

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Westcott Bay Shellfish Co.
685 Spring St., # 204
Friday Harbor, 98250

File No.: PSJREV-14-0003

Request: Shoreline Permit Revision

Parcel No: 462433002

Location: Westcott Bay Road
San Juan Island

Summary of Proposal: An application for a revision to a shoreline permit

Shoreline Designation: Rural Residential, Conservancy and Rural Farm Forest

Public Hearing: August 13, 2014

Application Policies and Regulations: WAC 173-27-100
SJCC 18.80.110(M)

Decision: The application is approved subject to conditions.

S.J.C. COMMUNITY
SEP 02 2014
DEVELOPMENT & PLANNING

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

Phil Olbrechts, Hearing Examiner

RE: Westcott Bay Shellfish Co. Shoreline Permit Revision (PSJREV-14-0003)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION. S.J.C. COMMUNITY
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SEP 02 2014

INTRODUCTION

DEVELOPMENT & PLANNING

The applicant has applied for a revision to a 1975 shoreline permit for an aquaculture operation to replace buildings and revise the location of many structures on the site located on Westcott Bay on San Juan Island. The revision is approved subject to conditions.

TESTIMONY

Lee McEnery, senior San Juan County planner, stated that the application is a revision to a 1975 shoreline permit. The site plan names the new structures that will be built on the shellfish farm and labels structures that were removed as “demo.”

The applicant had no comment.

EXHIBITS

- Exhibit 1 Staff Report
- Exhibit 2 Application with site plan and elevation drawings
- Exhibit 3 SEPA checklist
- Exhibit 4 Email correspondence
- Exhibit 5 Aerial photos
- Exhibit 6 Department of Archaeology letter dated July 20, 2014

FINDINGS OF FACT

Procedural:

1. Applicant. The Applicant is Westcott Bay Shellfish Co.
2. Hearing. The Hearing Examiner conducted a hearing on the subject application at 10:15 am on August 13, 2014.

Substantive:

3. Site and Proposal Description. This proposal is to revise a 1975 shoreline permit for an aquaculture operation to replace buildings and revise the location of many of the structures on the site located on Westcott Bay on San Juan Island. Most of the old structures were recently demolished because they had outlived their physical capacities. Some will be rebuilt, others are no longer usable. Not all the buildings are located within the shoreline jurisdiction, but this permit covers the entire proposal. The “sorting shed” located at the head of the dock would be enlarged slightly and covered as required by state health codes. A new office/packing/bathroom building will replace the old; a new equipment building will be located partially in the previous location. A new building (net shed) would combine several of the uses in one. Parking and the driveway will be rearranged to conform to the new property boundaries. No substantial change in activities is proposed with this revision-the site will remain an aquaculture operation. The request decreases the impervious surface and roof areas, so creates no increase in ground area coverage.

Westcott Bay Shellfish (formerly Westcott Bay Seafarms and Webb Camp) was established in the late 1970s. Recently, the Webb estate sold about 34 acres of the property to the National Park system to grow the adjacent English Camp National Historical Park. The new owner of this remaining 4.8 acre parcel wishes to carry on with the Webb family’s aquaculture operation. They no longer grow seed but will continue growing and selling shellfish with these improvements.

4. Characteristics of the Area. From the aerial photographs in the record the surrounding area appears to be characterized by rural residential development and national park property.

5. Adverse Impacts of Proposed Use. The proposed revisions will overall have positive environmental impacts. The amount of impervious surface will be reduced by the removal of buildings and modern stormwater regulations instituted during building permit review will mitigate against stormwater impacts and likely improve upon current impacts to water quality.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. Shoreline substantial development permit revisions are subject to approval by the Hearing Examiner after conducting a public hearing. SJCC 18.80.110(M).

Substantive:

2. Permit Review Criteria. SJCC 18.80.110(M)(2), quoted in italics below, governs the criteria for approval of revisions to shoreline permits.

SJCC 18.80.110(M)(2): *If the hearing examiner determines that the proposed changes are within the scope and intent of the original permit, as defined by WAC 173-27-100(2), the revision shall be granted.*

WAC 173-27-100(2): *'Within the scope and intent of the original permit' means all of the following:*

(a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

(b) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

(c) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;

(d) Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;

(e) The use authorized pursuant to the original permit is not changed; and

(f) No adverse environmental impact will be caused by the project revision.

3. As conditioned, the proposed revision meets all of the criterion above. The proposed revision does not involve any over-water construction and is compliant with all shoreline development standards. Ground area coverage will be decreased over the originally approved shoreline permit. The record does not contain any information on height or landscaping so those requirements will be addressed by the conditions of approval. The use of the project will remain aquaculture. As determined in Finding of Fact No. 5, no adverse environmental impacts will be caused by the revision.

DECISION

The revision is approved, subject to the following conditions:

1. The site plan submitted for the revision shall become the revised site plan.
2. The height of the proposed buildings will not exceed that of the buildings approved for the 1975 shoreline permit.
3. Additional or revised landscaping shall be consistent with any conditions attached to the 1975 shoreline permit and with the shoreline master program.

Dated this 28th day of August 2014.



Phil A. Olbrechts

San Juan County Hearing Examiner

Effective Date, Appeal Right, and Valuation Notices

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

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

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

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