan County Code

SJCC 18.35.070 Geologically hazardous areas—Geotechnical reports

- A. Geotechnical reports shall be prepared, stamped and signed by a qualified professional. These reports must:
1. Be appropriate for the scale and scope of the project;
 2. Include all geologically hazardous areas and all potentially affected areas in or within 200 feet of the area proposed for development or vegetation removal. If the affected area extends beyond the subject property, the geotechnical analysis may utilize existing data sources pertaining to that area;
 3. Clearly state that the proposed project will not decrease slope stability or pose an unreasonable threat to persons or property either on or off site;
 4. Be adequate to determine compliance with the requirements of the San Juan County Code;
 5. Generally follow the guidelines set forth in the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006). In some cases a full report may not be necessary to determine compliance with the San Juan County Code, and in those cases a letter or abbreviated report may be provided.
- B. The director will review geotechnical reports for completeness and compliance with this section.
- C. A geotechnical report does not expire unless there are changes in proposed land uses or site conditions.

SJCC 18.35.100 Wetlands – Protection standards.

This subsection establishes protection standards for wetlands, including a site-specific procedure for sizing wetland buffers.

- A. Site-Specific Buffer Sizing Procedure. The following is a site-specific procedure for determining the size of vegetative buffers necessary to protect the water quality, water quantity, and habitat functions of wetlands. Two separate buffer components, a water quality component and habitat component, are considered in the procedure. Required buffers apply regardless of whether the wetland is on the same parcel or another parcel that may be under different ownership. If the wetland is under different ownership and is not accessible, then the wetland rating and boundaries are established using available maps and information, including a visual assessment if possible. The water quality buffer is determined first based on the wetland rating category and land use intensity from Tables 18.35.100-1 and 18.35.100-2 provided in Step 4 below. The habitat buffer is then determined from Table 18.35.100-3. In all cases, conditions on the ground shall control.

1. Determine the Water Quality Buffer.

Step 1. Location Relative to Wetlands. Is the proposed development, vegetation removal or other site modification located within 300 feet of a wetland? If so, proceed to the next step. In some cases, to answer this question, it may be necessary to have the wetland edge facing the area that will be

developed or modified delineated in accordance with SJCC 18.35.105. In many cases, this can be based on a wetland reconnaissance rather than a full delineation. Although maps and other imagery can be used to help with this determination, conditions on the ground shall control. If the proposed development, vegetation removal, and other modifications are more than 300 feet from the wetland, no further action is needed for compliance with wetland critical area regulations. (Note: If proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 18.35.100-4 and subsections (F) and (G) of this section, it may not be necessary to identify the edge of the wetland and the size of the water quality buffer.)

- Step 2. Drainage Direction. Does the area proposed to be developed or modified drain to the wetland? If the area proposed to be developed or modified drains to the wetland, delineate the wetland in accordance with SJCC 18.35.105 and proceed to determine the required water quality buffer. If the area proposed to be developed or modified does not drain to the wetland, a water quality buffer is not required and only a habitat buffer applies. Proceed to the habitat buffer sizing procedure in subsection (A)(2) of this section.
- Step 3. Wetland Rating Category. Determine the wetland rating category using the Washington State Wetland Rating System for Western Washington – Revised (Ecology Publication No. 04-06-025) as revised by Ecology. This will require the assistance of a qualified professional. (Note: If the wetland contains particular plants or animals protected as fish and wildlife habitat conservation areas, a higher rating may apply. See SJCC 18.35.115 and 18.35.135.)
- Step 4. Identify the Water Quality Buffer Width. Using Tables 18.35.100-1 and 18.35.100-2 below, determine the water quality buffer based on the wetland rating category and land use intensity of the proposed development. Buffers are measured horizontally from the edge of the wetland.

The director may reduce the standard buffer widths in an urban growth area when impacts to critical areas are mitigated according to SJCC 18.35.040 and the buffer reduction is consistent with all other applicable requirements of this section provided:

- a. The buffer of a Category I or II wetland shall not be reduced to less than 75 percent of the required buffer or 50 feet, whichever is greater, and
- b. The buffer of a Category III or IV wetland shall not be reduced to less than 50 percent of the required buffer, or 25 feet, whichever is greater.

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2. Determine the Habitat Buffer.

- Step 1. Determine the Wetland Rating Category. Determine the wetland rating category using the Washington State Wetland Rating System for

Western Washington – Revised (Ecology Publication No. 04-06-025), as revised by Ecology (see SJCC [18.35.090](#)). This will require the assistance of a qualified professional. If the wetland contains particular plants or animals protected as fish and wildlife habitat conservation areas, a higher rating may apply. See SJCC 18.35.115 and 18.35.135.

- Step 2. Determine Habitat Buffer from Table 18.35.100-3. Using the wetland rating category and the proposed land use intensity type from Table 18.35.100-2, determine the required size of the habitat buffer from Table 18.35.100-3. Unlike the water quality buffer, the habitat buffer must completely surround the wetland. Buffers are measured horizontally from the edge of the wetland. Proceed to Step 3 if desired. (Note: If no trees are being removed, proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 18.35.100-4 and subsections (F) and (G) of this section, it may not be necessary to identify the edge of the wetland and the size of the habitat buffer.)

Table 18.35.100-3

Habitat Buffers			
Wetland Category	Land Use with Low Impact ¹	Land Use with Moderate Impact ¹	Land Use with High Impact ¹
I	150 feet	225 feet	300 feet
II	150 feet	225 feet	300 feet
III	75 feet	110 feet	150 feet
IV	25 feet	40 feet	50 feet

¹See Table 18.35.100-2 for types of land uses that can result in low, moderate, or high impacts to wetlands.

- Step 3. Habitat Buffer Averaging. Habitat buffer averaging allows reduction of the required habitat buffer in specified locations on the property proposed for development, vegetation removal or other modification, in conjunction with increases of the buffer in other areas, so that the total area of the habitat buffer is unchanged. Averaging of the habitat buffer will be allowed only if the applicant demonstrates that all of the following criteria are met:
- a. Averaging is necessary to accomplish the purposes of the proposal, and no reasonable alternative is available;
 - b. If the wetland contains variations in habitat sensitivity due to existing physical characteristics, the reduction from standard habitat buffer sizes will occur only contiguous to the area of the wetland determined to be least sensitive;

- c. The total area contained within the habitat buffer after averaging is no less than that contained within the standard habitat buffer prior to averaging;
- d. The habitat buffer shall not be reduced by more than 25 percent, and the reduced habitat buffer must not occur along more than one-half the circumference of the wetland; and
- e. If a portion of the buffer is to be reduced, the remaining habitat buffer area will be enhanced using native vegetation and fencing where appropriate to improve the functional attributes of the buffer, and to provide additional protection for wetland functions and values. A proposal to enhance a buffer shall not be used as justification to reduce an otherwise functional standard habitat buffer, unless such buffer reduction complies with all other criteria for buffer averaging.

SJCC 18.35.100.F, Road and Trail Crossings

The construction of new or expanded roads, driveways, trails, and associated culverts and bridges across wetlands and their buffers is allowed, provided they are in conformance with SJCC 18.60.080 through 18.60.100 and the following. Road and driveway crossings may also be approved through the reasonable use exception process outlined in SJCC 18.35.020 through 18.35.050.

1. New roads and driveways may only be constructed across wetlands and their buffers if reasonable efforts are made to avoid and minimize impacts to wetland functions and values.
2. When practicable, new roads, driveways, trails and walkways must be located on existing road grades, utility corridors, or previously disturbed areas.
3. When required, permits and approvals must be obtained from appropriate state and federal agencies, including but not limited to: Washington Department of Fish and Wildlife; Washington State Department of Ecology; Washington State Department of Natural Resources; U.S. Army Corps of Engineers; U.S. Coast Guard; NOAA Fisheries Service; and U.S. Fish and Wildlife Service.
4. Roads must cross wetlands and their buffers at, or as close as possible to, a 90-degree angle.
5. Crossings must not interfere with the flow and circulation of water or other wetland processes. The location and design of the road or driveway crossing must be evaluated by a qualified wetland professional or other qualified professional, to ensure that wetland processes will not be adversely affected.
6. Construction must occur during any work windows and time limits established by the state or federal agencies with jurisdiction.
7. All crossings must be designed to accommodate 100-year flood flows.
8. Whenever practicable, crossings must serve multiple properties.

9. When expanding existing crossings that do not meet these standards, the crossing must be upgraded as necessary to reduce wetland impacts and meet the requirements of this subsection (F). For purposes of this section, an expansion is an increase in the footprint of crossing structures and associated roads or trails.
10. Roads and driveways must be crowned, in-sloped, or out-sloped to sheet flow runoff from the road surface and into vegetated areas such as grass-lined ditches or drainageways.
11. Where roads and trails cross wetlands, adverse impacts must be mitigated in accordance with SJCC 18.35.020 through 18.35.050.

SJCC 18.50.050 Archaeological and historic resources

- A. When an application for a development permit is received for an area known to be archaeologically significant, the County will not take action on the application and the applicant will not initiate any excavation or development activity until the site has been inspected by a qualified archaeologist. No application will be delayed more than 10 working days for such an inspection. If the application is approved by the County, conditions will be attached reflecting the recommendations of the archaeologist regarding preservation or protection of the site.
- B. All development permits will contain a special provision advising the permit holder that if during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find must be halted immediately, and the administrator must be notified at once. Activities authorized by the permit will not be delayed more than five working days for a finding of significance by the administrator, following the administrator's receipt of notification, unless the permit holder agrees to an extension of that time period.

SJCC 18.50.090 Parking

- A. Parking is prohibited on structures located over water.
- B. Parking facilities must be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Landscaping must consist of native vegetation and be planted before completion of the parking area in such a manner that plantings provide effective screening within three years of project completion and through maturity of the species.
- C. Parking facilities serving individual buildings on the shoreline must be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or where an alternative location would result in a lesser environmental impact on the shoreline.
- D. Parking facilities for shoreline activities must provide safe and convenient pedestrian circulation within the parking area and to the shoreline.

- E. Parking facilities shall be designed to prevent contamination of water bodies from surface water runoff. Parking facilities must be provided with the best available technologies and include a maintenance program that will assure proper functioning of all drainage facilities to prevent degradation of surface water quality.

SJCC 18.60.120 Parking.

- A. General Parking Standards. The following standards shall apply to all development under this code.

1. Off-street parking shall be established prior to occupancy of any new or expanded building or before a change occurs in the use of an existing building. Parking space requirements shall be determined from Table 6.4.
2. Off-street parking and access for physically handicapped persons shall be provided in accordance with Section 7503 of the regulations adopted pursuant to Chapter 19.27 RCW, State Building Code, and Chapter 70.92 RCW, Public Buildings – Provisions for Aged and Handicapped.
3. A parking layout plan shall be submitted to the administrator for approval consistent with requirements of Table 6.5, at the time of application for a building permit (or occupancy permit if no building permit is required) or application for any permit required by this code. The layout plan shall conform to the general parking standards contained in this subsection. The administrator may refer any parking plan to the County engineer for technical review.
4. Required off-street parking located within the jurisdiction of the Shoreline Master Program shall also be consistent with applicable provisions of Tables 6.4 and 6.5.
5. Off-street parking areas containing five or more spaces shall be landscaped according to SJCC 18.60.160(D)(3).
6. Parking lots of five spaces or more shall be placed away from public streets and behind buildings unless a 10-foot-wide landscaped buffer is provided. Parking lots shall be 20 feet (inclusive of the 10-foot buffer) from road rights-of-way and shall not occupy more than 50 percent of the frontage of any public street.
7. Off-street parking areas shall not be located more than 1,000 feet from the building they are required to serve, subject to the following:
 - a. Where the off-street parking areas do not abut the buildings they serve, the allowable maximum distance shall be measured from the nearest building entrance along the walking path to the parking area.
 - b. For all multifamily residences, at least 50 percent of parking area(s) shall be located within 100 feet from the building(s) they are required to serve.
 - c. For all nonresidential uses permitted in residential zones, the parking spaces shall be located on the same lot they are required to serve and at least 50 percent of parking areas shall be located within 150 feet of the nearest building entrance they are required to serve.

8. The minimum parking space and aisle dimensions for the most common parking angles are shown in Table 6.5. For parking angles other than those shown on the chart, the minimum parking space and aisle dimensions shall be approved by the County engineer.
9. Parking spaces abutting a landscaped area on the driver or passenger side of the vehicle shall provide an additional 18 inches above the minimum space width requirement to provide a place to step other than in the landscaped area. The parking space depth may be reduced when vehicles overhang a walkway under the following conditions:
 - a. Wheel stops or curbs are installed; and
 - b. The remaining walkway provides a minimum of 48 inches of unimpeded passageway for pedestrians.
10. Driveways providing ingress and egress between off-street parking areas and abutting streets shall be constructed in accordance with the construction standards for driveway access permits (see Figure 6.1).
11. If lighting is provided, it shall be designed to minimize direct illumination of abutting properties and adjacent streets.
12. All parking areas shall provide adequate space for turning or maneuvering without using public rights-of-way for internal circulation.

Table 6.5. Minimum Dimensions for Parking Stalls and Aisles.

Parking Angle (degrees)	Stall Width (feet)	Curb Length (feet)	Stall Depth (feet)	Aisle Width (feet)		Unit Depth (feet)	
				1-Way	2-Way	1-Way	2-Way
0	9.0	22.5	9.0	12.0	20.0	30.0	38.0
45	9.0	12.5	17.5	14.0	20.0	49.0	55.0
60	9.0	10.5	18.0	18.0	20.0	54.0	56.0
90	9.0	9.0	18.0	23.0	26.0	59.0	62.0

Conclusions Based on Findings:

1. As conditioned, the proposed project would be consistent with the Shoreline Management Act (SMA). The policy of the SMA, as set forth in RCW 90.58.020, is to “provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses.” This policy “contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.” *RCW 90.58.020*. Pursuant to the County’s Shoreline Master Program, existing uses within the shoreline are allowed to be modified if the project proponent can show no net loss of shoreline ecological function and compliance with the applicable regulations within the SMP. These necessary conclusions are detailed below. The project is consistent with the purposes of the Shoreline Management Act in that it promotes public shoreline access while protecting the unstable marine bluff and the safety of the public visiting the park and the shoreline. The proposal was reviewed for

compliance with SEPA and a DNS was issued. *Findings 1, 2, 3, 4, 5, 6, 8, 9, 10, 14, and 17.*

2. The proposal complies with Shoreline Master Program provision SJCC 18.35.085, which allows existing uses in the shoreline to be modified if no net loss of shoreline ecological function and compliance with applicable SMP regulations are shown. The proposed parking area can be considered a modification of the existing County park parking area within the shoreline jurisdiction. The submitted critical areas information and approved stormwater management plan demonstrate no net loss of ecological function in the habitat buffer of Wetland A and also support the conclusion that the project would result in no net loss of shoreline ecological function. Runoff would be directed to the existing County drainage system. No trees would be removed, and tree protection measures would be implemented prior to clearing and placement of gravel fill. The location of the parking was intentionally selected to be outside the water quality buffer for Wetland A. The submitted geological hazard report satisfied critical areas studies requirements at SJCC 18.35.070 and credibly supports the conclusion that the proposed gravel parking area would have no impact on the slope's stability. Best management practices for stormwater management would be implemented, effectively preventing erosion on the face of the unstable bluff. *Findings 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 17, and 22.*
3. The proposal satisfies applicable shoreline master plan regulations governing parking within the shoreline at SJCC 18.50.090. No overwater parking is proposed. The project was sited to avoid tree removal. The proposed parking would be near the existing parking and would improve safety of access to the park's restrooms and the shoreline access stairs. Project design includes minor grading to create positive drainage to the County's grass swale adjacent to the road. The stormwater management plan was approved by County Public Works. *Findings 3, 5, 9, and 17.*
4. The project would comply with the parking standards established in SJCC 18.60.120, with respect to size and number of stalls. Conditions would ensure that clearing, grading, and placement of the gravel fill would comply with the approved stormwater pollution prevention plan. *Findings 3, 4, 5, 13, and 17.*
5. The proposal comply with SMP regulations relating to archeological resources, critical areas, and parking. In adhering to the applicable SMP provisions, the project would be consistent with the goals and policies of the County's Comprehensive Plan. With regard to the issue of notice of application and hearing, the record shows that notice was provided through publication, mailing to adjacent property owners within 300 feet, and posting at the project site for at least 30 days, consistent with County code requirements at SJCC 18.80.030. Additional public notice occurred in the Islands' Weekly article published June 27, 2017. Notice was adequate. *Findings 3, 12, 15, 16, 18, 19, 20, 21, and 22.*

DECISION

Based on the preceding findings and conclusions, the requested shoreline substantial development permit to install nine additional parking spaces at Agate Beach County Park, Lopez Island is **APPROVED** subject to the following conditions:

1. Compliance with the stormwater management plan and the construction stormwater pollution prevention plan in Exhibit 6 shall be required.
2. A qualified professional archaeologist shall be on site during site disturbing activities.
3. The San Juan County Inadvertent Discovery Plan shall be on site during all construction activities.
4. Immediately after construction is completed, the owner shall request that the Department of Community Development perform an inspection.
5. Construction or substantial progress toward construction must be undertaken within two years of permit approval.
6. All development authorized by a shoreline permit shall be completed within five years of the approval date.

Decided September 11, 2017.

By:



Sharon A. Rice
San Juan County Hearing Examiner

Effective Date, Appeal Right, and Valuation Notices

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

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

Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to the Washington State Shorelines Hearings Board. State law provides short

deadlines and strict procedures for appeals and failure to timely comply with filing and service requirements may result in dismissal of the appeal. See RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal deadlines and procedural requirements and consult with a private attorney.

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