

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicant(s):	David and Sylvia Kan 4120 Exultant Drive Rancho Palos Verde, CA 90274	
File No.:	PEXTHX-14-0001	
Request:	Conditional Use Permit (CUP)	
Parcel No:	272541003	
Location:	203 Langdon Road Orcas Island	
Summary of Proposal:	An application for an extension to the expiration date of a shoreline permit.	
Land Use Designation:	Rural Farm Forest	
Public Hearing:	February 19, 2015	S.J.C. COMMUNITY
Application Policies and Regulations:	SJCC 18.80.110(G)(7)	MAR 04 2015
Decision:	The application is approved.	DEVELOPMENT & PLANNING

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

Phil Olbrechts, Hearing Examiner

RE: Dave and Sylvia Kan  Time Extension for Existing Shoreline Permit  (PEXTHX-14-0001)	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION</b>
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**INTRODUCTION**

The applicants have applied for a one year shoreline permit extension for an existing shoreline substantial development permit. A one year extension is approved to May 7, 2016.

S.J.C. COMMUNITY

**TESTIMONY**

MAR 04 2015

Julie Thompson, San Juan County planner, summarized the staff report and confirmed that conditions had not changed at the project site.

DEVELOPMENT & PLANNING

Francine Shaw, applicant's agent, explained that when the applicants acquired their shoreline permit they didn't realize how difficult it would be to access the dock from the steep bank. They are trying to determine whether they need to build a large beach access structure or move the location of the dock. Ms. Shaw also noted that shoreline conditions haven't changed since the shoreline permit was approved.

**EXHIBITS**

The following exhibits are admitted into the record:

1. February 4, 2015 staff report.
2. Excerpts of San Juan County Code (SJCC).
3. September 27, 2012 Kan examiner shoreline decision, PSJ00-12-0004 and examiner shoreline permit revision decision, PSJREV-13-0001
4. Public Notice of Mailing list
5. Site plan.
6. Property information
7. October 12, 2014 letter from Francine Shaw.
8. Army Corp permit dated May 7, 2013.

**FINDINGS OF FACT**

**Procedural:**

1. Applicant. The applicants are David and Sylvia Kan.
2. Hearing. The Hearing Examiner conducted a hearing on the subject application on February 19, 2015.

**Substantive:**

3. Project/Site Description. The Applicants received approval of a shoreline substantial development permit September 22, 2012 to construct a dock at 203 Langdon Road in Orcas Island. They acquired approval of a revision on October 13, 2013 in order to replace one waterfront lot subject to the joint use of the dock with another lot. The final required approval was issued by the US Department of Army Engineers on May 7, 2013. The applicants have not started construction because access to the dock is over very steep terrain. The applicants have to decide whether to build a large beach access structure or move the location of the dock.
4. Adverse Impacts of Proposed Use. According to the staff and the applicant during the hearing, shoreline conditions have not changed since the dock was approved in 2012. Shoreline regulations have also not changed since the 2012 dock approval. For these reasons, it is determined that the finding of no adverse impacts for the 2012 dock approval are still applicable today and the proposed extension will not create any significant adverse impacts.

**CONCLUSIONS OF LAW**

**Procedural:**

1. Authority of Hearing Examiner. SJCC 18.80.110(G)(8) authorizes the Examiner to extend shoreline permits for one year.

**Substantive:**

2. Permit Review Criteria. SJCC 18.80.110(G) applies to requests to extend the substantial construction date for construction authorized by shoreline permits. The applicable criteria is quoted below in italics and applied via a corresponding conclusion of law.

**SJCC 18.80.110(G)(7):** *Construction or substantial progress toward construction of a project for which a shoreline permit is granted must be undertaken within two years after the permit approval. Substantial progress toward construction shall include the letting of bids, making of contracts, purchase of materials involved, utility installation and site preparation, but shall not include use or development inconsistent with the master program or the terms of permit approval. However, the two-year period shall*

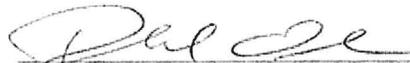
1 *not include time during which development could not proceed due to reasonable*  
2 *related administrative appeals or litigation, nor include time necessary to obtain*  
3 *other required permits for the project from state and federal agencies. The hearing*  
4 *examiner may, with discretion, extend the two-year time period for a reasonable time.*

5 3. Since the last permit approved for the proposal was the Army Corps  
6 permit approved on May 7, 2013, substantial construction should commence by May  
7 7, 2015. A one year extension to this substantial construction deadline is consistent  
8 with SJCC 18.80.110(G). Due to the access challenges, the applicant may either have  
9 to acquire a permit to build a beach access structure or acquire a shoreline revision or  
10 new shoreline permit to move the location of the dock. The two year construction  
11 deadline imposed by SJCC 18.80.110(G) does not include the time necessary to  
12 acquire these permits. Of course, since the applicant hasn't yet applied for the  
13 necessary permits they should be applied for within a reasonable time. The one year  
14 extension requested by the applicant sets a reasonable time.

### 15 **DECISION**

16 The "substantial construction" deadline imposed by SJCC 18.80.110(G)(7) for the  
17 shoreline substantial development permit approved by PSJ000-12-0004 is extended  
18 from May 7, 2015 to May 7, 2016.

19 Dated this 4th day of March, 2015.

20   
21 Phil A. Olbrechts

22 County of San Juan Hearing Examiner

### 23 **Effective Date, Appeal Right, and Valuation Notices**

24 Hearing examiner decisions become effective when mailed or such later date in  
25 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.

1 Depending on the subject matter, this decision may be appealable to the San Juan  
2 County Superior Court or to the Washington State Shorelines Hearings Board. State  
3 law provides short deadlines and strict procedures for appeals, and failure to timely  
4 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.

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

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