

1 interpretations that are subject to appeal. The “issuance” of an interpretation implies
2 a formal interpretation process that goes beyond simply advising applicants of what
3 needs to be done to complete a permit application. As noted previously, the examiner
4 does not supervise the activities of the planning department. Subjecting every
5 comment, request and advice of planning staff to administrative appeal makes the
6 examiner the manager of the planning department, which is not his role.

7 Declining to consider appeals of intermediate administrative decisions is consistent
8 with the requirement for “final” land use decisions to trigger superior court
9 jurisdiction under the Land Use Petition Act “LUPA”), Chapter 36.70B RCW. *See*
10 *Samuel's Furniture, Inc. v. Dep't of Ecology*, 147 Wn.2d 440 (2002)(A local land use
11 decision is "final" for purposes of triggering LUPA jurisdiction when it leaves
12 nothing open to further dispute and sets at rest the cause of action between parties).
13 Although the LUPA case law is based upon far more precise statutory guidance on
14 what decisions are subject to appeal, the underlying policies that discourage appeal of
15 intermediate appeals apply equally to administrative appeals.

16 By contrast, the appellant’s November 5, 2014 appeal does identify a decision subject
17 to appeal. The appeal correctly notes that staff had decided to terminate review of the
18 appellant’s forest plan because the appellant had refused to provide additional
19 requested information. SJCC 18.80.140(A)(2) authorizes appeals of administrative
20 determinations made by the director. SJCC 18.10.030(B) identifies that an
21 administrative determination includes a decision to terminate review of a proposal.
22 The October 17, 2014 letter issued by Sam Gibboney, identified in the November 5,
23 2014 appeal as the subject of the appeal, was a decision by Ms. Gibboney to
24 terminate review. As advocated by the County, this decision is properly subject to
25 appeal to the examiner.

This analysis is based upon the October 10, 2014 and November 5, 2014 appeals
submitted by Stephanie Johnson O’Day, submitted on behalf of Orca Dreams LLC.
In addition, the County’s November 4, 2014 Motion to Dismiss the October 10, 2014
appeal, the Appellant’s November 13, 2014 response thereto and the County’s
November 17, 2014 reply, along with all attachments and declarations submitted with
the documents identified in this paragraph.

DECISION

The October 10, 2014 appeal is dismissed on the basis that it does not identify any
final permitting decision that was “granted or denied” or “issued or approved”. The
November 5, 2014 appeal properly identifies an administrative determination that is
subject to appeal to the hearing examiner. The appellant’s appeal issues will be
limited to the issues identified in the November 5, 2014 appeal.

Dated this 24th day of November 2014.


Phil A. Olbrechts

County of San Juan Hearing Examiner

Effective Date, Appeal Right, and Valuation Notices

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

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

Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to the Washington State shorelines hearings board. State law provides short deadlines and strict procedures for appeals and failure to timely comply with filing and service requirement may result in dismissal of the appeal. See RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal deadlines and procedural requirements and consult with a private attorney.

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