

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Before Hearing Examiner  
Gary N. McLean

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

JUN 10 2019

In the Matter of Shoreline Substantial )  
Development Permit Application filed by )

JOHN AND JULIE GOTTMAN, )  
Applicants, )

*[Project: after-the-fact SSDP for a pedestrian )  
pathway and stairs to the beach on a lot located )  
at 547 Raccoon Point Road on the northeast part )  
of Orcas Island]* )

COMMUNITY DEVELOPMENT

File No. PSJ000-18-0002

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION APPROVING  
SHORELINE SUBSTANTIAL  
DEVELOPMENT PERMIT**

**I. SUMMARY OF DECISION.**

The after-the-fact Shoreline Substantial Development Permit application submitted on behalf of John and Julie Gottman is approved, subject to conditions.

The proposed project is subject to compliance with all applicable development, design, building code, engineering and other regulations, including without limitation those requiring verification of performance, inspections, and maintenance associated with conditions or mitigation measures that might be imposed consistent with this Decision or any subsequent approval issued by any state or federal agency or county department with jurisdiction over a particular aspect of the Project as the development review and possible construction processes unfold.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
PEDESTRIAN PATHWAY AND STAIRS TO THE  
BEACH FOR THE GOTTMAN LOT LOCATED ON  
ORCAS ISLAND – PSJ000-18-0002**

GARY N. MCLEAN  
SAN JUAN COUNTY HEARING EXAMINER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**II. RELEVANT CODE PROVISIONS.**

The pending application was accepted and reviewed under provisions of the County’s recently updated Shoreline Master Program, which took effect in late 2017.

**Jurisdiction:** Under SJCC 18.80.020, at Table 8.1, the Hearing Examiner is given the authority to hold open-record pre-decision public hearings and issue decisions regarding shoreline permits, including shoreline substantial development permits, shoreline conditional use permits, and shoreline variances.

**Burden of Proof:** Under SJCC 18.80.010(A), “Shoreline Permits” are specifically listed as “Project Permits” covered by the provisions of SJCC Chapter 18.80 re: application, notice, review and appeal requirements for the County’s Unified Development Code, which is found in Title 18 of the SJCC and includes Chapter 18.50, the County’s Shoreline Master Program. SJCC 18.80.040(B) reads as follows:

*“[t]he burden of proof is on the project permit applicant. The project permit application must be supported by evidence that it is consistent with the applicable state law, County development regulations, the Comprehensive Plan, and the applicant meets his burden of proving that any significant adverse environmental impacts have been adequately analyzed and addressed.”*

**Standard of Review:** SJCC 2.22.210(H) explains that: “for an application to be approved, a preponderance of the evidence presented at the hearing must support the conclusion that the application meets the legal decision criteria that apply.”

**Requirement and Review Criteria for a Shoreline Substantial Development Permit:** “Substantial Development” is defined in RCW 90.58.030(3)(e) and SJCC 18.20.190. There is no dispute that the pending project is not exempt from shoreline permit requirements as a normal appurtenance that could serve a single-family residence because the vertical height (about 37 feet) exceeds the 15-foot limit found in SJCC 18.50.050(2)(f). Substantial developments proposed in shoreline areas of San Juan County require a Substantial Development Permit. See SJCC 18.50.060(A) and Table 18.50.600. The approval criteria for a Shoreline Substantial Development Permit application is set forth in SJCC 18.80.110(H), which reads as follows:

**18.80.110(H). Criteria for Approval of Substantial Development Permits.**

1 1. A shoreline substantial development permit will be granted by the County if the applicant demonstrates the proposal is:

- 2 a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapters 173-  
3 26 and 173-27 WAC, as amended;
- 4 b. Consistent with the policies and regulations of this SMP;
- 5 c. Consistent with other applicable sections of this code; and
- 6 d. Consistent with the goals and policies of the Comprehensive Plan.

7 2. The conditions specified by the hearing examiner to make the proposal consistent with  
8 the SMP and to mitigate or avoid adverse impacts to shoreline ecological functions will be  
9 attached to the permit.

10 **Review Criteria for the Department of Ecology:** Finally, if the Examiner approves  
11 or denies the Shoreline Permit, such decision must be forwarded to the Department of  
12 Ecology and the Attorney General, for state review and any appeals of the Shoreline Permit,  
13 in accord with Washington Shoreline Management regulations found in WAC 173-27-130.  
14 This Decision is subject to review and approval, approval with conditions, or denial by the  
15 Washington Department of Ecology within thirty days of submittal by the County. WAC  
16 173-27-130, and -200. Ecology's review criteria for Shoreline Substantial Development  
17 Permits is found at WAC 173-27-150<sup>1</sup>. The San Juan County review criteria for the requested  
18 shoreline permit is consistent with and substantially similar to those that will be used by the  
19 Department of Ecology.

### 20 III. RECORD AND EXHIBITS.

21 Exhibits entered into evidence as part of the record, and an audio recording of the  
22 public hearing, are maintained by the San Juan County Department of Community  
23 Development, in accord with applicable law.

24 <sup>1</sup> WAC 173-27-150

25 **Review criteria for substantial development permits.**

26 (1) A substantial development permit shall be granted only when the development proposed is consistent with:

- (a) The policies and procedures of the act;  
(b) The provisions of this regulation; and  
(c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.  
(2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
PEDESTRIAN PATHWAY AND STAIRS TO THE  
BEACH FOR THE GOTTMAN LOT LOCATED ON  
ORCAS ISLAND – PSJ000-18-0002**

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

1                    **Hearing Testimony:** The following individuals presented testimony under oath at the  
duly noticed open record public hearing held on October 31, 2018:

- 2                    1. Julie Thompson, assigned Planner for San Juan County, who prepared the Staff  
3                    Report for the pending application;
- 4                    2. Jeff Otis, with Otis Land Use Consulting, who served as the applicants' agent and  
5                    primary representative during the review process and at the at the public hearing;
- 6                    3. Dan McShane, Licensed Engineering Geologist with the Stratum Group, author  
7                    of the 2018 Geotech Report prepared for the Gottman property, included in the  
Record as Exhibit 18; and
- 8                    4. Carol Druse, shares ownership of a house in the neighborhood and has been a  
9                    part-time resident near the Gottman's property since the early 1970's; submitted  
10                   a letter (*Ex. 14*) opposing the requested permit, and her father, Mr. Kirschenbaum,  
11                   also submitted a letter opposing the requested permit that is included in the record  
12                   as *Ex. 16*. At the hearing, Ms. Druse summarized her written comments and  
reiterated her opposition to the requested permit, also questioning whether the  
Gottman's and/or their contractors have parking rights or proper access to their  
lot.

13  
14                   **Exhibits:** The following exhibits were accepted into the record as numbered,  
identified and described below:

15                   **Staff Report**, dated October 17, 2018, prepared by County Planner, Julie Thompson,  
16                   with all attached Exhibits:

17                   1 – 22, as described on pages 22 and 23 of the Staff Report;

18                   Additional exhibits submitted at the public hearing:

19                   23. GeoEngineers 3<sup>rd</sup> Party Geotechnical Peer Review for Gottman Trail and  
20                   Stairs to Beach, dated October 30, 2018, prepared by J. Robert Gordon, PE;

21                   24. Letter from E.H. Kirschbaum and Marjorie Kirschbaum, residents on Raccoon  
22                   Point Road, opposing the requested permit, stamped received by the County on  
23                   October 29, 2018;

24                   25. Email correspondence to/from Linda Kuller, County Planning Manager, and

25                   **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**  
26                   **DECISION – APPROVING SHORELINE**  
**SUBSTANTIAL DEVELOPMENT PERMIT FOR A**  
**PEDESTRIAN PATHWAY AND STAIRS TO THE**  
**BEACH FOR THE GOTTMAN LOT LOCATED ON**  
**ORCAS ISLAND – PSJ000-18-0002**

GARY N. MCLEAN  
SAN JUAN COUNTY HEARING EXAMINER

1 Mr. Otis, regarding appurtenant structures, like pedestrian paths and beach stairs,  
2 sometimes permitted on vacant lots; and

3 26. Materials submitted by Ms. Druse at the public hearing.

4 Exhibits received after the public hearing, in accord with request for same made by  
5 the Examiner during the hearing:

6 27. Road easement, road maintenance agreement, and statutory warranty deed,  
7 submitted by Mr. Otis to verify that the Gottman property has full legal rights to  
8 access their property via the 60' Raccoon Point Road easement.

#### 9 IV. FINDINGS OF FACT.

10 Based on the record, the Examiner issues the following findings of fact:

11 1. Any statements contained in a previous or following sections of this Decision that are  
12 deemed to be Findings of Fact are hereby adopted as such and incorporated by reference.

13 2. The pending application came about following a stop-work order issued by the  
14 County in May of 2018, requiring the property owners – the same applicants in this matter –  
15 to cease all unpermitted construction work underway to build a pedestrian pathway and stairs  
16 to the beach on their waterfront property that is located on the northeast portion of Orcas  
17 Island in the Raccoon Point neighborhood near Buck Mountain. (*Staff Report, page 1; Ex.*  
18 *21, Stop Work Order*).

19 3. The Staff Report explains that the stairs at issue are accessed by an existing pathway  
20 that traverses down the slope to approximately the 50-foot elevation contour, where the path  
21 connects to two sets of stairs. The stairs extend shoreward approximately 33-feet, terminating  
22 at the toe of the bank (elevation 10.5 feet) landward of the ordinary high-water mark  
23 (OHWM). The overall vertical height is 37.1 feet and the width is three feet. The stairs are  
24 now constructed of parallel logs with wood steps cut into the logs. Remaining work includes  
25 adding rebar to the stairs as necessary to secure them to the slope, add railings to the stairs,  
26 add steps to the path as necessary to provide ease of access and erosion control, and to plant  
any exposed slopes with native vegetation. The project site plan is included in the record as  
*Exhibit 6*.

4. The application materials included geotechnical reports for the Gottman property that  
were prepared in 2016 and 2018. As requested in several public comments, the applicant's  
Geotech materials were reviewed by a 3<sup>rd</sup>-party professional engineer retained by the County.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
PEDESTRIAN PATHWAY AND STAIRS TO THE  
BEACH FOR THE GOTTMAN LOT LOCATED ON  
ORCAS ISLAND – PSJ000-18-0002**

GARY N. MCLEAN  
SAN JUAN COUNTY HEARING EXAMINER

1 5. Relying on a thorough review of professional reports and materials provided by the  
2 applicant and a project site visit by the peer-review engineer, J. Robert Gordon, PE, and the  
3 County's lead planner reviewing this project, Ms. Thompson, in the week before the public  
4 hearing, Mr. Gordon issued his opinion that the proposed project is reasonable and would be  
5 better than using new stairs spanning the undisturbed area, because the flat steps proposed  
6 would reduce the risk of erosion. Accordingly, Staff recommended approval, subject to  
7 conditions. (*Testimony of Ms. Thompson; Staff Report, page 2; Ex. 23, GeoEngineers  
8 Geotechnical Peer Review for Gottman Trail and Stairs to Beach, dated October 30, 2018*).

6 6. The Staff Report initially withheld a recommendation until receipt of the 3<sup>rd</sup>  
7 party/peer review report from GeoEngineers, but upon receipt just before the public hearing,  
8 and given that the peer review engineer expressed a favorable opinion regarding the  
9 applicant's proposal, Ms. Thompson recommended approval, subject to conditions.

9 7. Notices regarding the application were duly published, mailed, and posted in accord  
10 with county policies and practices. (*Staff Report, page 14; Testimony of Ms. Thompson*).

11 8. Several people with property interests in lots near the Gottman property along  
12 Raccoon Point Road submitted written comments, strongly opposing the requested permit,  
13 expressing concerns about landslide risks, erosion, and other geotechnical issues regarding  
14 the site, and a history of neighborhood conflicts as previous owners may have sought to  
15 develop the site. The general thrust of written comments questioned whether the applicant's  
16 lot is buildable. Opposition remarks also questioned whether appurtenant structures, like  
17 beach stairs, can be placed on a vacant lot where there is no single-family home. Only one  
18 person appeared at the hearing to oppose the application, Ms. Druse, who summarized most  
19 all of the points raised in written comments already included in the record. Ms. Druse also  
20 questioned whether the applicants and their agents have any legal right to park along or drive  
21 in/out of the project site using Raccoon Point Road.

18 9. Only one government agency submitted written comments following public notice of  
19 the applicant's proposal. That came in the form of a letter from Dr. Megan Dethier, on behalf  
20 of the University of Washington Friday Harbor Labs. (*Ex. 11, Friday Harbor Labs/Dr.  
21 Dethier letter dated July 1, 2018*). Dr. Dethier's letter explained that in her view, "there is  
22 no excuse for after-the-fact permits, especially for a project like this where the applicants  
23 hired a Geotech company... they must have known that a permit was required before  
24 construction." While Dr. Dethier noted that it appears as though the project will have few  
25 environmental impacts, she sought clarification as to whether the site is a mapped feeder  
26 bluff. If not, then she had no further comments on the matter. *Id.*

24 10. At the public hearing, the County's lead planner assigned to review the pending

1 application, Ms. Thompson, summarized her Staff Report and the newly received peer-  
2 review opinion from GeoEngineers, which deemed the pending proposal reasonable and  
3 generally consistent with professional standards for such projects. Based on the  
4 GeoEngineers' favorable report, Ms. Thompson recommended approval, subject to  
5 conditions. The Staff Report confirms that the Gottman project is not on a feeder bluff,  
6 citing maps created during the County's recent Shoreline Master Program update process.  
7 (*Staff Report, at page 14*).

8 11. The applicant's agent and permit consultant, Mr. Otis, appeared and testified at the  
9 public hearing, along with the applicant's Geotech, Mr. McShane, addressing the merits of  
10 the pending proposal, 000000and responding to opposition comments. They explained that  
11 the remaining work would make the stairs safer, with hand-railing, and improved tread-width  
12 (*Mr. Otis' testimony*); that while the area is unstable, the stairs and path at issue have no  
13 influence on instability, and that a tree at the bottom of the slope near the shoreline should  
14 remain as is, because it contributes to stability, and if it should fall, it would serve as a  
15 "natural" control barrier at the tow of the slope (*Mr. McShane's testimony and professional  
16 opinion*).

17 12. Based on Ms. Druse comments challenging the applicant's access rights to the  
18 property, the Examiner gave the applicant team additional time after the public hearing to  
19 submit written documentation in response to such issues. Mr. Otis promptly submitted a road  
20 easement, a road maintenance agreement, and a statutory warranty deed, that confirm the  
21 Gottman property has full access rights via the 60' Raccoon Point Road easement. Copies of  
22 these legal instruments are now included in the record as *Exhibit 27*.

23 13. Nothing in the record or authority granted by applicable county codes provides the  
24 Examiner with any basis to declare the applicant's property unbuildable. This application  
25 only addresses an after-the-fact shoreline permit for a pedestrian path and beach stairs, and  
26 the most current, site-specific geotechnical reports in the record provide professional  
27 opinions that the project, as conditioned, will not cause instability or other environmental  
28 problems. (*See Exhibit 18, Mr. McShane's Geotechnical Report from 2018, and Exhibit 23,  
29 the GeoEngineers' Peer Review Opinion dated Oct. 30, 2018*).

30 14. The opposition comments failed to rebut the generally favorable findings and  
31 opinions provided by two qualified professional engineers, one hired by the applicants (Mr.  
32 McShane), and the other hired by the County to perform a peer-review (GeoEngineers), each  
33 of whom reviewed previous work and studies regarding the property and conducted site  
34 visits. Comments questioning the propriety of authorizing accessory/appurtenant structures  
35 intended to serve a single-family home are well-taken. Evidence in the record establishes  
36 that the County sometimes approves such accessory/appurtenant structures before a single-  
37 family home is built or complete. Here, there is no home on the site at this point, but evidence

38 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
39 DECISION – APPROVING SHORELINE  
40 SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
41 PEDESTRIAN PATHWAY AND STAIRS TO THE  
42 BEACH FOR THE GOTTMAN LOT LOCATED ON  
43 ORCAS ISLAND – PSJ000-18-0002**

GARY N. MCLEAN  
SAN JUAN COUNTY HEARING EXAMINER

1 in the record establishes that such development is the owner's intent. Accordingly, an  
2 additional condition of approval has been added to require the applicant/owner to seek  
3 permits and approvals needed to develop the site with a new home, or this permit shall  
become null and void. And, if such permit or approvals are not or cannot be obtained, this  
permit shall be void. (*See Condition of Approval No. 6*).

4 15. The Staff Report, and testimony by applicant witnesses, provided substantial and  
5 credible evidence demonstrating the project can be accomplished so as to minimize or prevent  
any adverse environmental impacts, through construction and thereafter.

6 16. No one submitted comments or evidence of the sort that would require denial of the  
7 proposed shoreline permit. No one offered testimony or written comments that would refute  
8 the analysis and findings regarding the project's compliance and consistency with relevant  
9 Shoreline Codes, plans and policies, Comprehensive Plan Policies, or County development  
10 regulations, as set forth in the Staff Report issued for this project. Substantial evidence in the  
record, especially the McShane and GeoEngineers engineering reports, fully support the  
analysis, findings, and recommended conditions contained in the Staff Report.

11 ***Environmental review.***

12 17. County staff issued a Determination of Non-Significance (DNS) for the pending  
13 project on June 13, 2018. The County did not receive any timely comments regarding the  
DNS. (*Ex. 3, DNS; Staff Report, discussion on pages 13 and 14*).

14 18. The DNS is further supported by: a) Mr. McShane's geotechnical report, also known  
15 as the Stratum Group geotechnical report, dated September 28, 2018 and included in the  
16 record as Exhibit 18, which concludes in relevant part that the applicant's footpath and stairs  
17 did not and will not increase the risk of landslides on or off the site; and b) GeoEngineers'  
18 Peer Review engineering report, which concludes: "*The 2018 Stratum Group geotechnical  
report concluded that construction of the trail and stairs did not and will not increase the  
19 risk of landslides at or off the site. It is our opinion that this is a reasonable conclusion based  
on the documents reviewed and site conditions observed.*"

20 ***Compliance with applicable codes and shoreline policies.***

21 19. The analysis provided in the Staff Report and the applicant's Summary of Proposal  
22 prepared by Mr. Otis (*Ex. 7*) each credibly explain how the project has been designed and  
can be constructed in compliance with applicable county development regulations.

23 20. The Record includes a preponderance of credible evidence that the application meets  
24

25 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
26 PEDESTRIAN PATHWAY AND STAIRS TO THE  
BEACH FOR THE GOTTMAN LOT LOCATED ON  
ORCAS ISLAND – PSJ000-18-0002**

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

1 requirements to approve the Substantial Development Permit. (*Staff Report and Ex. 7*).

2 21. Except as modified herein, all statements of fact and findings included in the Staff  
3 Report are adopted herein as findings of fact supporting this Decision.  
4

5  
6 **V. CONCLUSIONS OF LAW.**

7 1. The record includes a preponderance of evidence establishing that the pending  
8 Shoreline application satisfies all applicable approval criteria.

9 2. As noted earlier, a final local government decision approving a Shoreline Substantial  
10 Development Permit and a Shoreline Conditional (Special) Use Permit must be filed with  
11 and is subject to review and approval, approval with conditions, or denial by the Washington  
12 Department of Ecology. WAC 173-27-130, and -200. The record established during the  
13 open-record public hearing process provides a preponderance of evidence and  
14 recommendations that should be sufficient to satisfy the DOE approval criteria for the  
15 Shoreline permit addressed herein.

16 3. As conditioned, un rebutted professional geotechnical opinions show that the  
17 requested permit to complete and enhance safety on a pedestrian trail and beach access stairs  
18 did not and will not increase the risk of landslides at or off the site and there was no evidence  
19 to show that the project has or will result in any net loss of shoreline functions and values.  
20 The requested permit is fully supported by evidence in the record and meets all applicable  
21 approval criteria. The opposition comments failed to rebut professional opinions included in  
22 the record and did not offer a preponderance of evidence that would justify denial. Therefore,  
23 the requested shoreline permit should be approved.

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

26 //

//

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
PEDESTRIAN PATHWAY AND STAIRS TO THE  
BEACH FOR THE GOTTMAN LOT LOCATED ON  
ORCAS ISLAND – PSJ000-18-0002**

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**VI. DECISION, CONDITIONS OF APPROVAL.**

Based on the record, and for the reasons set forth above, the Shoreline Substantial Development Permit for the Gottman’s pedestrian path and stairs to the beach project is approved, subject to the following condition of approval:

1. The project scope, design, alignment and construction features shall be in substantial compliance with design details included in the Summary of Proposal provided as part of *Exhibit 7*, except that the treads on steps shall be ten inches (10”) wide.
2. The foot of the stairs shall be located above the ordinary high-water mark.
3. All exposed slopes shall be replanted with native vegetation.
4. All debris and other waste material resulting from construction must be managed, treated or disposed in a fashion that complies with applicable County and state regulations, including those preventing runoff/disposal into any water body.
5. The project must be constructed and maintained in compliance with all applicable provisions of the County’s Unified Development Code, as well as any other local, state or federal standards applicable to any aspect of the project.
6. Because this project is specifically intended to serve as an accessory or appurtenant structure to serve a single-family residence, the owner must submit complete application materials needed to obtain necessary permits and approvals for construction of a single-family home on the property within two years of the date of this permit, or this permit and authorization for the project addressed shall become null and void, and the pedestrian pathway and stairs on the site must be removed in a time and manner as determined by the Director. Further, this permit shall become null and void at any point any permit or approval needed for development of a single-family residence on the site are denied, and appeals related to such determinations are complete, or the owner affirmatively declares their intent to abandon efforts to develop the site with a single-family home.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
PEDESTRIAN PATHWAY AND STAIRS TO THE  
BEACH FOR THE GOTTMAN LOT LOCATED ON  
ORCAS ISLAND – PSJ000-18-0002**

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

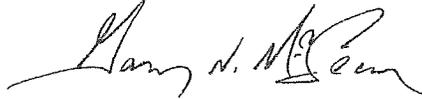
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

7. Immediately after construction is completed, the owner shall request that the Department of Community Development perform an inspection, for purposes of confirming compliance with this permit. The written request shall specifically reference the permit file number, PSJ000-18-0002.

8. Failure to comply with any terms or conditions of this permit may result in its revocation;

9. 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 other regulatory agency permits, licenses, approvals or leases required for the project shall be considered conditions of approval for this shoreline permit.

ISSUED this 10<sup>th</sup> Day of June, 2019



---

Gary N. McLean  
Hearing Examiner

**Effective Date, Appeals, Valuation Notices**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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/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 SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR A  
PEDESTRIAN PATHWAY AND STAIRS TO THE  
BEACH FOR THE GOTTMAN LOT LOCATED ON  
ORCAS ISLAND – PSJ000-18-0002**

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