

Before Hearing Examiner  
Gary N. McLean

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

**S.J.C. DEPARTMENT OF**

**JUL 24 2019**

**COMMUNITY DEVELOPMENT**

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

**DEER HARBOR MARINA LLC,** )

Applicant, )

PROJECT: *To add two floats to the existing Deer Harbor Marina facility on Orcas Island.* )

**File No. PSJ000-18-0005**

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

**I. SUMMARY OF DECISION.**

The Shoreline Substantial Development Permit to add two new floats to the existing Deer Harbor Marina facility on Orcas Island is approved, subject to Conditions of Approval that are based upon evidence in the Record.

**II. RELEVANT CODE PROVISIONS.**

**Shoreline Regulations:** The County's Shoreline Master Plan/Program (SMP) is comprised of Chapter 18.50 of the San Juan County Unified Development Code (UDC), together with Element 3 of the County's Comprehensive Plan, the official maps and common descriptions of shoreline designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section 2(B) Figures 130-6, 130-7 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound Waterfront Access Plan, and SJCC 18.80.110. *See SJCC 18.50.020(A).* The County's current SMP and shoreline regulations took effect on October 30, 2017, and apply for purposes of this application, which was filed in October of 2018. (*Staff Report, page 3*).

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR TWO  
NEW FLOATS AT THE EXISTING DEER HARBOR  
MARINA – FILE NO. PSJ000-18-0005**

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

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1                   **Circumstances that trigger requirement to obtain a Shoreline Substantial**  
2 **Development Permit:** “Substantial Development” is defined in RCW 90.58.030(3)(e) and  
3 SJCC 18.20.190, and means any development proposed in the shoreline areas of San Juan  
4 County of which the total cost, or fair market value, exceeds the dollar threshold established  
5 by the Washington State Office of Financial Management (RCW 90.58.030(3)(e)) or any  
6 development which materially interferes with the normal public use of the water or  
7 shorelines of the state, except for the exemptions specified in WAC 173-27-040 or  
8 Chapter 18.50 SJCC. The Staff Report explains that the expansion proposed in this  
9 application is larger than the threshold that could make it exempt from shoreline permitting  
10 requirements. (*Staff Report, at pages 13 and 14, referencing SJCC 18.80.110.F*). There is  
11 no dispute that this project requires a Shoreline Substantial Development Permit.

12                   **Approval Criteria for Shoreline Substantial Development Permits:** The  
13 procedures for review of shoreline permit applications are contained in Chapter 18.80.110  
14 of the county’s code, with the Criteria for Approval of Shoreline Substantial Development  
15 Permits found in SJCC 18.80.110(H), which reads as follows:

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

- 18                   a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapters 173-26 and 173-  
19 27 WAC, as amended;
- 20                   b. Consistent with the policies and regulations of this SMP;
- 21                   c. Consistent with other applicable sections of this code; and
- 22                   d. Consistent with the goals and policies of the Comprehensive Plan.

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

26                   **Jurisdiction:** Under SJCC 18.80.110(E)(1), the Hearing Examiner is given the  
27 authority to hear and approve, approve with conditions, or deny shoreline substantial  
28 development permits following receipt of the recommendations of the director, based upon  
29 the criteria found in SJCC 18.80.110(H), as set forth above.

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

35                   “[t]he burden of proof is on the project permit applicant. The project permit  
36 application must be supported by evidence that it is consistent with the

1 applicable state law, County development regulations, the Comprehensive  
2 Plan, and the applicant meets his burden of proving that any significant  
3 adverse environmental impacts have been adequately analyzed and  
4 addressed.”

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

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

### 17 **III. RECORD AND EXHIBITS; SUMMARY OF PUBLIC HEARING.**

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

21 **Exhibits:** The Staff Report, prepared by Ms. Thompson, dated April 10, 2019, for  
22 the pending application (19 pages), and all Exhibits, numbered 1 through 12 and identified  
23 on page 19 of the Staff Report, are included as part of the Record for this matter. The  
24 complete list is provided below:

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

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

(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.

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1. Request for review
2. SEPA MDNS
3. Environmental Checklist
4. Application cover sheet
5. Deer Harbor Marina Float Addition Project—San Juan County Critical Areas Report dated October 9, 2018 including:
  - Appendix 1 Vicinity Map
  - Appendix 2 Plan View
  - Appendix 3 North Float Detail Plan View
  - Appendix 4 South Float Detail Plan View
  - Appendix 5 Marine Mammal Monitoring Plan
  - Appendix 6 Deer Harbor Marina Kelp Monitoring Plan
  - Appendix 7 Preliminary Eelgrass Macro Algae Habitat Survey
6. Email from Stephanie Jolivette, DAHP, dated October 16, 2018
7. Inadvertent Discovery Plan
8. Comment from Megan Dethier, UWFHL, dated February 14, 2019
9. Response to Exhibit 8 from Marc Broman, Deer Harbor Marina, dated March 14, 2019
10. Legal ad dated February 6, 2019
11. Posting and notification verification dated February 25, 2019
12. Permit receipt dated October 16, 2018

**Hearing Testimony, written comments:** The following individuals presented testimony under oath at the duly noticed open record public hearing held on April 24, 2019:

1. Julie Thompson, designated Planner for San Juan County, who prepared the Staff Report for the pending application, summarized her analysis, noted that the project was to address transient moorage demand, not for long-term moorage, and that the project is supported by a grant from the Washington State Recreation and Conservation Office (RCO);
2. Marc Broman, Harbormaster at the Deer Harbor Marina, appeared for the applicant, Deer Harbor Marina LLC, briefly noted that the state grant awarded to expand the marina would improve access for recreational boating in the area, and confirmed that the applicant accepts the Staff Report analysis and recommended conditions of approval without objection or requests for changes; and
3. Chris Betcher, Principal with Jen-Jay Inc., spoke in support of the requested permit, noting that he keeps his boat at the Deer Harbor Marina, and that the

1 marina makes its transient space available for use by many people during the  
2 winter (presumably reducing demand for individual buoys or docks in the  
vicinity).

3 No one appeared at the public hearing or presented written comments to oppose the  
4 pending application.

5 The Examiner has had a full and fair opportunity to consider all evidence and  
6 testimony submitted as part of the record, has visited the site of the proposed project several  
7 times over recent years, reviewed and researched relevant codes and caselaw, and is fully  
8 advised. Accordingly, this Decision is now in order.

#### 9 IV. FINDINGS OF FACT.

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

11 1. All statements of fact included in any other section of this Decision, are hereby  
12 incorporated by reference and adopted as Findings of Fact supporting this Decision and the  
13 attached Conditions of Approval.

14 2. In 2016, Deer Harbor Marina applied for and received a grant from the Washington  
15 State Recreation and Conservation Office for transient boating facilities. The marina  
16 sought the grant because of increased demand experienced in recent years. The marina now  
17 operates at 100% occupancy in July and August, meaning that some boats anchor out in  
18 open water in the harbor, generating potential environmental impacts that may be  
minimized or better-mitigated through use of marina facilities. (*Ex. 9*).

19 3. After completing design work, and pre-application environmental studies, including  
20 a comprehensive Critical Areas Report prepared by Jen-Jay, Inc. (*Ex. 5*), in October of  
21 2018, the applicant, Deer Harbor Marina LLC submitted the underlying application for a  
22 shoreline substantial development permit to expand its marina facility.

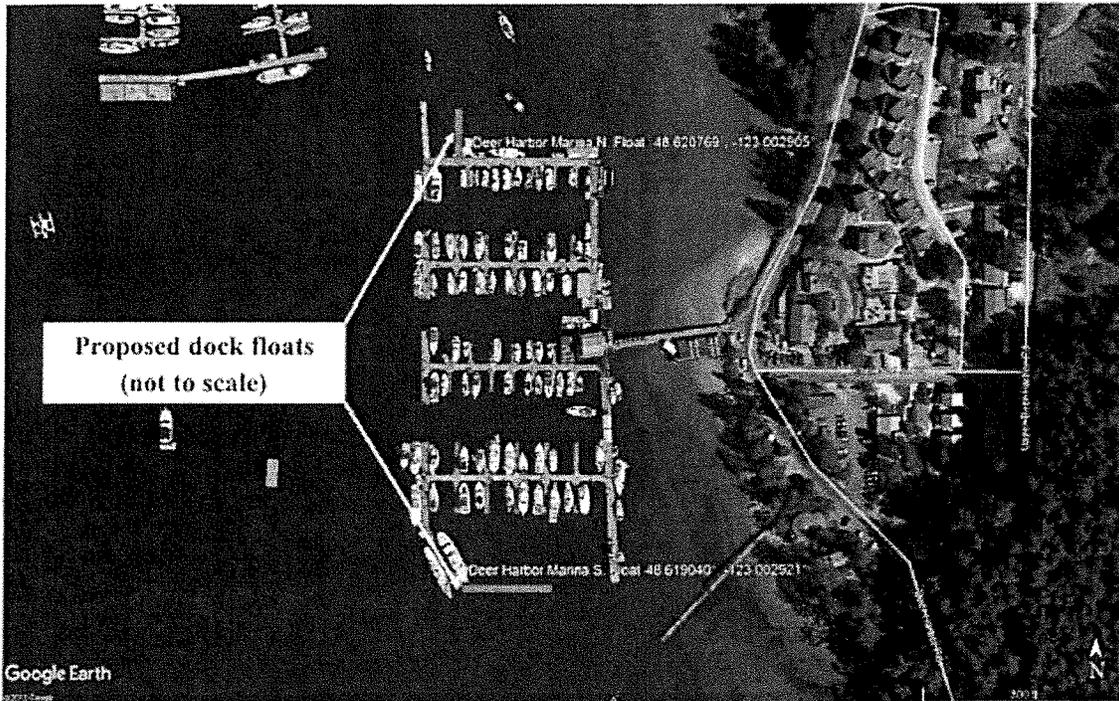
23 4. The Project will create 364 lineal feet of additional transient moorage space at the  
24 existing marina. (*Staff Report, page 2*). The proposal includes the addition of 1,666 square  
25 feet of overwater structures consisting of:

- 26 • A 7' x 70' float with one (1) associated 12-inch diameter steel pile located on the  
north end of the marina facility; and
- A 10'6" x 112' float with four (4) associated 18-inch diameter steel piles located on  
the south end of the marina facility.

1 5. The smaller north float will also be constructed with alternating steel flotation (7' x  
2 5' x 5') sections and open space sections (7' x 5'). The float will have decked grating with  
3 minimum 60% light penetration. *Id.*

4 6. The larger south float will be comprised of alternating steel flotation (two sections  
5 at 7' x 7' x 5' with 6" space between) and open space sections (10'6" x 7'0. The float will  
6 have decked grating with minimum 60% light penetration. *Id.*

7 7. Floats will be built off site and towed into place during construction activities. Pile  
8 installation will be accomplished using a construction barge with crane and vibratory  
9 hammer. Proposed steel piles and other tools and materials will be staged on the barge. *Id.*  
10 photo below for the proposed location. The application materials and Staff Report included  
11 the following photo, marked to illustrate the existing marina facility and where the two new  
12 dock floats will be placed.



1  
2  
3 8. Staff reviewed the application materials and relevant environmental documentation  
4 before issuing a SEPA threshold determination for the project, an MDNS (Mitigated  
5 Determination of Non-Significance), published/noticed/distributed on or about February 6,  
6 2019 (*Ex. 2*). The County and the applicant complied with all applicable notice, comment,  
7 posting, and publication requirements. (*Staff Report, page 14; Exhibits 1, 2, 10, and 11*).

8  
9 9. The application materials and environmental documentation submitted for the  
10 project includes a critical areas report, prepared by qualified professionals at Jen-Jay, Inc.  
11 (*Ex. 5*). The Jen-Jay report, dated October 9, 2018, credibly identifies and evaluates  
12 potential impact on Fish and Wildlife Conservation Areas surrounding the marina. The  
13 report expressly concludes that the marina's project will result in no net loss of shoreline  
14 ecological functions. (*Ex. 5, at page 21*).

15  
16 10. Ms. Thompson prepared and submitted the Staff Report, recommending approval  
17 of the requested permit, subject to conditions that mirror the mitigation measures imposed  
18 on the project in the MDNS.

19  
20 11. A single letter from UW Friday Harbor Labs is included in the record as *Exhibit 8*,  
21 with the applicant's written response included as *Exhibit 9*. In sum, the UW comment letter  
22 noted that biological impacts were likely to be minimal, and supported the kelp monitoring  
23 and mitigation plan, but wanted to ensure that data exists to justify need for the project.  
24 The applicant's response letter credibly explained that the marina now runs at 100%  
25 capacity in July and August, and the additional float moorage will allow the marina to  
26 increase capacity, and reduce the number of boats that now anchor out in the harbor,  
27 potentially causing greater impacts on the environment than the requested marina  
28 expansion. At the hearing, Mr. Broman's testimony served as additional evidence  
29 supporting demand and sufficient justification for the project.

30  
31 12. Applicant representatives communicated with DAHP officials to ensure that the  
32 project properly reflects cultural resource considerations. There were no special  
33 circumstances that warrant conditions other than those recommended in the Staff Report.  
34 The conditions of approval mandate compliance with the County's Inadvertent Discovery  
35 Plan. (*See correspondence included in Ex. 6; Condition of Approval No. 10; and Ex. 7, the*  
36 *County's Inadvertent Discovery Plan*).

37  
38 13. As noted above, the applicant's representative at the public hearing, the  
39 Harbormaster, Mr. Broman, fully supported and accepted the Staff Report as written, with  
40 all recommended conditions of approval.

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1 14. The Critical Areas Report generated for this proposal included specific best  
2 management practices (BMPs) that should be followed, mostly during the construction  
3 period associated with the project. (*Ex. 5, at pages 18 and 19*).

4 15. The SEPA MDNS issued for this project included all of the BMPs recommended in  
5 the Critical Areas Report, as well as other specific measures intended to prevent, minimize  
6 or mitigate potential environmental impacts associated with the project. No one appealed  
7 the MDNS, or offered comments questioning mitigation measures imposed therein. Thus,  
8 the MDNS stands unchallenged. Each MDNS mitigation measure is also included as part  
9 of the Conditions of Approval issued for this Shoreline Permit.

10 16. No individual or government agency invited to comment on the project application  
11 offered any evidence or information that would rebut or materially challenge the findings  
12 and analysis provided in the Staff Report, the applicant's environmental analysis and  
13 project construction recommendations that are included as part of the Record.

14 17. The Staff Report and the application materials included as part of the Record  
15 include facts and analysis that comprise far more than a preponderance of evidence to  
16 establish that the pending Shoreline application satisfies, and in many respects, promotes or  
17 implements, applicable provisions of the County's Comprehensive Plan, including without  
18 limitation those that express a preference for the expansion of existing marina facilities  
19 instead of new marina sites, and those that encourage marinas and joint use moorage  
20 facilities over individual buoys and docks.

21 18. Substantial evidence in the record, including without limitation the application  
22 materials, environmental reports, and hearing testimony, fully support Staff's conclusions  
23 in the Staff Report, explaining that the proposed project satisfactorily complies with  
24 applicable county code provisions, and/or can be mitigated through recommended  
25 conditions and BMPs.

26 19. For instance, *there is substantial, credible, and un rebutted information in the record  
and application materials to demonstrate that no net loss of shoreline ecological functions  
will occur.* These materials include, without limitation, the report and analysis prepared by  
Jen-Jay, Inc. for the project, included as part of *Ex. 5*.

***The Record includes substantial evidence that the application meets requirements to  
approve the Substantial Development Permit.***

20. Substantial and credible evidence in the record, including without limitation

1 unrebutted findings and analysis provided in the Staff Report and the unchallenged MDNS  
2 issued for the project, establishes that the applicant has met its burden to prove that the  
3 pending application satisfies all criteria for approval of a Substantial Development Permit,  
4 found at SJCC 18.80.110(H). Specifically, the applicant has met its burden to establish  
5 that: a) The proposal is consistent with the policies of the Shoreline Management Act and  
6 its implementing regulations, Chapter 90.58 RCW and Chapter 173-27 WAC, as amended;  
7 b) The proposal is Consistent with the policies and regulations of the Shoreline Master  
8 Program in Chapter 18.50 SJCC; c) The proposal is consistent with applicable provisions of  
9 SJCC chapter 18.80 and other applicable sections of the SJCC; and d) The proposal is  
10 consistent with the goals and policies of the Comprehensive Plan.

11 21. Consistent with SJCC 18.80.110(H)(2), the Examiner has conditioned approval of  
12 the project to make the proposal consistent with the shoreline master program and to  
13 mitigate or avoid adverse impacts.

14 22. All findings, statements of fact, and analysis provided in the Staff Report, are  
15 incorporated herein as findings of fact by the undersigned hearing examiner, except as  
16 modified herein.

#### 17 V. CONCLUSIONS OF LAW.

18 1. The Record, including without limitation the County's Staff Report and the  
19 applicant's supporting environmental report by Jen-Jay, includes substantial, credible and  
20 convincing proof that the Shoreline application satisfies the County's approval criteria.

21 2. In this matter, the applicable Shoreline Master Program provisions and policies  
22 expressly encourage recreational opportunities along shorelines. Deer Harbor Marina is  
23 such a popular recreational venue that it is at full capacity during summer months. The new  
24 dock floats permitted by this decision will address demand for additional transient moorage  
25 in the area, and should help to reduce or limit use of anchors, requests for buoys, or single-  
26 use docks in the vicinity.

3. As shown above, the Record establishes that the two new dock floats have been  
designed and can be conditioned to minimize, avoid, or prevent impacts on the surrounding  
shoreline environment, and will comply with appropriate BMPs during construction.

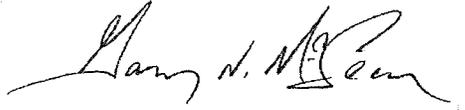
4. Any finding or other statement contained in a previous section of this Decision that  
is deemed to be a Conclusion of Law is hereby adopted as such and incorporated by  
reference.

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

Based on the record, and for the reasons set forth above, the Shoreline Substantial Development Permit for the Deer Harbor Marina expansion is approved, subject to the following Conditions of Approval, which are attached hereto, and incorporated herein by reference.

ISSUED this 22<sup>nd</sup> Day of July, 2019



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Gary N. McLean  
Hearing Examiner

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**CONDITIONS OF APPROVAL**

**Deer Harbor Marina  
Transient Moorage Expansion Project  
Shoreline Substantial Development Permit  
File No. PSJ000-18-0005**

Based on the Record, and under authority of applicable county code provisions, the Examiner imposes the following Conditions of Approval on the above-referenced permit. The Project elements approved by this permit are as described in Findings 4 through 7 of this Decision. The Project shall be developed in a manner and design substantially as depicted in the project drawings included in the record as part of *Exhibit No. 5, particularly Appendices 2, 3, and 4.*

1. All agents and contractors working on behalf of the applicant to construct or develop any aspect of the approved project shall implement and comply with each and every of the applicable Best Management Practices (BMPs) proposed for this project, as set forth in *Exhibit 5*, the Critical Areas Report prepared by Jen-Jay, Inc., and further restated in these Conditions of Approval.

2. During construction and installation work associated with this Project, barges shall be situated such that they do not ground out.

3. No deleterious materials shall enter state waters, and all equipment shall be kept in good running order.

4. Engines shall only be run when necessary to help reduce noise.

5. Construction activities shall take place at compatible tides during daylight hours to ensure that equipment does not ground out and installations are efficient.

6. Approved in-water work windows for protection of juvenile salmonids and forage fish shall be implemented for all work conducted waterward of the OHWM. Work timing will be determined by the contractor. Pile driving activities are anticipated to be completed within one week.

7. Compliance with the marine mammal monitoring plan (*Ex. 5, Appx. 5*) during pile driving is required to reduce or eliminate impacts to acoustically sensitive marine mammals.

8. Compliance with the kelp monitoring contingency plan (*Ex. 5, Appx. 6*) is required to monitor potential impacts to kelp habitat in close proximity to the proposed north float.

9. Spill prevention and cleanup plans shall be in place for this activity as a safeguard against unexpected, accidental contamination. If a spill does occur that causes fish or other wildlife to be in obvious distress, project activity shall immediately be halted and a WDFW Area Habitat Biologist shall be notified.

10. The San Juan County Inadvertent Discovery Plan, *Exhibit 7*, shall be on-site during construction. Adherence with its recommendations shall be required.

11. Common saltwater technical provisions (WAC 220-110-270) shall be strictly adhered to.

12. Consistent with SJCC 18.80.110.G.5, construction or substantial progress toward construction of this Project must be undertaken within two years after WDOE's date of filing. Substantial progress toward construction includes letting bids, making contracts, purchase of materials, utility installation and site preparation, but does not include use or development inconsistent with the SMP or the terms of permit approval. However, the two-year period does not include time when development could not proceed due to related administrative appeals or litigation, nor include time necessary to obtain other required permits for the project from state and federal agencies.

13. Consistent with SJCC 18.80.110.G.6, all development authorized by this shoreline permit shall be completed within five years of the WDOE date of filing or the permit shall become null and void. A permittee may request a time extension before the permit expires by making a written request to the Director, stating the reasons. The hearing examiner will review the permit, and upon a finding of good cause:

- a. Extend the permit for a period not to exceed one year; or
- b. Terminate the permit.

14. If in the future herbicides or pesticides are proposed for use in the marina, approval from the appropriate agencies shall be obtained prior to application.

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

16. 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, or approvals issued for any aspect of this project shall be considered conditions of approval for this permit and are incorporated herein by this reference.

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

18. Failure to comply with these Conditions of Approval shall be grounds for rescission of the Shoreline Permit. As provided in SJCC 18.80.110(L), 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 may be rescinded.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT FOR TWO  
NEW FLOATS AT THE EXISTING DEER HARBOR  
MARINA – FILE NO. PSJ000-18-0005**

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**GARY N. McLEAN  
HEARING EXAMINER  
FOR SAN JUAN COUNTY**

*McLeanLaw@me.com*

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2 **Effective Date, Appeals, Valuation Notices**

3 Hearing Examiner decisions become effective when mailed or such later date in accordance with the laws and ordinance  
4 requirements governing the matter under consideration. SJCC 2.22.170. Before becoming effective, shoreline permits  
5 may be subject to review and approval by the Washington Department of Ecology, pursuant to RCW 90.58.140, WAC  
6 173-27-130 and/or SJCC 18.80.110.

7 Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County Council,  
8 unless the County council has adopted, by ordinance, written procedures for the discretionary review of such decisions.  
9 See Section 4.50 of the San Juan County Home Rule Charter and SJCC 2.22.100.

10 Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to the  
11 Washington State Shorelines Hearings Board. State law provides short deadlines and strict procedures for appeals and  
12 failure to timely comply with filing and service requirements may result in dismissal of any appeal. See RCW 36.70C and  
13 RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal deadlines and procedural  
14 requirements and confer with advisors of their choosing, possibly including a private attorney.

15 Affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of  
16 revaluation.  
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25 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**  
26 **DECISION – APPROVING SHORELINE**  
**SUBSTANTIAL DEVELOPMENT PERMIT FOR TWO**  
**NEW FLOATS AT THE EXISTING DEER HARBOR**  
**MARINA – FILE NO. PSJ000-18-0005**

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

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