



SAN JUAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT

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STAFF REPORT
FOR SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT: LANDUSE-20-0121
CLEARING AND GRADING AT 689 AND 717 AFTERGLOW DRIVE, SAN JUAN ISLAND, WA

STAFF REPORT TO THE HEARING EXAMINER

HEARING DATE: November 25, 2020
REPORT DATE: November 9, 2020
PROJECT PLANNER: Colin Maycock, AICP, Planner IV *CM*
FILE #: LANDUSE-20-0121
PROJECT DESCRIPTION: Clearing and grading land as part of the development of a residential compound.
STAFF RECOMMENDATION: Approve with conditions.

Project Data	
Island:	San Juan
Site Address/Location:	689 and 717 Afterglow Drive
Parcel Numbers:	461450003, 461450004 and 461450005
Site Size:	1.25, 2.31, 0.55 respectively or 4.11 acres together
Owner:	After Hunt's Point LLC
Agent:	Francine Shaw, PO Box 868, Friday Harbor, 98250
Land Use Designation:	Rural Residential 1 unit per 5 acres
Existing Land Use:	Residential
Surrounding Land Use:	<ul style="list-style-type: none"> • North: Vacant/Residential • South: Vacant/Residential • East: Residential • West: Shoreline
Land Division Status:	461450003: AFTERGLOW - LOT F & PR LOT E (PER BLA AFN 2009-0504020) Sec 14, T 36N, R 4W 461450004: AFTERGLOW - PRS LOTS G & H (PER BLM AFN 20200226008) Sec 14, T 36N, R 4W 461450005: AFTERGLOW - PR LOT H (PER BLM AFN 20200226008) Sec 14, T 36N, R 4W
Shoreline Designation:	Rural Residential
Archaeological Resources:	Present
Critical Areas:	<ul style="list-style-type: none"> • Aquifer Recharge Areas: yes, whole county • Fish and Wildlife Habitat: <ul style="list-style-type: none"> ○ Red Sea Urchin, Salmon, Rockfish and Southern Resident Killer Whale (SRKW) • Geologically Hazardous Areas: The shoreline is bedrock.

	<ul style="list-style-type: none"> Left to right drift.
Sewage Disposal:	461450003: Permit #1956 Septic System Repairs 461450004: Permit #2011543 Septic system repair, replaced permit #9026, February, 2012. Permit #9026, July 1980
Water Availability	Roche Harbor Water System
Other Permits and Investigations:	461450003: Permit #FMBURN-17-0028 Permit #FMBURN-18-2343 Permit #DEMO-19-0123, October 23, 2019, (demolish existing single family residence) 461450004: Permit #DEMO-19-0122, October 10, 2019, (demolish existing single family residence) Permit #BUILD-20-0113, July 23, 2020 (Residences, garage, porches, decks, walkways)

I. SUMMARY OF REQUEST

The applicants are building a residential compound on three lots within common ownership. The project will entail the demolition of the existing residences and appurtenant structures and the construction of new residences, porches, decks, patios, lawns, driveways, pickleball courts, parking courts, and utility trenches.

The proposed new development on TPN 461450004 (697 Afterglow drive) includes:

Demolition of the following:

- Existing tennis court = 94 cubic yards of grading (in place yards)
- Existing driveway = 130 cubic yards of grading (in place yards); and
- Existing septic system = 277 cubic yards of grading (in place yards).

Construction of the following:

- Main house = 4,305 square feet of impervious surface
- Fill for lawn waterward of house = 1, 350 cubic yards (total cut and fill, in place yards)
- Bocce court = 900 square feet of impervious surface and 66 cubic yards of grading (total cut and fill, in place yards)
- Pickleball court 4,160 square feet of impervious surface and 308 cubic yards of grading (total cut and fill, in place yards)
- New gravel driveway = 12, 462 square feet and 1, 693 cubic yards of grading (total cut and fill in place yards)
- Parking court = 2,480 square feet impervious and 367 cubic yards (total cut and fill in place yards)
- Decks, patios, and sidewalks = 6,556 square feet of impervious surface and 823 cubic yards of grading (total cut and fill, in place yards)
- New four bedroom on-site septic system = 620 cubic yards of grading (total cut and fill, in-place yards).

The proposed new development on TPN 461450003 (717 Afterglow drive) includes:

- Combined two story barn/guesthouse roof area = 3035 square feet and 350 cubic yards of grading (total cut and fill, in place yards)
- Removal of existing septic system = 144 cubic yards of grading (total cut, in place yards)
- Fill for lawn waterward of the house = 1,037 cubic yards of grading (total cut, in place yards)
- Fill for lawn streetside of the house = 555 cubic yards of grading (total cut, in place yards).

II. PROJECT HISTORY

A. Submittal

A shoreline substantial development permit application (LANDUSE-20-0121) was submitted on June 17, 2020, **Exhibit 1**.

Notice of the application was published in the Journal of the San Juans and the Islands Sounder on September 9, 2020, **Exhibit 1a**.

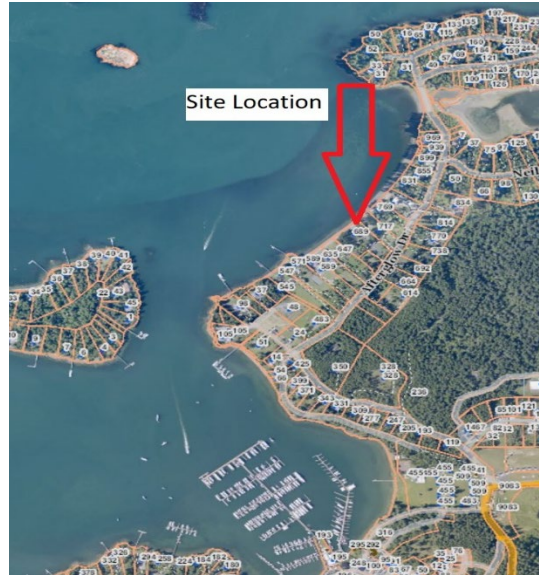
The property was properly posted on October 12, 2020, **Exhibit 1a**.

For the purposes of this review, county staff consider the materials submitted as a complete application.

B. Site Description

The project includes work on three adjacent parcels on Afterglow Drive, San Juan Island.





TPNs 461450003, 461450004 and 461450005 in 2016.



The primary structures pictured above have been demolished.

The project site slopes from east to west. The slope varies between 0 and 8 percent. The soil type is Sholander gravelly loam, a soil type with a moderately high infiltration rate when not saturated. Surface water either infiltrates into the soil or sheet flows towards the shoreline depending on soil saturation.

III. ENVIRONMENTAL DETERMINATION

Based on the environmental checklist, application materials and reports, a Mitigated Determination of Non-Significance (MDNS) was issued for the proposal on September 9, 2020, **Exhibit 1b**. The County received 3 comments on the MDNS, **Exhibit 1c-1e**.

IV. PUBLIC HEARING NOTICE.

On September 09, 2020, a notice of the public hearing was published in the Journal of the San Juans and the Islands Sounder. The property was posted and the neighboring property owners were notified by mail on October 12, 2020, 45 days before the hearing, **Exhibit 1a**.

V. AGENCIES CONTACTED

Request for review was sent to the following agencies: The Department of Archaeology and Historic Preservation, Department of Ecology, Department of Fish and Wildlife, Department of Health, Department of Natural Resources, the University of Washington Friday Harbor Labs, Lummi Nation Historic Preservation Office, Lummi Nation Natural Resources, Lummi Cultural resources, Samish Nation, Swinomish Tribal Commission, Tulalip Natural Resources, San Juan County Fire Marshall, Opalco, and Century link.

VI. SEPA COMMENTS RECEIVED

The County received 3 comments on the SEPA determination from Megan Dethier, University of Western Washington, Friday Harbor Labs, Tamela Smart, Lummi Nation Historic Preservation Officer, and Katelynn Piazza, Washington Department of Ecology. The County received a comment on the project from the Washington Department of Archaeology and Historic Preservation, DAHP, on November 6, 2020, after the SEPA comment period was closed.

Dr. Dethier, **Exhibit 1c**, stated:

As someone concerned with long-term development trends in San Juan County, I am not happy seeing an application for another huge estate for the very wealthy, especially when it has the potential to impact the shoreline. While it appears that this application satisfies county code in terms of setback, stormwater plans, etc., I am surprised that that it received a mitigated determination of non-significance, given its scale. The critical environmental issue is the enormous increase in impervious surface proposed – over 34 thousand square feet! Surely portions of this area could use pervious surfaces, e.g. for the very large driveway? I note that the area is mapped as Critical Aquifer Recharge area, yet this project removes a very large surface from recharge options, instead moving stormwater into the nearshore marine environment. While there

is a careful plan for treating that stormwater, this is nonetheless a large volume of water being transported into the ocean, where the applicants acknowledge there is a continuous bed of eelgrass. The application did not address potential impacts of this discharge on the marine environment. Nor could I find (although it may have been buried in the 259 pages) any discussion of the trenching of the beach that will be required to install dispersion pipes to deliver this stormwater into the ocean.

A few other details of concern; the application describes removing “a few trees” – surely, given the detail in the application, the proponents could provide actual data on how many and how large – and how this will impact the view of the new structures from the water. Finally, they acknowledge that there is English Ivy on the property, but that they will encourage ‘vines’ on the historic structures – hopefully some other kind. It would be appropriate for the County to require the removal of the invasive English Ivy from the property as part of the extensive new landscaping effort, to reduce the chance of spread of this damaging species to more natural areas in the locale.

Thank you for giving FHL the opportunity to comment on this application

Applicant’s Response, Exhibit 1h:

After Hunt’s Point, LLC, the applicant for the proposed Clearing and Grading Permit (File No. LANDUSE-20-0121) and the owner of the property located at 717 and 689 Afterglow Drive, San Juan Island (TPNs 461450003, 461450004 and 461450005) would like to take this opportunity to respond to the Friday Harbor Labs comment letter dated September 15, 2020 regarding the proposed project.

My clients, now in their 70’s, have been visiting Roche Harbor since childhood. It has been their lifelong dream to have a home on San Juan Island for themselves and their extended family. They recognize the historical significance of this property and are committed to preserving, developing and maintaining the land to meet the highest standards.

The Labs’ concerns appear to concentrate on the Department of Community Development’s decision to issue a SEPA Determination of Mitigated Non-significance (MDNS) for this project. The Labs believe that the county should have issued a Determination of Significance (DS) and required the applicant to produce an Environmental Impact Statement (EIS) to address environmental impacts.

This letter addresses each of the Friday Harbor Labs’ concerns and shows that this project has been designed to reduce impacts to level of “insignificance.” The Labs comments and our responses are as follows.

- *“While it appears that this application satisfies the county code in terms of setback, storm water plans, etc., I am surprised that it received a mitigated determination of significance, given its scale.”*

The three properties involved in this application were developed years before After Hunts Point, LLC purchased the property in 2019. After Hunt’s Point is in the process of re-developing the property and has incorporated several design features that actually create less environmental impact than the existing development. These features include:

- 1. The new home under construction on 689 Afterglow Drive is setback 95-feet further landward of the OHWM (about 155 feet from the OHWM) than the home that was recently demolished on this site.*
- 2. The new home under construction at 717 Afterglow Drive is located landward of the 200-foot shoreline jurisdictional area and 40-feet landward of the prior home that occupied this property.*
- 3. A new, state-of-the-art, storm water drainage system is proposed for installation on all three subject lots. There will be no storm water runoff disposed directly into the waters of Roche Harbor. The storm water plan, revised on September 3, 2020, removed the proposed dispersion trench from its initial location on the beach and placed it landward of the 75-foot Fish and Wildlife Habitat Conservation Area Water Quality Buffer associated with the marine waters in Roche Harbor. Storm water will be treated before it ever reaches Roche Harbor. The Department of Ecology’s Storm Water Standards do not provide restrictions on discharging “treated” storm water into marine waters. There will be no impact to the beach (erosion or damage to spawning habitat) because the dispersion trench will slow and spread the flow of storm water runoff to the beach.*
- 4. The old septic systems serving 689 and 717 Afterglow Drive are being demolished and replaced with new environmentally sound systems with the drainfields located well landward of the 200-foot shoreline jurisdictional area and the 75-foot Water Quality Buffer. There are environmental covenants that accompany these septic systems requiring continual maintenance and monitoring of the systems to avoid failure and damage to the environment.*
- 5. The historic water tower and remnants of an old stone carriage house are being preserved to honor the significant legacy established by the McMillian family who constructed the original homestead on the property and who initially developed the Roche Harbor Lime Company where the Roche Harbor Resort now exists.*

The Labs concern above has to do with the County’s project review under the Washington State Environmental Policy Act (SEPA) which was

established in 1971. The act was adopted into law to give agencies tools to allow them to both consider and mitigate for environmental impacts of development proposals. The project was determined by the County to be subject to SEPA and required the applicant to submit an Environmental Checklist providing information about the physical conditions of the property, potential environmental impacts and mitigating measures to lessen the potential impacts. The checklist was completed and submitted with this Clearing and Grading Permit Application.

Since then, the Washington State Growth Management Act (GMA) enacted additional regulations for protecting “critical areas,” those areas that are considered environmentally sensitive.

This property is impacted by the following three critical areas and is within an archaeologically significant site:

- *Critical Aquifer Recharge Area (CARA);*
- *FEMA Flood Plain; and a*
- *Fish and Wildlife habitat Conservation Area (FWHCA).*

As required by the San Juan County Critical Areas Ordinance, the applicant produced a Fish and Wildlife/FEMA Habitat Assessment for the project which determined that the redevelopment of these properties will result in no adverse effects to existing floodplain functions and habitat conditions if the proposed conservation measures incorporated into the report for capturing disturbed sediment and minimizing impacts to the shoreline environment are met. The Fish and Wildlife/FEMA Habitat Assessment also determined that the project will result in no net-loss of shoreline ecological functions.

The regulations in the San Juan County Code for protecting the Critical Aquifer Recharge Area (the entire County is classified as a Critical Aquifer Recharge Area) from pollution causing activities associated with single-family residential development will also be met.

Considering the San Juan County Code regulations for protecting critical areas and the shoreline, the conservation measures identified in the Fish and Wildlife/FEMA Habitat Assessment prepared for this project, the applicant’s responses to the questions in the environmental checklist, and the design features mention previously herein, the County has determined that the Mitigated Determination of Significance is adequate to protect the environment from potential adverse impacts.

- *“The critical environmental issue is the enormous increase in impervious surface imposed –over 34 thousand square feet! . . . I note that the area is mapped as Critical Aquifer Recharge area, yet this project removes a very large surface from recharge options, instead moving storm water into the nearshore marine*

environment. While there is a careful plan for treating storm water, this is nonetheless a large volume of water being transported to the ocean where the applicants acknowledge there is a continuous bed of eelgrass. ”

The Clearing and Grading Permit Application involves three separate parcels and, collectively, encompasses approximately 4.62 acres.

- *717 Afterglow Drive (TPN 461450003) is 1.81 acres in size.*
- *689 Afterglow Drive (YPN 461450004) is 2.25 acres in size*
- *TPN 461450005 is .56 acres in size.*

The property, after re-developed is complete, will be occupied by one single-family residence, a combined barn/guest house, a driveway, parking areas, walkways, a tennis court and gardens. There will be 33,898 sq. ft. of impervious surface, 22,000 sq. ft. which existed prior to re-development. The total of “new” impervious surface on the property will be 11,898 sq. ft. (See attached landscape plan.)

The total amount of impervious surface on the three parcels including existing and new impervious surface will account for about 16.8% of the project site. The San Juan County Code, Table 6.2, in footnote 15, does not limit the amount of impervious surface on parcels less than five acres in size as long as a storm water plan is prepared to handle storm water run-off. An extensive storm water plan was prepared for this property. The plan has been approved by the San Juan County Public Works Department.

- *“The application did not address potential impacts of this discharge on the marine environment. Nor could I find . . . any discussion of the trenching of the beach that will be required to install dispersion pipes to deliver this water to the ocean.”*

See the revised storm water plan dated September 9, 2020 attached to the application materials.

- *“ . . .the application describes removing a few trees - surely, given the detail in the application, the proponents could provide actual data on how many and how large - and how this will impact views of the new structures from the water.”*

All existing trees within the 200-foot shoreline jurisdictional area will be retained. Trees that have been removed to accommodate the construction of the new home at 689 Afterglow Drive will have minimal impact on views of the property from the water since these trees were originally located landward of the previous home on this parcel, outside the shoreline jurisdictional area, and do not offer screening.

- *“Finally, they acknowledge that there is English Ivy on the property, but that they will encourage “vines” in the historical structures – hopefully some other kind. It would be appropriate for the county to require the removal of the invasive English Ivy from the property as part of the extensive new landscape effort, to reduce the chance of spread of this damaging species to a more natural local.”*

The applicant has hired Anne James, a reputable landscape architect, who is fully knowledgeable about the noxious weed, English Ivy. The English Ivy on this property has been or will be removed as part of the landscape plan. There will be no planting of this invasive species after its removal. Any vine that will be planted on site will be those that are not a threat to the natural environment. There are many vines that are not noxious or invasive available for planting on this property.

After Hunt’s Point, LLC’s Clearing and Grading Permit Application has met or can be conditioned to meet all the applicable codes regulating development of this site. They have thoughtfully designed the re-development of the property to be environmentally sensitive. We believe that the proposal, as designed and mitigated, results in no significant environmental impacts. We urge the Hearing Examiner to approval the application as proposed.

Staff Response:

The stormwater plan was updated on September 3, 2020. The revised version of the stormwater plan was included in the distributed SEPA documents. The revised plan shows the proposed dispersion trench has been moved landward approximately 70 feet from OHWM. When not saturated, the soil on the property has a high infiltration rate.

The regulations in SJCC 18.35.080 establish protections for the County’s critical aquifer recharge area.

SJCC 18.35.080 (D) and (E) identify the types of project that require prior plan approval and the activities that require regular inspection to ensure compliance.

The development of single- family residences does not require prior plan approval and residences are not subject to inspection. Chemicals or products that may be hazardous to drinking water shall be used in a manner consistent with the manufacturer’s directions.

Chemicals and products that may be hazardous to drinking water shall be disposed of in a manner consistent with Washington Department of Ecology’s Stormwater management manual for western Washington: Volume IV, Source control BMPS.

The removal of English ivy shall be a condition of approval.

Tamela Smart, the Lummi Nation Tribal Historic Preservation Officer(LNTHPO) provided comments relating to the protection of archaeological resources in the area, **Exhibit 1d**.

Stephanie Jolivette, the local government’s archaeologist, Washington Department of Archaeology and Historic Preservation submitted comments, relating to the protection of archaeological resources in the area, **Exhibit 1g**.

Staff response:

Compliance with the requirements established by the Department of Archaeology and Historic Preservation shall be a condition of approval.

Katelynn Piazza indicated that the well on the property had not been authorized by Ecology’s Water Resources program and that no water right for the property has been established, **Exhibit 1e**.

Staff response:

The applicants have agreed to decommission the well on their property to address the concerns raised by the Department of Ecology, **Exhibit 1f**. Decommissioning the well shall be a condition of approval.

VII. CONSISTENCY WITH APPLICABLE REGULATIONS

The proposed development is required to demonstrate consistency with the following sections of San Juan County Code:

18.50.060

18.50.100

18.50.110

- **18.60.060**
- **18.60.070**

18.50.120

18.50.130

A. Permit requirement.

SJCC 18.50.060 (A) requires all shoreline modifications obtain an appropriate permit. A shoreline substantial development permit is required because per SJCC 18.60.600 (C) a shoreline substantial development permit is required for clearing and grading in the shoreline jurisdiction. Clearing and grading in the shoreline must be consistent with the provisions of SJCC 18.50.110.

B. Shoreline requirements.

Staff review is italicized after each code section.

18.50.060 Shoreline modification regulations – General shoreline modification activities.

A. Prior to undertaking any shoreline modification project, a shoreline substantial development permit, a shoreline variance, or a shoreline conditional use permit must be obtained. See the permit requirements for the specific type of shoreline modification in Table 18.50.600 and specific

requirements by designation. Shoreline modifications including structural shoreline stabilization measures are allowed subject to the procedures and requirements in subsection (B) of this section.

B. General Standards.

1. If inventories of critical saltwater habitats are found to be incomplete, an inventory and assessment of the site and adjacent beach sections are required to identify these habitats and their functions. The methods and extent of the inventory shall be consistent with accepted research methodology in consultation with the WDOE's technical assistance materials.

The applicants have submitted a habitat assessment and biological evaluation that is consistent with this requirement, Exhibit 2.

2. Shoreline modifications must be the minimum size necessary to achieve the intended purpose.

The proposed project will move residential development landward from the OHWM, outside of Tree protection zone 2 and the water quality buffer. Grading and filling of the old, now demolished, residential sites will occur within the shoreline jurisdiction. Current lawns shall also be graded and filled. The project is consistent with this requirement.

3. Shoreline modification applications must include adequate information demonstrating that the project meets all applicable requirements. At a minimum, the required information must include:

- a. Construction materials (e.g., type, dimensions, design);

Exhibit 3, page 12 is consistent with this requirement.

- b. Method of construction and erosion control;

Exhibit 3, page 12, and Exhibit 4, Section 6.2, pages 8-10, Exhibit 4, Appendix 8.8 are consistent with this provision.

- c. Location of project on lot;

Exhibit 4a is consistent with this requirement.

- d. Ordinary, mean low, and mean high water elevations;

Exhibit 4a shows the OHWM, Exhibit 2, page 4 details the location of the MLLW and MHHM. The proposal is consistent with this requirement.

- e. The OHWM subject to verification by WDOE;

The position of the OHWM shall be subject to verification by WDOE. The proposal is consistent with this requirement.

f. Net direction of littoral, drift and tidal currents (if any);

Exhibit 2, page 5, is consistent with this provision.

g. General direction and speed of prevailing winds and fetch when applicable;

Exhibit 2, page 5, is consistent with this provision.

h. Profile rendition of project including beach and building site landward of the OHWM;

Exhibits 4b and 4c, and Exhibit 5, figure 4, on page 11 are consistent with this provision.

i. Beach type, slope, and material;

Exhibit 2, page 5 and Exhibit 5, pages 2-3 demonstrate consistency with this provision.

j. Land type, slope, and material;

Exhibit 5, pages 2&3 and figure 3, page 11 show land type, slope and material consistent with this provision.

k. Soil types (NRCS);

Exhibit 4, Appendix 8.2 is consistent with this requirement.

l. Assessment of site stability before and after the project;

Exhibit 5, page 5 demonstrates the sites stability.

m. Potential impacts upon shore processes and nearby properties.

Exhibit 2, pages 11-12 evaluates the potential impacts on shoreline processes consistent with this provision.

4. Erosion must be controlled during the construction of shoreline modification projects and disturbed areas must be promptly revegetated after the project is completed. (Ord. 1-2016 §§ 64, 84(E))

Exhibit 4, Section 6.2, pages 8-10, Exhibit 4, Appendix 8.8 are consistent with this provision.

18.50.100 Archaeological and historic resources.

A. When an application for a development permit is received for an area known to be archaeologically significant, the applicant must submit a cultural resources report with the permit application. The department will forward this report to the Native American nations and Washington State Department of Archaeology and Historic Preservation (DAHP) with a request for comments within 10 working days. The County will not take final action on the application until the comment period has ended. If the application is approved by the County, conditions may be

attached reflecting the recommendations of the archaeologist regarding preservation or protection of the site.

An archaeological survey has been carried out by qualified professionals on this site, Exhibit 6.

Both Lummi Nation Historic Preservation Officer (LNTHPO) and the Washington Department of Archaeology and Historic Preservation (DAHP) have reviewed the proposed project.

Both LNTHPO and DAHP have approved the project contingent on following the approved monitoring plan and Inadvertent Discovery Plan, Exhibits 1d and 1g.

It is a condition of approval that construction is carried out in a manner consistent with the approved monitoring and Inadvertent Discovery Plan.

B. All development permits will contain a provision advising the permit holder that if during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find must be halted immediately, and the director, the DAHP and affected Native American nations must be notified at once.

C. Additional regulations to protect archaeological and historic resources are established in SJCC 18.60.210.

D. Structural shoreline stabilization measures may be allowed with a shoreline substantial development permit where wind, rain, storms, or waves expose verified archaeological and historic resources. Prior to issuing the permit, the authenticity of the cultural and historic resources must be verified by the DAHP in coordination with the affected Native American nations. (Ord. 1-2016 § 15)

18.50.110 Clearing, grading, fill, excavation and vegetation management.

A. All clearing, grading, fill and excavation must comply with SJCC 18.50.130, 18.60.060 and 18.60.070.

Part of the proposed fill and grading will occur within the shoreline jurisdiction.

18.60.060 Clearing and grading standards.

A. General Regulations.

1. All grading and clearing activities shall be conducted so as to minimize potential adverse effects of these activities on forested lands, surface water quality and quantity, groundwater recharge, wildlife habitat, and scenic resources.

Exhibit 3, pages 2-4 demonstrate compliance with this provision.

2. Grading to construct ponds and reservoirs shall:
 - a. Be located at least 30 feet from the edge of a public road right-of-way;
 - b. Maintain in-stream flows of natural drainage courses; and
 - c. Protect adjacent property from damage.

There is no pond associated with this proposal. This provision does not apply.

B. Drainage and Erosion Control. This subsection shall apply to any development for which a permit is required by this code or which is permitted outright by regulations in Chapter 18.30 SJCC.

All grading activities shall be accomplished as follows:

1. Design and maintain adequate buffers of undisturbed native vegetation to minimize off-site impacts of surface water runoff, erosion, and sedimentation.

A few trees that occupy the same location as the proposed new residence will be removed. No additional vegetation removal is considered as part of this application. The stormwater pollution prevention plan, and the stormwater treatment plan are expected to prevent off-site impacts during construction and throughout the lifetime of the development, Exhibit 4, Appendix 8.8 and 8.3. Permanent stormwater control includes two bio-retention cells and one cartridge media filter, Exhibit 4, Appendix 8.3 and Exhibit 4, section 6.6, page 11.

2. Design and construct all graded surfaces that are to be revegetated to slope gradients (generally less than 1:2 or 1:3 slopes) so that the graded surfaces will hold topsoil and to minimize surface runoff, erosion, and sedimentation.

Proposed graded slopes shall be less than 1:3. The proposal is consistent with this provision, Exhibit 3, page 5.

3. Selectively salvage the upper six to 12 inches of topsoil, stockpile it, and respread over all disturbed areas to be revegetated.

Approximately 1,900 cubic yards of fill will be excavated on the site, Exhibit 3, page 10.

4. Any area cleared or graded and not covered with gravel or an impervious surface shall be seeded immediately on completion of the project. If erosion is probable, areas with exposed soil shall be protected by temporary means during construction. All disturbances should at least be revegetated with grasses and forbs; include shrubs, and trees as appropriate in the revegetation effort. Use of plant species native to the County is encouraged.

All construction shall comply with the provisions of Exhibit 4, Section 6.2, pages 8-10. The project is consistent with this provision.

5. Natural vegetation shall be retained to the maximum extent possible in construction and operation of any use. All development shall ensure that soil erosion and sedimentation of drainage ways will be controlled to prevent damage to adjoining property and downstream drainage channels and receiving waters.

All construction shall comply with the provisions of Exhibit 4, Section 6.2, pages 8-10. The project is consistent with this provision.

6. Surface drainage shall not be directed to or discharged into County roads or ditches within County rights-of-way unless approved by the County engineer.

The stormwater plan has been approved by the County stormwater reviewer. The proposal includes treatment for stormwater and upland dispersion. Stormwater shall not be directed into County roads or ditches. The proposal is consistent with this provision.

7. A drainage analysis shall be prepared if required by SJCC 18.60.070. Drainage controls may be required to regulate velocities of runoff water and to control pollutants, erosion, and sedimentation if it is probable that damage could occur downstream to property or to water quality. Such controls may include landscaping or reestablishing native vegetation, ponds, catch basins, and other control structures.

Exhibit 4, stormwater plan, meets the County standards and is consistent with this provision.

8. For effective long-term weed control, it is suggested that the landowner coordinate with the County weed control board to eradicate nuisance species.

Control of nuisance species is the duty of all County landowners.

C. Best Management Practices (BMPs). BMPs from the Stormwater Management Manual (SMM) (see SJCC 18.60.070) or as specified by the County engineer shall be employed in the control of erosion and sediment during construction, to permanently stabilize soil exposed during construction, and in the design and operation of stormwater and drainage control systems. These include BMPs for:

1. Erosion and sediment control and small parcel construction BMPs at Section II-5 in the SMM;
2. Control of pollutants other than sediment on construction sites at Section II-3 in the SMM;
3. BMPs for problem areas on construction sites at Section II-2 in the SMM; and
4. BMPs for runoff control at Section III in the SMM.
 - a. Infiltration and filtration at Section III-3;
 - b. Detention at Section III-4;
 - c. Biofiltration at Section III-6;
 - d. Oil/water separators at Section III-7; and
 - e. Stream stabilization at Section III-8.a.

Exhibit 4, pages 7 – 12, and Exhibit 4, Appendix 8.8, detail the specific BMPs to be used during construction. Use of BMPs is a condition of approval.

D. Environmentally Sensitive Areas. All clearing and grading activities that will occur in or adversely affect environmentally sensitive areas shall be subject to the regulations of SJCC 18.35.020 through 18.35.050 et seq., shall be reviewed for consistency with the applicable sections of this code (e.g., Chapter 18.40 SJCC, Performance and Use-Specific Standards; Chapter 18.50 SJCC, Shoreline Master Program; and Chapter 18.60 SJCC, Development Standards), and may only be approved by the decision-maker if they have been found to meet the requirements set forth by this code:

1. Geologically Hazardous Areas. Standards governing development activities in these areas are found in SJCC 18.35.055 through 18.35.070.
2. Frequently Flooded Areas. Fills in flood hazard areas as identified on the FIRMs (flood insurance rate maps) maps are not permitted unless the administrator finds that no reasonable alternative exists.
3. Critical Aquifer Recharge Areas. Standards governing development activities in these areas are found in SJCC 18.35.080.
4. Regulated Wetlands. Alteration (filling, excavating, or draining) of regulated wetlands shall be subject to the provisions of SJCC 18.35.085 through 18.35.105.
5. Fish and Wildlife Habitat Areas. Standards governing development activities in these areas are found in SJCC 18.35.110 through 18.35.140.

The proposed development is consistent with the County's critical area regulations. Exhibit 2, page 1, states that the project will follow BMPs and "will result in no net loss of shoreline ecological functions". The proposal is consistent with this provision.

E. Grading.

1. Project or building permits which involve grading of 100 or more cubic yards are subject to environmental review under the State Environmental Policy Act (SEPA) (see SJCC 18.80.050) unless the grading is SEPA-exempt under WAC 197-11-800.

(Note: this does not apply when grading is associated with a development or activity which is categorically exempt from SEPA review requirements. Most minor new construction, including construction of a single-family house and related outbuildings, is exempt from SEPA review; see WAC 197-11-800.)

A SEPA checklist was prepared and an MDNS was issued on September 9, 2020, Exhibit 1b.

2. Clearing and Grading Permit. The clearing and grading permit is a development permit that is processed using the procedures under the Uniform Building Code, adopted as the San Juan County building code, Chapter 15.04 SJCC.
 - a. All grading of 500 cubic yards or more is subject to a clearing and grading permit, except grading associated with the following:
 - i. Maintenance of gravel roads;
 - ii. A SEPA-exempt (cf. WAC 197-11-800(2)(d)) residential driveway;
 - iii. Construction of a Class I – III logging road (per RCW 76.09.050 and WAC Title 222);
 - iv. Drainage improvements constructed in accordance with SJCC 18.60.060(B) and 18.60.070; or
 - v. Construction of a pond of one-half acre or less which is not in a regulated wetland (cf. SJCC 18.35.085 through 18.35.105).

The proposed clearing, grading and construction will involve approximately 8,610 cubic yards of soil. A clearing and grading permit is required.

b. Applications for projects which require a clearing and grading permit shall include the following information:

i. Source of fill material and deposition of excess material;

The fill material shall consist of soils excavated on site. Approximately 1,900 cubic yards of excavated soil shall be removed from the site and deposited in an approved upland location.

ii. Physical characteristics of fill material;

Sand bedding for utility trenches, aggregate base material for structural fill, crushed and processed stone for surfacing and topsoil/mulch for landscaping.

iii. Proposed methods of placement and compaction;

Vehicles will deliver fill to the site. The same vehicles will remove unsuitable/unusable soil from the site. The materials will be deposited in piles to be moved on-site with excavators or bulldozers.

iv. Proposed surfacing material;

Surfacing material will include topsoil, mulch and processed aggregates.

v. Proposed method(s) of drainage and erosion control;

The approved stormwater drainage plan, Exhibit 4, page 6, and Exhibit 4a shows that the new drainage facilities includes two bioretention treatment cells and one cartridge media filter. Exhibit 4, pages 8-10 includes an approved stormwater pollution prevention plan.

vi. Methods for restoration of the site;

Exhibit 2a demonstrates that the landscaped area will be planted and mulched.

vii. Demonstration that instream flow of water will remain unobstructed;

Exhibit 4, Section 6.4, page 11, states, "This project does not propose to divert stormwater. Existing hydrology is maintained."

The proposal is consistent with this provision.

viii. Demonstration that erosion and sedimentation from outflow channels will be minimized by vegetation or other means; and

All stormwater from pollution generating surfaces will be treated with two bio retention cells and one cartridge media filter, Exhibit 4, Section 6.6, page 11.

ix. Demonstration that pond runoff will be controlled to protect adjacent property from damage. (Ord. 7-2005 § 17; Ord. 12-2001 § 6; Ord. 2-1998 Exh. B § 6.6)

18.60.070 Storm drainage standards.

All new development and redevelopment must conform to the standards and minimum requirements set by the Washington Department of Ecology Stormwater Management Manual for Western Washington, Publication Nos. 05-10-029 through 05-10-033. In addition, the best management practices identified in the January 2005 Low Impact Development Technical Guidance Manual for Puget Sound, produced by the Puget Sound Action Team, are acceptable alternatives for managing runoff, controlling soil erosion, and maximizing and protecting recharge.

A. Definitions. For the purposes of this section, the definitions at I-2.1 of the SMM shall apply:

1. "Small parcel development" is a development that creates or adds less than 5,000 square feet of impervious area, and that is either of the following:
 - a. The construction of an individual, detached, single-family residence, accessory dwelling unit, or duplex; or
 - b. Land-disturbing activities of less than one acre that include grading of 100 or more cubic yards.

This project is will result in 33,898 square feet of new impervious surface. This provision does not apply.

2. "New development" includes land-disturbing activities, structural development (construction, installation or expansion of a building or other structure), creation of impervious surfaces, Class IV General forest practices and COHP plans, and subdivision, short subdivision and binding site plans as defined in RCW 58.17.020.
3. "Redevelopment" includes, on an already developed site, the creation or addition of impervious surfaces, structural development, and replacement of impervious surface that is not part of routine maintenance; and also, land-disturbing activities that are associated with the above activities.
4. "Impervious surface" means a hard surface area which creates a barrier to the entry of water into the soil mantle in comparison with natural conditions prior to development, or which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include roofs, driveways, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.
5. A "land-disturbing activity" results in a change in the existing soil cover (both vegetative and nonvegetative) or the existing topography, and includes but is not limited to demolition, construction, clearing, grading, filling, and excavation.

B. Exemptions. Commercial agriculture, and forest practices regulated under WAC Title 222, except for Class IV General forest practices and COHPs (see SJCC 18.40.120 through 18.40.180), are exempt from the provisions of the minimum requirements.

The project is not commercial agriculture or forest practices. This provision is not applicable.

C. Small Parcel Minimum Requirements. Small parcel development meeting the criteria of subsection (A)(1) of this section shall be required to control erosion and sediment during construction and to permanently stabilize soil exposed during construction. Such development shall:

1. Comply with the minimum requirements 1 through 4 for small parcels in Section I-2.3 of the SMM, and shall employ the small parcel best management practices (BMPs) of Section II-5.10. Additional guidance is provided in Sections I-3.3, I-4, and II-5.9 of the SMM;
2. Prepare a small parcel erosion and sediment control plot plan or illustration (or, show on other diagrams being prepared for the project, if appropriate) showing:
 - a. Vicinity map;
 - b. Location of the structure and its access;
 - c. All applicable setback requirements;
 - d. Location of all applicable erosion and sediment control BMPs; and
 - e. Existing site features and sensitive areas.

This project does not meet the small parcel criteria. This provision is not applicable.

D. New Development Minimum Requirements.

1. New development that includes (a) the creation or addition of 5,000 or more square feet of impervious surface and (b) land-disturbing activities of less than one acre shall comply with minimum requirements 2 through 11 in Sections I-2.6 through I-2.15 of the SMM, and the small parcel minimum requirements of subsection (C) of this section.

The approved stormwater plan, Exhibit 4, pages 1-16 plus appendices and plans address this requirement. The project is consistent with this requirement.

2. New development that includes (a) the creation or addition of 5,000 or more square feet of impervious surface, and/or (b) land-disturbing activities of one acre or more, shall comply with minimum requirements 1 through 11 in Sections I-2.5 through I-2.15 of the SMM, and a stormwater site plan shall be prepared.

See the approved stormwater plan, Exhibit 4, pages 1-16 plus appendices and plans. The project is consistent with this provision.

3. Stormwater Site Plan. A stormwater site plan required by subsections (D)(2), (E)(1) or (2) of this section shall be developed to the standards of Sections I-3.4 and I-3.5 of the SMM, and include:
 - a. Project overview;

Exhibit 4, page 6. The project is consistent with this provision.

- b. Plot plan, including the elements of subsection (C)(2) of this section and:
 - i. Locations of structures and other impervious surfaces;

See Exhibit 4, Appendix 8.3, sheet 02.

- ii. Locations of stormwater runoff control facilities;

See Exhibit 4, Appendix 8.3, sheets 02, 05, and 06.

- iii. Road rights-of-way and easements;

See Exhibit 4, Appendix 8.3, sheet 02.

- c. Preliminary conditions summary;

See Exhibit 4, Section 4, page 5.

- d. Analysis of off-site water quality impacts (including groundwater) resulting from the project, and mitigation measures;

See Exhibit 4, Section 6.4, page 11.

- e. Analysis and design of proposed stormwater runoff control facilities, including treatment and source control BMPs (cf. Section I-4 of the SMM, which provides a list of and selection process for BMPs);

See Exhibit 4, Section 6.3, pages 10- 11.

- f. Erosion and sediment control plan;

See Exhibit 4, Section 6.2.4, page 9

- g. Special reports and studies;

See Exhibits 2, 4, and 5.

- h. Stormwater and drainage system maintenance and operations manual.

The approved stormwater drainage plan, Exhibit 4, Appendix 8.3, Sheets 05 and 06 show the location of new drainage facilities including 2 bioretention cells and one cartridge media filter for treatment.

E. Redevelopment Minimum Requirements.

- 1. Where redevelopment of 5,000 or more square feet of impervious surface occurs:

- a. The new development minimum requirements 1 through 11 in Sections I-2.5 through I-2.15 of the SMM shall apply to that portion of the site that is being redeveloped;

The approved Stormwater plan, Exhibit 4, pages 1-16, plus plans and appendices addresses these requirements. The project is consistent with this requirement.

- b. Source-control BMPs (cf. Section I-4 of the SMM, which provides a list of and selection process for BMPs) shall be applied to the entire site (including adjoining parcels if they are part of the project); and

The approved Stormwater plan, Exhibit 4, pages 1-16, plus plans and appendices addresses these requirements. The project is consistent with this requirement.

c. A stormwater site plan shall be prepared.

Exhibit 4 is consistent with this requirement.

2. In addition to the requirements of subsection (E)(1) of this section, a stormwater site plan (see subsection (D)(3) of this section) shall also be prepared to implement the minimum requirements to the maximum extent practicable for the entire site when any of the following conditions apply:

a. Existing sites larger than one acre with 50 percent or more impervious surface;

The project parcels combined are more than one acre. This provision is not applicable.

b. Sites that discharge to a receiving water that has a documented water quality problem as defined by the County health and community services department or by *criteria listed in Section I-2.4.2.B.2 of the SMM*; or

The project is not discharging into water with documented water quality problem. This provision is not applicable.

c. Sites where the need for additional stormwater control measures has been identified through a special study by the County or town of Friday Harbor, such as a watershed plan or marine habitat protection plan. (Ord. 52-2008 § 12; Ord. 21-2002 § 7; Ord. 2-1998 Ex. B § 6.7)

The project is not on a site where the need for additional stormwater control measures has been identified. This provision is not applicable.

B. All shorelines must be protected from degradation caused by the modification of the land surface within the shoreline area or the adjacent lands. Land clearing, grading, fill and alteration of natural drainage features and land forms must be designed to prevent adverse impacts to adjacent properties or shoreline ecological functions. Unless specifically allowed by this chapter, vegetation clearing and land surface grading and filling are prohibited.

C. The following requirements apply to land clearing, grading, filling, or alteration of natural drainage and topography for residential construction:

1. Land clearing, grading, filling, or alteration of natural drainage and topography shall be limited to the area necessary for driveways, buildings, and view and solar access corridors. Cleared surfaces not to be covered with gravel or impervious surfaces shall be replanted promptly with native or compatible plants (i.e., groundcovers or other plant materials adapted to site conditions which will protect against soil erosion). This applies to individual construction and shoreline subdivisions. Existing vegetation shall be used to visually buffer structures as viewed from the shoreline, public roads, and adjoining properties. All applications for new construction and subdivisions shall identify trees that are proposed to be removed. If trees are to be removed beyond those required to construct a single-family residence, then a tree removal plan shall also be submitted. The plan shall:

- a. Identify the proposed building areas, driveways, and view and solar access corridors; and
- b. Demonstrate how existing natural screening will be retained while providing for construction, views, and sunlight.

The proposed project is for residential construction. The only trees that are being removed are outside tree protection zone 2, and are in the location of the new residence. The proposed grading and fill will rehabilitate the existing landscaping. The project is consistent with this provision.

D. All building permit applications for new nonresidential construction, uses, structures or activities must show all trees on the site plan and identify any trees proposed to be removed. If trees are to be removed at other times, a tree removal plan must be submitted to the department for review and approval. Site and tree removal plans must:

1. Identify the proposed and existing building areas, driveways, and view and solar access corridors;
2. Demonstrate how natural screening will be retained while providing for construction, views, and sunlight;
3. Demonstrate how the tree protection requirements in critical area buffers and tree protection zones in SJCC 18.50.130 will be met; and
4. Include a report by a certified arborist for hazard tree removal.

The only trees being removed are those that occupy the location of the new residence. The trees are landward of the tree protection zone. This provision is not applicable.

E. Fill in flood hazard areas identified on the Flood Insurance Rate Maps (FIRMs) is not allowed unless the director finds that no feasible alternative exists. Land clearing, grading, filling, and altering of wetlands, natural drainage features and topography are limited to the minimum area necessary for driveways, buildings, and views, and must conform with critical area requirements and SMP setbacks. It is the property owner's responsibility to obtain required state and federal authorizations for work in wetlands, streams or shoreline waters. Fill and excavation within wetlands or waterward of the OHWM will only be allowed for the following purposes:

1. Interagency environmental restoration or cleanup projects to dispose of contaminated sediment;
2. Disposal of dredged material evaluated and conducted in accordance with the Dredged Material Management Program of the WDNR or the Dredged Material Management Office of the ACOE (see SJCC 18.50.440);
3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;

4. Ecological restoration or enhancement projects, such as beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with a restoration plan approved as part of this SMP; and
5. Protection of archaeological, cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fill must be coordinated with any affected Native American nations and comply with applicable provisions of SJCC 18.60.210.

The proposed fill and grading will be placed at least one foot landward of the identified FEMA base flood elevation. The project will not create any new structures that are subject to SJCC 15.12. The proposed grading and fill will improve the view and will maintain the existing hydrology. The project is consistent with critical area requirements and the SMP.

F. When clearing, grading, filling or excavating will cause adverse impacts to ecological functions, a mitigation plan must be prepared and implemented in accordance with SJCC 18.50.140, 18.50.150 and 18.50.160.

The proposed project is not expected to result in adverse impacts on shoreline ecological functions, Exhibit 2, page 15.

G. Fill landward of the OHWM is allowed provided it:

1. Is conducted outside required buffers and setbacks as part of an approved shoreline use;

The proposed grading and filling will take place in an area that was cleared and graded in 1980 and is part of an approvable shoreline use.

2. Is the minimum needed to implement the approved shoreline use;

The proposed clearing and grading will renovate existing landscaping and cover residence demolition and is part of residential development.

3. Does not significantly change the topography of the landscape in a manner that affects the runoff characteristics; and

The proposed fill will modify existing topography waterward of the residence. The proposed fill will raise the elevation of seaward yard and cover visual trace of demolished house. Exhibit 4, plan Section 6.4, page 11, states, "This project does not propose to divert stormwater. Existing hydrology is maintained."

4. Does not increase the risk of slope failure.

The parcel has a gentle slope and the proposed fill and grading will not increase the risk of slope failure, Exhibit 5, page 5 demonstrates the sites stability.

H. All fill and excavation waterward of the OHWM not associated with ecological restoration require a shoreline conditional use permit.

The project will not involve fill or excavation waterward of the OHWM. This provision is not applicable.

I. All debris and other waste material resulting from construction are to be managed or disposed of in a fashion that prevents entry into any water body or wetland.

Exhibit 4, pages 2 – 16, plus appendices, detail the construction BMPs. Development consistent with the provisions of Exhibit 4, shall be a condition of approval.

J. Clearing, grading, filling or excavating is not allowed where shoreline stabilization will be necessary to protect materials placed or removed, except when they are part of an approved plan to protect cultural resources including archaeological artifacts.

Exhibit 5, page 5 demonstrates the stability of the site. No shoreline stabilization is expected.

K. Fill, beach nourishment and excavation are to be designed to blend physically and visually with the topography existing on the date of application whenever possible, so as not to interfere with water-dependent uses, lawful access and enjoyment of scenery.

The project will not involve beach nourishment. The fill will modify existing contour lines and will slightly raise the topography (three feet maximum) seaward of the proposed single-family residence. The fill will eliminate visual traces of the demolished residence.

L. Fill is not allowed for the sole purpose of expanding the developable area of a lot.

The proposed fill will not expand the developable area of the lot. This provision is not applicable.

M. Applications for substantial development permits proposing fill must include the following information:

1. Source of fill material;

The majority of the fill will come from excavations for the new residence on site.

2. Physical characteristics of fill material;

Exhibit 5, Appendix C chronicles the characteristics of the soil on site.

3. Proposed methods of placement and compaction;

Fill will be brought to the site and/or moved within the site with trucks, excavators and bulldozers.

4. Proposed surfacing material;

The fill used to change the topography will be surfaced with topsoil from onsite excavation and replanted.

The driveway and car park will be treated aggregate.

5. Proposed quantity of fill;

1,350 cubic yards, Exhibit 3, page 2.

6. Proposed method(s) of erosion control; and

Exhibit 4, Section 6.2, pages 8-10, and Appendix 8.3.

7. Proposed use of filled area.

The area proposed to be filled was once the site of the home that was recently demolished at 689 Afterglow Drive which included a landscaped lawn. This area will be restored.

N. On natural (as opposed to manmade, privately owned) lakes, retaining walls are not to be used as erosion control devices on allowed fill.

The project is not near a natural lake. This provision is not applicable.

18.50.120 General environmental protection.

A. Land uses and developments that include vegetation removal, fill, excavation or grading on County shorelines must be designed, located, sized, constructed and maintained to result in no net loss of shoreline ecological functions.

Exhibit 2, page 15, will result in no net loss of shoreline ecological functions.

B. Land use and development project proposals that do not meet the critical area requirements for no net loss in SJCC 18.50.130 must include a mitigation sequence analysis that considers avoiding actions, minimizing the scale and scope of the project and possible mitigation actions. Where a project may cause or increase the intensity of unavoidable adverse impacts on shoreline ecological functions, mitigation to offset the impacts is required and must be consistent with the mitigation sequence and mitigation planning process in SJCC 18.50.140, 18.50.150 and 18.50.160.

The project protects shoreline critical areas and is consistent with SJCC 18.50.130, and SJCC 18.35.130-3(j).

The proposal is compliant with critical area regulations, and will not result in adverse impacts to ecological functions, Exhibit 2, page 15.

Where land use or development projects meet or exceed the protections required by the critical area regulations in SJCC 18.50.130, mitigation is not required. All new uses, developments and ancillary activities that do not comply with SJCC 18.50.130 require mitigation of adverse impacts consistent with the provisions of SJCC 18.50.140, 18.50.150 and 18.50.160.

The proposal is compliant with critical area regulations. No mitigation is required.

C. All shoreline uses, structures, and activities are to be located, designed, constructed, and managed in a manner that is aesthetically compatible with the affected area.

The project removes the visual remnants of a previous residence and creates a lawn that is consistent with other lawns and gardens in the neighborhood.

D. On all nonbedrock shorelines all new structures are subject to coastal geologic buffers consistent with SJCC 18.50.130.

In addition to the requirements of SJCC 18.35.070 and 18.35.130, Figure 3.1, the required technical report must:

1. Evaluate the potential impacts on water circulation, sand and gravel movement, erosion and accretion;
2. Evaluate the potential impacts of sea level rise over the life of the structure (75 years); and

Exhibit 5, page 5 evaluates the risk of sea level rise over the next 75 years and indicates that the graded and filled area is not expected to be affected.

3. Demonstrate that the proposed buffer will be sufficient to avoid the need for new protective structural shoreline stabilization and flood protection measures for the life of the structure (75 years).

Exhibit 5, page 5 is consistent with this requirement.

E. Herbicides and pesticides shall not be applied to, or allowed to directly enter, water bodies or wetlands unless approved for such use by the appropriate agencies.

Not applicable, no herbicides or pesticides will be used as part of this project.

F. The cultivation of genetically modified crops, livestock and other organisms is prohibited in the shoreline jurisdiction under Chapter 8.26 SJCC. (Ord. 11-2017 § 8; Ord. 1-2016 § 17)

Not applicable. No crops or livestock will be cultivated as part of this project.

18.50.130 Critical areas.

A. The San Juan County critical area regulations codified in Chapter 18.35 SJCC are incorporated into this SMP except as noted in subsection (B) of this section. These regulations were adopted by the County in Ordinance 52-2008 on November 18, 2008; Ordinances 26-, 27-, 28-, and 29-2012, on December 3, 2012; Ordinance 2-2014 on March 5, 2014; Ordinance 16-2014 on November 4, 2014; and Ordinance 1-2015 on January 27, 2015.

B. Provisions of the critical area regulations that are not consistent with Chapter 90.58 RCW (the Shoreline Management Act) and its supporting WACs do not apply in the shoreline jurisdiction including the:

1. Critical area applicability provisions do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.025 does not apply.
2. Critical area reasonable use exceptions do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.035 does not apply.
3. Critical area mitigation requirements do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.040 does not apply.

4. Critical area existing legally established structures, uses and activities do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.045 does not apply.
5. Critical area nonconforming structures, uses and activities do not apply in the shoreline jurisdiction. Specifically, SJCC 18.35.050 does not apply.
6. Critical area provisions for reduced water quality buffers and tree protection zones when views of the water are blocked by existing houses on adjoining waterfront parcels do not apply in shoreline jurisdiction. Specifically SJCC 18.35.130(F) does not apply.
7. Critical area standards and requirements for shoreline modifications do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.130(G) does not apply. Critical area standards and requirements for aquaculture activities and uses allowed in and over aquatic fish and wildlife habitat conservation areas do not apply in shoreline jurisdiction. Specifically, items (f) and (g) in SJCC Table 18.35.130-3 do not apply. (Ord. 11-2017 § 9; Ord. 1-2016 § 18)

The project spans jurisdictional and non-jurisdictional areas. The development in the upland is consistent with the critical areas protections; development in the upland area is expected to result in no net loss of shoreline ecological functions. The development in the shorelines is consistent with critical area protections and will result in no net loss of shoreline ecological functions.

VIII. APPROVAL CRITERIA

The proposed clearing and grading is consistent with the following goals and policies of the Comprehensive Plan Section B, Element 3, (the goals and policies of the shoreline master program):

Comprehensive Plan Section B, Element 3, 3.2.A, (Shoreline Use) policies (2), (6), (8) and (9):

2. Allow only uses which would not adversely alter the shoreline, or conflict with or preempt water-dependent uses.
6. Recognize the unique suitability of certain areas to accommodate preferred shoreline uses such as marinas, docks, deep water ports, boat ramps, barge landing sites, and log dumps.
8. Ensure the location, design and operation of all developments are consistent with the purpose of the shoreline designation in which they are allowed.
9. Ensure that the location, density, configuration, setback, and other aspects of all shoreline developments are appropriate to the site and vicinity and respond to the physical limitations of the site

The project is located in the Rural Residential Shoreline designation, the goal of which is “to accommodate areas where extensive medium density residential development already exists, but are not suitable or desirable for mixed use development,” Comprehensive Plan, Section B, Element 3, subsection 3.3.A.

Comprehensive Plan Section B, Element 3 subsection 3.4.(N), Residential development;

Policy 2. All residential and accessory structures should be located in a manner to blend into their surroundings. This should be accomplished by:

- a. Optimizing use of natural screening provided by the topography and by existing natural vegetation between structures and the shoreline; and/or
- b. Enhancing limited natural screening through a combination of setbacks, landscaping, minimizing apparent building height and mass, and use of exterior materials which blend with the existing vegetation and topographic features of the site.

The proposed development is one aspect of a larger project that includes siting a replacement residence outside of the shoreline critical area buffers, enhancing screening through setbacks. The proposed grading and fill will provide the landscaping to remove visible traces of the demolished residences and improve the overall aesthetics of the lots.

Comprehensive Plan Section B, Element 3, Subsection 3.4 (N) Residential development;

Policy 3. Residential development should be:

- a. Constructed to avoid the adverse impacts of geologically hazardous and frequently flooded areas;
- b. Constructed to avoid adversely effecting wetlands, fish and wildlife habitat conservation areas and critical salt and freshwater habitat areas.

The project is configured to comply with the shoreline critical area protections.

Comprehensive Plan Section B, Element 3, Subsection 3.4 (N) Residential development;

Policy 4. All residential developments, including land divisions, should include building setbacks, buffers or both, from the shoreline to preserve the natural character of the shoreline.

Policy 5. All residential development should be set back from the OHWM to protect bank stability and vegetation at the bank edge.

The project involved the demolition of a residence located approximately 50 from the OHWM. The replacement residences will set back approximately 150 feet and over 200 feet from the OHWM. The proposed grading and fill will eliminate visual traces of the previous residences.

The proposed project is consistent with the San Juan County Shoreline Master Program.

IX. STAFF RECOMMENDATION

Staff recommends approving the request for a shoreline substantial development permit for the following:

On TPN 461450004 (697 Afterglow drive):

Demolition of the following:

- Existing tennis court = 94 cubic yards of grading (in place yards)
- Existing driveway = 130 cubic yards of grading (in place yards); and
- Existing septic system = 277 cubic yards of grading (in place yards).

Construction of the following:

- Main house = 4,305 square feet of impervious surface
- Fill for lawn waterward of house = 1, 350 cubic yards (total cut and fill, in place yards)
- Bocce court = 900 square feet of impervious surface and 66 cubic yards of grading (total cut and fill, in place yards)
- Pickleball court 4,160 square feet of impervious surface and 308 cubic yards of grading (total cut and fill, in place yards)
- New gravel driveway = 12, 462 square feet and 1, 693 cubic yards of grading (total cut and fill in place yards)
- Parking court = 2,480 square feet impervious and 367 cubic yards (total cut and fill in place yards)
- Decks, patios, and sidewalks = 6,556 square feet of impervious surface and 823 cubic yards of grading (total cut and fill, in place yards)
- New four bedroom on-site septic system = 620 cubic yards of grading (total cut and fill, in-place yards).

On TPN 461450003 (717 Afterglow drive):

- Combined two story barn/guesthouse roof area = 3035 square feet and 350 cubic yards of grading (total cut and fill, in place yards)
- Removal of existing septic system = 144 cubic yards of grading (total cut, in place yards)
- Fill for lawn waterward of the house = 1,037 cubic yards of grading (total cut, in place yards)
- Fill for lawn streetside of the house = 555 cubic yards of grading (total cut, in place yards).

X. CONDITIONS OF APPROVAL

The proposed residential project shall be consistent with the following conditions:

1. Construction shall be carried out consistent with the approved Construction Stormwater Pollution Prevention Plan (**Exhibit 4**), the following BMPs shall be followed during the construction of this project:
 - a. BMP C101: Preserving natural vegetation
 - b. BMP C103: Mark in the field and on the development plans the outside limits of

- all clearing;
 - c. BMP C105: Stabilized construction entrance;
 - d. BMP C107: Construction road;
 - e. BMP C120: Temporary and permanent seeding;
 - f. BMP C121: Mulching;
 - g. BMP C125: Topsoiling;
 - h. BMP C140: Dust Control;
 - i. BMP C150: Materials on hand;
 - j. BMP C151: Concrete handling;
 - k. BMP C153: Material delivery, storage and containment;
 - l. BMP C200: Temporary interceptor swale and temporary sediment traps;
 - m. BMP C209: Outlet protection;
 - n. BMP C220: Storm drain inlet protection;
 - o. BMP C233: Silt fence on downslopes;
 - p. BMP C234: Preserving natural vegetation/vegetated strips;
 - q. BMP C235: Straw wattles (preferably coir logs and/or straw bales); and
 - r. BMP C236: Vegetation filtration.
2. After the project's completion, the applicant shall conform to the operation and maintenance plan, **Exhibit 4, Appendix 8.11**.
3. All development shall be consistent with the approved archaeological mitigation and monitoring requirements established in **Exhibits 1d and 1g**, including:
- a. A DAHP Permit is required for any work on top of or within Site 45SJ404 (SJ00404).
 - b. The site boundary shall be marked by a professional archaeologist as an exclusion area prior to ground disturbing activities.
 - c. Archaeological monitoring is required for any ground disturbing work within 10 meters of Site 45SJ404.
 - d. Archaeological monitoring is required for the "Proposed Dispersion Trench" and the shoreward portion of the line running towards this trench.
 - e. Any ground disturbance within 10 meters of the archaeological site shall be monitored by an archaeologist. This 10 meter monitoring buffer around the site should be marked with spray paint, flags, flagging tape, or some other means. This shall be done by the archaeologist before work on the site begins and the on-site crew should be made aware that work cannot be done in this area without the archaeological monitor present. The archaeologist shall prepare a Monitoring and Inadvertent Discovery Plan (MIDP) that they will follow during the monitoring. The LNTHPO shall have an opportunity to review and comment on the MIDP prior to the project.
 - f. Any work that is beyond 10 meters from the archaeological site should proceed with the San Juan County Inadvertent Discovery Plan (IDP). The

following contact phone numbers for the Lummi Nation should be included in the IDP: Lena Tso, THPO 360-961-7752 and Tamela Smart, Deputy THPO 360-927-2944.

- g. The project archaeologist should provide an Inadvertent Discovery Plan Training to the project crew before work begins.
 - h. The initial investigation report also notes that historic site 45SJ577 is located on the property but it is not shown on the map. The LNTHPO recommends that DAHP be consulted with regarding any proposed disturbance to the historic site.
 - i. The eligibility status of Site 45SJ577 (SJ00577), which is marked on the construction plans as a "Proposed Garden Folly", is currently unknown. The DAHP will need to review any plans for this site area to determine if a DAHP Permit is required for this work.
 - j. All other work for this project should follow an Inadvertent Discovery Plan, and all workers should be familiar with the reporting requirements prior to the beginning of work.
4. Staging and laydown areas will be located landward of the construction area.
 5. Project activities shall not degrade water quality to the detriment of fish life.
 6. All construction materials will be removed from the work site and natural material will be return to their original position at the end of construction.
 7. Applicant shall decommission the wells on this property prior to grading and filling. Applicant shall submit well logs and other evidence that the wells have been decommissioned to the department.
 8. Construction shall be consistent with the approved site plan.
 9. Applicant shall remove English Ivy from the property.
 10. All construction shall be compliant with San Juan County codes, state regulations and federal law.
 11. All excavated material must be disposed of in an approved location.

XI. EXHIBITS:

Exhibit No.	Description of Item	Submitted By	Date
1.	Application LANDUSE-20-0121	Francine Shaw	June 17, 2020
1a.	Public Notification Affidavit	Francine Shaw	October 12, 2020
1b.	SEPA Determination: MDNS Checklist	Colin Maycock	September 9, 2020
1c.	Public Comment Friday Harbor Labs	Megan Dethier	September 15, 2020
1d.	Public Comment Lummi Nation Tribal Historic Preservation Officer	Tamela Smart	September 10, 2020
1e.	Public Comment Department of Ecology	Katelynn Piazza	September 21, 2020
1f.	Applicant Response to DOE	Francine Shaw	October 05, 2020
1g.	Public Comment: Department of Archaeology and Historic Preservation	Stephanie Jolivette	November 6, 2020
1h.	Applicant's response to FH Labs comment	Francine Shaw	November 9, 2020
2.	Biological Habitat Assessment	Francine Shaw	June 17, 2020
2a.	Landscape plan	Francine Shaw	June 17, 2020
3.	Regulatory Analysis	Francine Shaw	June 17, 2020
4.	Revised Stormwater and Stormwater Pollution Prevention Plans	Francine Shaw	September 03, 2020
4a.	Site Plan	Francine Shaw	September 03, 2020
4b.	697 Afterglow Drive profile	Francine Shaw	June 17, 2020
4c.	717 Afterglow Drive profile	Francine Shaw	June 17, 2020
5.	Materials testing and consulting inc. Geotech report	Francine Shaw	June 17, 2020
6.	Cover of Archaeology Report	Francine Shaw	June 17, 2020
6a.	San Juan County Inadvertent Discovery Plan	Colin Maycock	November 9, 2020

Colin Maycock, AICP
 Colin Maycock, AICP, Planner IV
 Department of Community Development

November 9, 2020
 Date

APPEAL

Any party of record to this decision may submit an appeal to the Department of Community Development, in writing, within twenty-one (21) days of the date of the decision. Appeals must be in writing, be accompanied by the appeal fee, and contain the following:

- Appellant's name, address, and phone number;
- Appellant's statement describing standing to appeal;
- Identification of the application which is the subject of the appeal, including date of the decision being appealed; appellant's statement of grounds for appeal and the facts upon which the appeal is based;
- The relief sought, including the specific nature and extent; and
- A statement that the appellant has read the appeal and believes the contents to be true, signed by the appellant.