

Colin Maycock

From: Jeffrey Otis <jeffo@rockisland.com>
Sent: Sunday, December 30, 2018 11:15 AM
To: Colin Maycock
Cc: David-Lila Dickhaus
Subject: Re: PSJ000-18-0003 questions

Colin,

See my comments below in red:

On Dec 28, 2018, at 9:31 AM, Colin Maycock <Colinm@sanjuancho.com> wrote:

Hi Jeff,

Just a couple of questions I hope that you can clarify.

In your narrative, you state: "Additionally, the applicants agree to a condition allowing the Wood family trust property to participate in the joint use dock in the future..." however there is no mention of this option in the submitted Joint Use agreement. Don't you need that option in the JU agreement or some mention of it?

We didn't include it in the JU agreement as the agreement is only binding to the parties to the agreement. At this point, the Wood Family Trust hasn't agreed to be a party to the JU agreement. To ensure that the proposed dock serves all of the lots in the plat, we thought it best to attach a condition the shoreline permit for the dock indicating that the Wood Family Trust or future owner(s) would have a right to use the dock as an owner or option user if they so choose at some future time. If the Wood Family Trust or future owners of the lot agree to participate, the JU agreement would be revised at that time. Below is a draft condition:

The existing or future owners of TPN 462341005000, currently owned by the Wood Family Trust, shall have the right to share use of the Westcott Shores Plat dock as an owner or option user subject to the availability of moorage, reasonable costs of ownership, maintenance, and revision of the joint use agreement.

Who owns the float that is being removed as mitigation? Is it the State Park? Do you know when it was permitted?

David Dickhaus became aware of the float through his observations of Westcott Bay. He noted that the float had been washed up on the beach for at least three years and has never been used during that time. It's ownership is unknown. It's derelict, unusable, and is impacting the marine habitat by grounding, shading, and disturbing marine vegetation. The ACOE agreed that its removal would be beneficial to the marine environment and accepted it as mitigation. Since the ACOE included it as mitigation, the applicants noted its removal in the amended shoreline permit application to ensure consistency between the various regulatory applications.

SJCC 18.50.150(D) states that removal of shoreline modifications constructed in violation of the code cannot be used to mitigate new adverse impacts.

The critical area report indicated no net loss to critical areas without the requirement for removal of the float. It was only attached to the County shoreline permit application to ensure consistency with the ACOE permit application. It's removal will be required by the ACOE permit and will ultimately benefit the marine environment.

The staircases to be removed, do you have pictures? And again, when were they permitted?

The stairs proposed to be removed are shown on page 3 of the project drawings. I currently don't have good photos but can provide some in the near future. Dave Dickhaus indicated that the stairs associated with his property that are proposed to be removed were installed 30 years ago. He does not know if they were permitted. Dave Dickhaus did not know the permit status of the adjacent Appleton stairs. I'll check with the Appleton's and will also put in a public records request to see if there are permits for the stairs. As with the derelict float proposed for removal, the stair removal has been accepted by the ACOE as partial mitigation for the proposed dock.

I notice that neither the earlier or the addendum to the biological assessment addresses the stair removal as mitigation. Has this action been evaluated by a qualified professional?

The stair removal was indicated in the project description in the original critical area report. The biologist determined there would be no net loss to critical areas associated with the proposed project, which included the stair removal. The area where the stairs will be removed is proposed for revegetation and is addressed in the addendum prepared by the biologist and submitted to the ACOE and County. The revegetation plan was proposed in order to meet ACOE mitigation requirements. It was not included as part of the original County shoreline permit application as it was not deemed necessary by the biologist to demonstrate no net loss to critical areas. However, to ensure consistency between the various regulatory applications, we included the planting plan with the County revised shoreline permit application.

Is there a monitoring program in place for the proposed planting?

It is attached to the addendum prepared by Jen-Jay, Inc. and submitted to the ACOE and the County.

Thanks,
Colin

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