

**OFFICE OF THE HEARING EXAMINER**

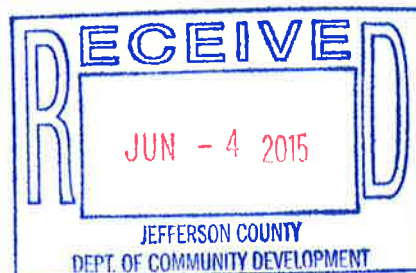
**JEFFERSON COUNTY**

**REPORT AND DECISION**

**CASE NO.:** Shoreline Substantial Development Application  
for a Conditional Use and a Secondary Use  
MLA14-00007/SDP14-00003

**OWNERS:** Cape George Colony Club  
61 Cape George Drive  
Port Townsend, WA 98368

**APPLICANT:** Art Burke, Manager  
Cape George Colony Club  
61 Cape George Drive  
Port Townsend, WA 98368



**PLANNER:** Donna Frostholm, Associate Planner

**SUMMARY OF REQUEST:**

Shoreline Substantial Development for a conditional use and secondary use to allow construction of an enhanced shore storm berm at Cape George Colony Club in the vicinity of the clubhouse. The berm will measure approximately 660 feet in length, 20 feet in width, and less than four feet in height. The proposed berm will consist of gravel, gravelly sand, and native species.

**SUMMARY OF DECISION:** Request granted, subject to conditions.

**PUBLIC HEARING:**

After reviewing the Jefferson County Department of Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on May 12, 2015, at 2:00 p.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

## **SEE ATTACHED INDEX LIST**

DONNA FROSTHOLM appeared, presented the Department of Community Development Staff Report, and testified that the applicant submitted a completed application on January 8, 2014, and therefore vested the project to the previous Shoreline Master Program. The new SMP became effective February 21, 2014. The County provided proper notice and received no comments from the public, but did receive general agency comments. The applicant proposes the berm in response to a high storm event that caused water to rise near the level of the applicant's facilities. They need protection from storm waves generated at high tide. The site is located in both the Natural and Suburban shoreline designations. The SMP designates the area of the site consisting of bluffs as Natural and the balance of the shoreline as Suburban. She reviewed the request against both environments. A conditional use permit is required for shoreline defense works. Policies encourage access to the beach and do not prohibit berms. The code allows protection for existing improvements. The applicant proposes no shore defenses within the water, which the code does not allow. Staff recommends approval subject to conditions. A four foot height triggers building permit requirements. The applicant can develop a berm up to four feet in height without triggering the need of such permit.

ARTHUR BURKE, applicant, appeared and testified that he is the manager of the club. He has reviewed conditions of approval, understands them, and has no questions. The berm is the result of a winter king tide and an unusual storm that came from the northwest. They experienced erosion and the topping of water over the bank. They did get water in one of the buildings. A berm 3.5 to four feet in height will protect all of their improvements.

No one spoke further in this matter and the Examiner took the matter under advisement. The hearing was concluded at 2:15 p.m.

**NOTE:** A complete record of this hearing is available in the office of Jefferson County Department of Community Development.

## **FINDINGS, CONCLUSIONS, AND DECISION:**

### **FINDINGS:**

1. The Hearing Examiner has heard testimony, admitted documentary evidence into the record, and taken this matter under advisement.
2. The proposal is subject to review pursuant to the State Environmental Policy Act (SEPA). Jefferson County, as lead agency, issued a SEPA Threshold Determination of Nonsignificance (DNS) on April 1, 2015. The DNS is included in the record as Exhibit 18. No appeals were filed.

3. Proposal Noticing:

Public Notice was published in the Port Townsend-Jefferson County Leader newspaper:

- Notice of Type III Application and Pending SEPA Determination: July 9, 2014 (Exhibit 4)
- Notice of Public Hearing: April 22, 2015 (Exhibit 21)

Notice was posted on the property:

- Notice of Type III Application and Pending SEPA Determination: July 8, 2014 (Exhibit 4)
- Notice of Public Hearing: April 21, 2015 (Exhibit 22)

The applicant, the project representative, the agencies, and all property owners within 300 feet were notified by mail:

- Notice of Type III Application and Pending SEPA Determination: July 8, 2014 (Exhibit 4)
- Notice of Public Hearing : April 21, 2105 (Exhibit 21)

4. The applicant, Cape George Colony Club, is a private, residential community that abuts Discovery Bay west and south of the City of Port Townsend in unincorporated Jefferson County. Club amenities include a large, enclosed, swimming pool, marina, clubhouse, shop, and more than two miles of private beach. The area became a residential development in the early 1960s.
5. Due to recent storm waves generated by wind storms, the applicant experienced flooding of club improvements located along its "no bank" shoreline. To protect its improvements the applicant requests a shoreline substantial development permit for a conditional use and secondary use to allow construction of an approximately 660 foot long, 3.5 foot to four foot high, 20 foot wide berm along the shoreline. According to the Geotechnical Engineering Report, the berm would greatly diminish wave over-topping and would allow for absorption of storm wave energy. The report further indicates that the berm will have no effect on slope stability, landslides, or erosion at the project site or in the vicinity thereof.
6. The Geotechnical Report also reflects that an unstable shoreline bluff 400 feet north of the proposed berm rises to a height of 35 feet along the immediate shore. Approximately 1,300 feet north of the north end of the berm, the bluff increases to a height of 70 feet. The bluffs contain impermeable soils that can fail due to wave erosion or drainage issues. The berms will not impact natural shoreline functions in the bluff areas.

7. The area proposed for protection consists of a flat expanse of grass that supports several permanent structures and the septic drainfield serving the clubhouse. The geotechnical engineer saw evidence of recent overwash and noted that waves had transported beach sediment and logs onto the lawn. Club members reported eight inches of water inside the shop building. The Geotechnical Report confirms that the berm will serve to protect club assets from flooding and erosion.
8. The applicant proposes the berm in an area mapped as an "accretion shore form". However, the area of the berm does not show accretion, but to the contrary, shows that "the site beach is eroding progressively". The Geotechnical Report concludes that the berm may minimize coastal erosion, and therefore may create minor, positive impacts to slope stability.
9. Prior to obtaining approval of a shoreline substantial development permit for a conditional use and a secondary use the applicant must show that the request satisfies the criteria set forth in the Jefferson County Code and the Jefferson County Shoreline Master Program. For the reasons set forth on Pages 3-9 of the Department of Community Development Staff Report, the applicant has shown that the request satisfies all applicable criteria set forth therein. The Examiner hereby adopts all of staff's findings and conclusions as if set forth in full herein.

#### **CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a shoreline substantial development application for a conditional use and a secondary use satisfies all applicable criteria set forth in the JCC and SMP and therefore should be approved subject to the following conditions:
  1. Substantial progress towards completion of the project shall be performed within two years of the issuance of the permit.
  2. The applicant shall adhere to all requirements of the Hydraulic Project Approval, if required by Washington Department of Fish and Wildlife.
  3. The applicant shall construct the berm based on the Final Design Set drawings submitted to DCD on January 8, 2014.
  4. The berm shall not exceed a maximum of four feet in height. If at any point along the berm, the height exceeds four feet the applicant shall apply for and receive a building permit.

5. Any damage to the proposed berm shall be repaired or removed as soon as practicable.
6. No fill or other materials may be placed in Discovery Bay.
7. Best Management Practices (BMPs) shall be implemented based on the submitted Construction Stormwater Pollution Prevention Plan prepared for this project, which includes but is not limited to: (1) project limits shall be marked on the site prior to beginning any work on this project; (2) soils shall not remain exposed or allowed to enter Discovery Bay; and (3) contractors shall have oil-absorbent materials onsite to prevent any inadvertent oils spill from entering the water.

**DECISION:**

The request for a shoreline substantial development permit for a conditional use and a secondary use to allow construction of a 660 foot long, 20 foot wide, four foot tall berm at the Cape George Colony Club at 61 Cape George Drive, Port Townsend, is hereby approved subject to the conditions contained in the conclusions above.

**ORDERED** this 2nd day of June, 2015.

  
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**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner