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Before Hearing Examiner  
Gary N. McLean

**BEFORE THE HEARING EXAMINER  
FOR SAN JUAN COUNTY S.J.C. DEPARTMENT OF**

**APR 12 2018**

**COMMUNITY DEVELOPMENT**

In the Matter of a **REVISION** to the )  
Shoreline Substantial Development and )  
Shoreline Conditional Use Permits )  
previously issued to )

**File No. PSJREV-17-0001**

**SNUG HARBOR ASSOCIATES LLC,** )  
**Applicant,** )

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION APPROVING REVISION  
TO SHORELINE SUBSTANTIAL  
DEVELOPMENT AND  
CONDITIONAL USE PERMITS**

*PROJECT: Removal and Replacement of the  
Snug Harbor Marina Facility, located within  
Mitchell Bay along the northwest side of San Juan  
Island, known as the "Snug Harbor Marina  
Redevelopment Project"* )

**I. SUMMARY OF DECISION.**

The requested Revision, to the previously-issued Shoreline Substantial Development and Conditional Use Permits for the Snug Harbor Marina Redevelopment Project ("the Project" or "Project"), is approved, subject to Conditions of Approval.

**II. RECORD.**

The Record for the matter includes all Revision application materials and exhibits marked and numbered during the course of the public hearing. Copies of all materials in the record and a digital audio recording of the open-record hearing conducted for this application are maintained by the Community Development Department.

All exhibits included in the Record are numbered 1 through 27, and described as set forth on pages 12 and 13 of the Staff Report, with two additions: Ex. 28, comprised of renderings, showing the existing, previously-approved, and revised site plans for the marina; and Ex. 29, County Code provisions referenced by Mr. Marble, regarding Master

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Planned Resorts.

All witnesses who appeared at the consolidated open-record hearing offered testimony under oath. County staff opened the hearing with a summary of the Staff Report, their process in reviewing the matter and consideration of comments received, concluding with their recommendation to approve the requested Revision, subject to conditions. The applicant was present at the hearing, with several consultants and project supporters, who expressed support for the requested Revision. Several members of the public spoke during the public hearing, mostly reiterating written comments in opposition to the marina redevelopment project that are included in the Record. The applicant team and county staff were both provided an opportunity to respond to the relatively few public comments made during the hearing, after which time the hearing closed.

Upon consideration of all the evidence, testimony, codes, policies, regulations and other information contained in the file, the undersigned Examiner issues the following Findings, Conclusions, and Decision.

**III. FINDINGS OF FACT.**

1. On or about July 3, 2017, the applicant, Snug Harbor Associates, LLC, submitted a complete application to the San Juan County Department of Community Development, requesting approval of a Revision to their previously-issued Shoreline Substantial Development and Conditional Use Permit(s), approved by the San Juan County Hearing Examiner in July of 2016, under File No. PSJ000-14-0016. (*Staff Report; Ex. 4, Application for Revision; Ex. 11, previous Decision approving SSDP/CUP*).

2. The pending Revision application is the result of other government agencies reviewing aspects of the project that are within their jurisdiction, and the changes that such agencies have requested or required in order to obtain their approval.

3. Shortly after the Examiner's approval of the original Shoreline permits for the Project in July of 2016, under File No. PSJ000-14-0016, the Department of Ecology exercised its review and approval authority over the matter, modifying the design in some respects, and requiring the installation of a "vessel, sanitary pump-out facility" at the marina. (*See Ex. 13, Sept. 21, 2016 letter from Department of Ecology, approving SSDP/CUP Permit PSJ000-14-0016*).

4. There is no dispute that the previously issued permit, issued in July of 2016 under File No. PSJ000-14-0016 (Ex. 11), was never successfully challenged in any appeal brought under the Land Use Petition Act, or to the Shorelines Hearings Board. In fact, the

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1 Shorelines Board dismissed an appeal initially raised by the Mitchell Bay Association in  
2 December of 2016. (*See Order of Dismissal in SHB No. 16-010, dated Dec. 15, 2016*).

3 5. The Staff Report and application materials describe the extensive review and  
4 consultation process that followed through late 2016 and through much of 2017, involving  
5 the Army Corps of Engineers, the Lummi Indian Business Council. (*Ex. 1, at page 4; Ex.*  
6 *4, project process narrative at page 3*).

7 6. The pending application for Revision was initially set for hearing in the Fall of  
8 2017, but it was delayed on request by the applicant to allow additional time to reach  
9 agreement with the Department of Natural Resources (DNR) regarding the revised dock  
10 configuration. The Staff Report and public hearing were all based on consideration of what  
11 the applicant hopes to be the “final agreed-upon design” as depicted in Exhibits 7, 8 and 9.  
12 (*Ex. 1, page 4; Testimony of County and Applicant witnesses*).

13 7. The Staff Report and testimony of Ms. Thompson credibly establish that the County  
14 satisfied all applicable public notice requirements regarding the Revision application.

15 8. The MDNS issued in February of 2016 for the original permit was never appealed.  
16 Consistent with WAC 197-11-600(4)(c), the County issued an addendum to the MDNS on  
17 August 30, 2017, notifying the public of the applicant’s proposed revisions to the  
18 previously-approved design for the marina. (*Ex. 1, page 8; Ex. 3*). The addendum provided  
19 an easy to read, very helpful and informative chart, listing dimensional and other  
20 differences between the existing, originally-permitted, and proposed revised design plans,  
21 and it generally explained how the revisions resulted from negotiations between the Lummi  
22 Indian Business Council and the applicant. (*Ex. 3, MDNS and Addendum to MDNS*). No  
23 one submitted any comments or appeals challenging the addendum. Based on the Record,  
24 the Examiner finds and concludes that the County satisfied all SEPA review requirements  
25 for the project, and that both the MDNS and the addendum stand unchallenged, for  
26 purposes of considering this Revision application.

9. The Staff Report and application materials credibly and substantially explain how  
the requested Revision application satisfies applicable codes and policies, particularly those  
found in SJCC 18.80.110(M), regarding Procedures for Revisions to Shoreline Permits, and  
WAC 173-27-100, regarding Revisions to permits. Except as modified in this Decision, all  
statements of fact included in the Staff Report and the applicant’s Detailed Project  
Description and Regulatory Analysis are hereby adopted as Findings of Fact supporting  
approval of the requested Revision. (*Ex. 1, Staff Report; Ex. 4, Application materials,*  
*including Detailed Project Description and Regulatory Analysis*).

10. To the extent speakers or comment letters opposed the matter, most comments were

1 primarily directed at the Project itself, and were not focused on the issue at hand, which is a  
2 Revision to the originally approved shoreline permits for the marina redevelopment.  
3 Comments demanding a pump-out facility are fully addressed in the Revised Condition of  
Approval that mandates a pump-out facility at the marina, as required by the Department of  
Ecology.

4 11. Allowing the same unsuccessful arguments and evidence raised at the original  
5 permit hearing to serve as a basis to deny the requested Revision would not be in accord  
6 with applicable law or the principle of finality in land use decisions. For instance, some  
7 comments opposed the project noting navigation issues, and others generally asserted that  
8 county codes regarding master planned resorts should stop the project, or something to this  
9 effect. Each of those issues were raised in the previous permit hearing, and did not serve as  
a basis to deny the permit. That permit decision was not challenged or overturned. It  
stands, as is, until or unless revised as requested in the pending Revision application. This  
hearing process is not the time or place to make a collateral attack on prior, unchallenged  
decisions, or to relitigate arguments and issues that were not successful the last time around.

10 12. Where findings of fact are unchallenged, and potential appellants failed to exhaust  
11 available opportunities to obtain judicial or administrative review, such findings are verities  
12 on appeal. *Postema v. Pollution Control Hearings Board*, 142 Wn.2d 68, 11 P.3d 726  
13 (2000), citing *Haley v. Med. Disciplinary Bd.*, 117 Wn.2d 720, 728, 818 P.2d 1062  
14 (1991); *Hilltop Terrace Homeowner's Ass'n v. Island County*, 126 Wn.2d 22, 30, 891 P.2d  
29 (1995). Similarly, where participants fail to successfully challenge previous rulings by a  
hearing examiner, subsequent attempts to re-argue and challenge such matters are barred by  
res judicata. *DeTray v. City of Olympia*, 121 Wn.App. 777, 90 P.3d 1116 (Div. 2, 2004).

15 13. Following Washington's well-established policy of finality of land use decisions,  
16 the Washington Supreme Court has rigidly held that failure to bring a timely petition  
17 under the Land Use Petition Act precludes any collateral attack of a prior land use decision  
18 and renders the unchallenged approval valid. *Chelan County v. Nykreim*, 146 Wn.2d 904,  
19 52 P.3d 1 (2002); *Habitat Watch v. Skagit County*, 155 Wn.2d 397, 120 P.3d 56 (2005).  
The Examiner finds and concludes that any opposition comments that were based on  
arguments and issues raised in the original permit hearing do not and cannot serve as a basis  
to deny the requested Revision application.

20 14. As described in the detailed charts provided in the Staff Report, the Requested  
21 Revision would reduce the size and overall scale of the marina redevelopment project from  
22 plans originally approved in File No. PSJ000-14-0016, mostly by decreasing the total "over  
23 water area"; increasing the amount of light permeable deck area; decreasing the number of  
24 moorage slips; and decreasing the number of pilings. (*Ex. 1, Revision Comparison Table  
on pages 2 and 3*).

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1 15. No one offered any credible or convincing evidence that would serve as a proper  
2 basis to deny the requested Revision.

3 16. No one offered any credible evidence, expert or other professional opinions that  
4 would rebut the project summary, design plans, or regulatory analysis provided by the  
5 applicant, or provided by the County Department charged with analyzing such materials for  
6 compliance with applicable codes and policies as reflected in the Staff Report for this  
7 application.

8 17. The scope and intent of the Project, as originally approved, was to, among other  
9 things: greatly reduce the frequency of groundings, which scours the surface of the  
10 shoreline or shallow areas with the bottom of boats, docks, floats, or other parts of the  
11 marina that rest atop dry land during low tide conditions; remove creosote-treated piling  
12 which would contribute to overall water quality improvement; achieve environmental  
13 benefits like those noted the UW Friday Harbor Lab, among others, that can be realized if  
14 the marina is redeveloped out over deeper water, providing a valuable public benefit, partly  
15 because deeper water means less propeller and boat-bottom conflicts with the sediments  
16 and plants under Mitchell Bay; reduce the risk of spills caused by boats left grounded at odd  
17 angles; and greatly reduce the nonconformity of the existing marina, by reducing  
18 environmental impacts caused by boats, docks, and marina facilities that rub against and  
19 interfere with the shoreline environment during low tide conditions. (*Ex. 11, all findings,*  
20 *including without limitation No. 8 on page 27).*

21 18. The Examiner finds and concludes that the requested Revision is fully supported by  
22 credible and substantial evidence in the Record, and that it warrants approval. The  
23 Revision would include a new pump-out facility for the marina, and the final-footprint and  
24 overall size of the redeveloped marina will be smaller than the originally approved plans.

25 19. The Revision reflects extensive and commendable efforts by the applicant to work  
26 with state and tribal officials to achieve a project that respects their feedback.

27 20. The Examiner finds and concludes that the requested Revision is well within the  
28 scope and intent of the original permit, and that the application satisfies all relevant  
29 approval criteria found in applicable codes and regulations, including without limitation  
30 SJCC 18.80.110(M) and WAC 173-27-100. This finding is fully supported by all  
31 statements of fact and analysis provided in the County's un rebutted Staff Report, and the  
32 application materials.

1  
2 21. Any finding or other statement of fact contained in another section of this Decision  
3 that is deemed to be a finding of fact is hereby adopted as such and incorporated by  
4 reference.

5  
6 **IV. CONCLUSIONS OF LAW.**

7 1. Under applicable provisions of the County's development regulations in effect as of  
8 the date of the pending application, the Hearing Examiner has jurisdiction and authority to  
9 conduct a public hearing and issue decisions regarding applications for revisions to a  
10 shoreline permit. *See SJCC 18.80.110(M), version in effect prior to Oct. 31, 2017.* If the  
11 hearing examiner determines that the proposed changes are within the scope and intent of  
12 the original permit, the revision *shall be granted. Id.*

13 2. The Record, including without limitation all findings provided above, the  
14 unchallenged Decision approving the original permit (*Ex. 11*), the County's Staff Report  
15 and *Ex. 4*, which includes the applicant's Detailed Project Description & Regulatory  
16 Analysis, includes credible and substantial evidence establishing that the requested  
17 Shoreline Permit Revision satisfies all applicable approval criteria. Accordingly, the  
18 requested Revision shall be, and is hereby, approved.

19 3. The Examiner finds and concludes that the requested Revision is well within the  
20 scope and intent of the original permit, and that the application satisfies all relevant  
21 approval criteria found in applicable codes and regulations, including without limitation  
22 SJCC 18.80.110(M) and WAC 173-27-100.

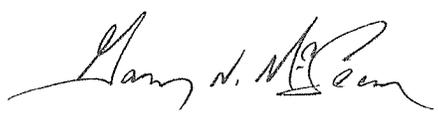
23 4. Any finding or other statement contained in a previous section of this Decision that  
24 is deemed to be a Conclusion of Law is hereby adopted as such and incorporated by  
25 reference.

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**V. DECISION AND CONDITIONS OF APPROVAL.**

Based on the record, and for the reasons set forth above, the requested Revision to the original Shoreline Substantial Development Permit and the Shoreline Conditional Use Permit for the Snug Harbor Marina Redevelopment Project, issued in July of 2016 under File No. PSJ000-14-0016, is approved, subject to the following Conditions of Approval, which are attached hereto, and incorporated herein by reference.

ISSUED this 11<sup>th</sup> Day of April, 2018



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Gary N. McLean  
Hearing Examiner

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**REVISED CONDITIONS OF APPROVAL**  
*under Revision File No. PSJREV-17-0001*  
for the  
**Snug Harbor Marina Redevelopment Project**  
*Shoreline Substantial Development and Conditional Use Permits*  
*File No. PSJ000-14-0016*

\*Note: All Revisions and modifications to the originally-issued Conditions of Approval are underlined or ~~crossed through~~ as appropriate.

Based on the Record, and under authority of applicable county code provisions, the Examiner imposes the following Conditions of Approval on the above-referenced permits, as revised by approval of applicant's requested Revision, under File No. PSJREV-17-0001. These conditions are reasonable and capable of being accomplished, and will serve to reduce the non-conformity of the existing marina use, and to reduce or prevent probable, significant, adverse, environmental conditions associated with the project and the redeveloped marina facility.

1. The Project shall be developed in a manner and design substantially in the form as described in the applicant's Detailed Project Description and Revision Application materials, included in the Record as Exhibit No. 4, and the Revised Snug Harbor Marina Site Plans, as prepared by TransPac Marinas, dated July 7, 2017, and included in the record as Exhibit Nos. 6, 7, 8 and 9. These plans appropriately and necessarily incorporate changes and revisions required by agencies and other entities with jurisdiction over various aspects of the project. The applicant shall comply with the terms and conditions included in any associated permit or approval decision issued by San Juan County for the project, including without limitation the MDNS and any construction-related permits.

2. The applicant shall obtain any associated permit, license, or approval required by any state, federal, or other regulatory body with jurisdiction over aspects of the project; any conditions of regulatory agency permits, licenses, approvals or leases (including but not limited to the marina's Aquatics Land Lease with DNR) shall be considered conditions of approval for this project.

3. The applicant shall comply with all professional report conclusions and recommendations submitted in connection with these Shoreline Permits and associated approvals issued by the San Juan County for this project, as approved, referenced, relied-upon, and/or modified by the County.

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1 4. Following completion of the Project, the applicant will implement reasonable  
2 practices and policies intended to prevent (to the fullest extent reasonably possible) boats  
3 with significant drafts, keels, or other features that would likely ground in upcoming low  
4 tides from being moored, tied, or placed in slips where they will ground during a regular  
5 tidal cycle, including possible steps to move or relocate vessels on a temporary basis to  
6 prevent grounding during a low tide cycle. To satisfy this condition, the applicant will  
submit a written description of the marina's "Grounding-Prevention Practices" for review  
and approval by the County Manager or his/her designee. This condition shall not apply to  
kayaks or other watercraft that do not have engines, wastewater tanks, fuel tanks, or other  
possible sources of spills or pollution that can occur in a grounding situation.

7 ~~5. 63 means 63. The number of existing boat moorage spaces shall not be increased~~  
8 ~~above the number that exist at the time of this permit approval 63. This is to ensure that~~  
9 ~~the marina does not increase the nonconformity of its use. Recognizing that the existing~~  
10 ~~Marina has a total of 63 slips or side tie space available for boat moorage, and that the~~  
11 ~~applicant has confirmed that it will not increase the marina's existing nonconformity by~~  
12 ~~increasing the number of spaces available for boat moorage, the Snug Harbor Marina shall~~  
13 ~~be limited to providing no more than a total of 63 slips or side tie spaces for boat moorage.~~  
14 ~~Further, spaces designated for kayak use, fish cleaning, or transient boat use on the final,~~  
15 ~~approved site plans for the redevelopment project, shall not be converted to boat moorage~~  
16 ~~space that would increase the total number of moorage slips or spaces above 63.~~

13 6. To reduce the existing marina's nonconformity and to effectuate San Juan County  
14 Comprehensive Plan Policy 3.5.C.16, which seeks to reduce the cumulative environmental  
15 impact of individual docks on the shorelines of the County and to provide moorage  
16 opportunities for inland and shoreline residents, the Marina will submit written certification  
17 to the County Manager on a bi-annual basis, beginning on January 1, 2019, then July 1,  
2019, and each six months thereafter, confirming that at least 50% (fifty-percent) of the  
available moorage slips at the marina are allocated to permanent (i.e. long-term), rather than  
transient, moorage.

18 7. The applicant represented that the storage shed is now used for storage, and that its  
19 reconstruction is necessary. Accordingly, its use shall remain for that purpose, i.e. storage  
20 of marina-related tools, supplies, equipment, paddleboards, and other items commonly  
21 placed in such structures near a marina facility. The shed shall not be used for any  
22 commercial or retail purpose that would increase the nonconformity of the marina use. Any  
modification in the use of the storage shed will first require an amendment or modification  
of this Permit.

23 8. ***Best Boating Practices – to be Posted at the Marina and Included in Terms of***  
24 ***Moorage Agreements:***

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1 A) ~~To reduce the existing marina's nonconformity with the County's~~  
2 ~~Comprehensive Plan, because it does not have an accessible boat sewage~~  
3 ~~disposal (pump-out) facility, and To ensure ongoing compliance with applicable~~  
4 laws and regulations that prohibit the discharge of waste materials, gray water,  
5 sewage or similar substances from vessels moored at Snug Harbor Marina, the  
6 Marina shall submit a proposed collection of "Best Boating Practices" or  
7 similar written instrument, subject to review and approval by the County  
8 Manager or his/her designee, which will be posted (in summary form) and  
9 maintained at all times in appropriate locations at the Marina. To the fullest  
10 extent possible, the "Best Boating Practices" shall include terms summarizing  
11 applicable waste-disposal regulations and measures that vessel owners,  
12 occupants, and operators should observe while in or around the Snug Harbor  
13 Marina; communicate that waste tanks are not to be discharged or emptied  
14 while in or around the marina, except when discharged into the new pump-out  
15 vessel or facility at the Snug Harbor Marina; provide a list of available pump-  
16 out sites in the area, with numbers and hours, if deemed helpful; explain  
17 reporting requirements and an emergency contact number/regularly monitored  
18 email address to report a possible discharge at the Marina; and explain  
19 environmental-response measures that should/will be used in the event of an  
20 inadvertent or illegal discharge, including possible fines and penalties.

13 B) Acknowledgement of, and compliance with, applicable provisions of the  
14 above-referenced "Best Boating Practices" document, substantially in a form as  
15 approved by the County's Attorney, shall be included in the terms of any  
16 moorage agreement for long-term, temporary, or other moorage arrangements  
17 used to lease slips or allow occupancy at the Marina.

17 NOTE: If the marina already posts substantially similar signage, or uses  
18 substantially similar language in existing moorage agreements, such items may  
19 be submitted for review and approval as described above.<sup>1</sup>

20 <sup>1</sup> At the discretion of the County Manager, the applicant and County staff may find it helpful to review the  
21 Department of Ecology's website for "Boating Tips," "Tips for Marinas," and "Tips for Good Environmental  
22 Boating Practices," at:

22 <http://www.ecy.wa.gov/programs/spills/BoatingTips/BoatingTips.html>

23 Another source of helpful information may be Puget Soundkeeper Alliance's online publication – "*Sound*  
24 *Information: A Boater's Guide*" – which summarizes fines and penalties, among other things, associated with  
25 illicit pollution discharges into the waters of the state, at:

24 <http://www.pugetsoundkeeper.org/wp-content/uploads/2013/01/2012-2013-Boaters-Guide.pdf>

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1 9. Except as modified below, the SEPA mitigation measures listed in the  
2 unchallenged MDNS issued for the Project are included herein as Conditions of Approval  
3 for the Project:

4 9.1. Timing limitations: In-water work shall only be allowed from July 16  
5 through February 15 for the protection of Salmon and Bull Trout.

6 a. Work below the ordinary high water line shall not occur from March 2  
7 through July 15 of any year for the protection of migrating juvenile  
8 salmonids.

9 b. Work below the ordinary high water line shall not occur from February  
10 16 through July 15 of any year for the protection of Bull Trout.

11 9.2. Removal of all existing creosote piles shall be completed with vertical lift  
12 and using a vibratory hammer when necessary. The following methods  
13 shall be used to minimize an increase in turbidity in the marine water:

14 a. The vibratory hammer will be used to loosen the piles from the bottom,  
15 which minimizes the amount of sediment that clings to the pile, and the  
16 hammer will be shut off as soon as the pile end reaches the mudline.

17 b. Piles will be lifted slowly through the water column to allow any  
18 clinging sediments to fall back to the bottom.

19 c. The barge where the piles are placed will be lined with filter fabric or  
20 hay bales to prevent sediment from washing back into the water.

21 9.3. Pile driving operation shall occur between 2 hours after sunrise and 2 hours  
22 before sunset from April 1 through September 15 to protect Marbled Murrelet  
23 during nesting season.

24 9.4. Pile driving shall not occur when any Southern Resident Killer Whales or  
25 Steller Sea Lions are within 300 feet of the project site, or when Marbled Murrelet  
26 are within 160 feet of the project.

9.5. A qualified observer shall be on site during pile driving operations to watch  
for the presence or absence of Killer Whales and Steller Sea Lions within the 300-  
foot buffer zone and for the presence of Marbled Murrelet within the 160-foot  
buffer zone.

1 9.6 The contractor shall have the Spill Prevention, Containment, and Control  
2 Plan prepared by Transpac Marinas, date-stamped February 4, 2015, on site at all  
3 times as required by the Washington State Department of Ecology. This plan will  
4 address specific actions to prevent petroleum products from being discharged into  
5 surface water. The contractor shall also have oil-absorbent materials on site to be  
6 used in the event of a petroleum product spill, and will observe and implement  
7 any and all measures noted in the Spill Prevention, Containment, and Control Plan  
8 to avoid and/or prevent petroleum products or other deleterious materials from  
9 entering surface water.

10 9.7. Project activities shall not degrade water quality to the detriment of fish life.

11 9.8. Eelgrass and Macroalgae shall not be adversely impacted due to any project  
12 activities:

13 a. The construction barge shall not be allowed to ground in the project  
14 area;

15 b. Prop-wash shall not be directed in the eelgrass bed that is mapped to  
16 the south of the dock alignment; and

17 c. Barge anchors and cables shall not be placed in the eelgrass bed that  
18 is mapped to the south of the dock alignment.

19 9.9. Project activities shall be conducted to minimize siltation of the beach area  
20 and bed.

21 9.10. All floats shall include stops to keep the bottom off the tidelands at low tide.

22 9.11. Dock lighting shall meet the requirements of SJCC 18.60.170.

23 9.12. All construction materials shall be removed from the work site and natural  
24 material (boulders, rocks, significant beach material) will be returned to its original  
25 position at the end of construction.

26 9.13. Applicable "Common Saltwater Construction Provisions," found at WAC  
220-660-360, shall be implemented, observed, and strictly enforced by the applicant  
throughout all phases of the Project. Common construction provisions include job  
site access, equipment use, construction materials, sediment and erosion control  
containment, job site repair and revegetation. [NOTE: this provision corrects an  
apparently outdated reference in the MDNS, to WAC 220-110-270]

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9.14. The project shall comply with all applicable provisions of the Unified Development Code, Title 18 San Juan County Code.

9.15. The project shall obtain all other required state and federal permits and shall comply with those permits

10. As required by the Department of Ecology, the applicant shall install a “vessel, sanitary pump-out facility”; provided, if archaeological restrictions or other unforeseen circumstances prevent the installation of such facility, this condition may be subject to modification by the Department of Ecology and replaced with standards required by any lease agreement with the Department of Natural Resources. (See Ex. 13, Sept. 21, 2016 letter from Department of Ecology, approving SSDP/CUP Permit PSJ000-14-0016).

***11. Failure to Comply with Conditions of Approval Shall Be Grounds for Rescission of Shoreline Permits.*** As provided in SJCC 18.80.110(N), captioned “Rescission of Shoreline Permits,” any shoreline permit may be rescinded by the hearing examiner pursuant to RCW 90.58.140(8), upon the finding that the permittee has failed to comply with the terms and conditions thereof. In addition, if the permittee is denied any other permit or authorization required by a state or federal agency with jurisdiction over aspects of the Project, the underlying shoreline permit(s) may be rescinded.

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**Effective Date, Appeals, 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 applicable law, including without limitation RCW 90.58.140, WAC 173-27-130 and/or SJCC 18.80.110.

Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County Council, unless the County council has adopted, by ordinance, written procedures for the discretionary review of such decisions. See Section 4.50 of the San Juan County Home Rule Charter and 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 any 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 confer with advisors of their choosing, possibly including a private attorney.

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

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION - APPROVING REVISION TO  
PREVIOUSLY ISSUED SHORELINE SUBSTANTIAL  
DEVELOPMENT AND CONDITIONAL USE  
PERMITS FOR SNUG HARBOR MARINA -  
FILE NO. PSJREV-17-0001**

**GARY N. MCLEAN  
SAN JUAN COUNTY HEARING EXAMINER**