

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Orcas Island Yacht Club
Agent: Robin Hersch
P.O. Box 193
Orcas, WA 98280

File No.: PSJREV-14-0005

Request: Shoreline Permit Revision

Parcel No: 260434012.

Location: 876 Deer Harbor Road
Orcas Island

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

Public Hearing: September 10, 2014

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

Decision: The application is approved.

S.J.C. COMMUNITY

SEP 29 2014

DEVELOPMENT & PLANNING

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

Phil Olbrechts, Hearing Examiner

RE: Orcas Island Yacht Club Shoreline Permit Revision (PSJREV-14-0005)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION. S.J.C. COMMUNITY
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SEP 29 2014

INTRODUCTION

DEVELOPMENT & PLANNING

The applicant has applied for a revision to shoreline permit 14SJ084 in order to change the configuration of the dock from a “T” shape to a straight line. The revision is approved subject to conditions.

TESTIMONY

Julie Thompson, San Juan County senior planner, introduced the staff report. In answer to examiner questions, she noted that the eelgrass survey would also likely identify any kelp if it were present.

EXHIBITS

- Exhibit 1 Staff Report
- Exhibit 2 Application
- Exhibit 3 Email communications including an eelgrass survey

FINDINGS OF FACT

Procedural:

1. Applicant. The applicant is Orcas Island Yacht Club
2. Hearing. The Hearing Examiner conducted a hearing on the subject application at 10:15 am on September 10, 2014.

Substantive:

3. Site and Proposal Description. This proposal is to revise shoreline permit 14SJ084 to change the configuration of an existing dock from a “T” shape to a

straight line. Permit 14SJ084 authorized the construction of a dock with a 110' pier, a 40' ramp, a 100' float and an additional 50' float forming a "T" at the end of the float. The dock was constructed as authorized. The revision would realign the 50' float 90 degrees to extend the 100' float an additional 50'. There would be no change in the area of the dock.

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

5. Adverse Impacts of Proposed Use. There are no significant adverse impacts associated with the proposal. The increase in length is relatively moderate and there is an adjoining dock of comparative length so no significant impacts to navigation area anticipated. An eelgrass survey prepared for the proposal shows that the reconfiguration will not extend over any eelgrass.

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. The proposed revision meets all of the criterion above. There will be no change to ground area coverage or height. The proposed revision does not involve any increase in surface area of over-water construction. No landscaping is proposed or required. The use will not change. As determined in Finding of Fact No. 5, no adverse environmental impacts will be caused by the revision.

DECISION

The revision is approved. All conditions imposed for permit 14SJ084 shall remain in effect.

Dated this 26th day of September 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.