

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s):	David and Sylvia Kan 4120 Exultant Drive Rancho Palos Verdes, CA 90275
Agent:	Francine Shaw Law Offices of Stephanie Johnson O'Day PO Box 2112 Friday Harbor, WA 98250
File No.:	PSJREV-13-0001
Request:	Shoreline Permit Revision
Parcel No:	272541003
Location:	203 Langdon Road Orcas Island
Summary of Proposal:	An application for a revision to a shoreline permit
Land Use Designation:	Rural Residential 5
Public Hearing:	October 9, 2013
Application Policies and Regulations:	WAC 173-27-100 SJCC 18.80.110(M)
Decision:	Approved.

S.J.C. COMMUNITY
OCT 25 2013
DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

4 RE: David and Sylvia Kan	FINDINGS OF FACT, CONCLUSIONS
5 Shoreline Permit Revision	OF LAW AND FINAL DECISION.
6 (PSJREV-13-0001)	S.J.C. COMMUNITY

UCT 25 2013

7 **INTRODUCTION**

DEVELOPMENT & PLANNING

8 The applicants have applied for a revision to a 2012 approved shoreline substantial
9 development permit for a joint use dock. The revision is limited to replacing one
10 waterfront lot that is subject to the joint use agreement with another waterfront lot.
11 The revision is approved.

12 **TESTIMONY**

13 Julie Thompson, San Juan County planner, and Francine Shaw, applicant's
14 representative, testified in favor of the revision, both noting it was minor.

15 **EXHIBITS**

16 The September 25, 2013 staff report and attached application materials are all
17 admitted into the record.

18 **FINDINGS OF FACT**

19 **Procedural:**

- 20 1. Applicant. The applicants are David and Sylvia Kan.
- 21 2. Hearing. The Hearing Examiner conducted a hearing by speaker phone on
22 the subject application at 10:00 am on October 9, 2013.

23 **Substantive:**

- 24 3. Site and Proposal Description. The request is to revise a shoreline permit
25 to change which lots are included in the joint use agreement. They want to eliminate
 tax parcel number 272544005 and replace it with tax parcel number 272541008. It
 will remain a three-user joint-use dock. The shoreline permit subject to the revision
 is PSJ000-12-0004, approved in 2012.

1 The applicants' divided one of the parcels that are subject to the joint use agreement.
2 This created one upland and one waterfront lot, plus a common area. They then got a
3 boundary line modification approved that created two waterfront lots.

4 Of the three original lots, the most southerly, 272544005, is separated from the dock
5 site by a steep, rocky bank. Access would have to be from Langdon Road down
6 through the Kan's house site. They want to remove that parcel from the agreement
7 and instead use newly-created parcel 272541008 as the third user.

8 The proposed revision is within the scope and intent of the original permit as the dock
9 will still provide moorage for three waterfront parcels. No other changes are
10 proposed in the revision.

11 4. Characteristics of the Area. The surrounding area is residential.

12 5. Adverse Impacts of Proposed Use. There are no adverse impacts
13 anticipated from the revision. Since the number of water front lots subject to the joint
14 use agreement will remain the same, the benefits of joint use are fully preserved by
15 the revision. Since no alterations to the dock are proposed, there are no resulting
16 adverse impacts.

17 CONCLUSIONS OF LAW

18 Procedural:

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

22 Substantive:

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

25 **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;*

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

2 (c) The revised permit does not authorize development to exceed height, lot coverage,
3 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;

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

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

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

8
9 3. The proposed revision meets all of the criterion above since no structural
alterations or any other physical alterations are proposed. As determined in FOF
10 No. 5 there are no adverse environmental impacts associated with the revision. The
use, including the purpose of the joint use, is not changed since the number of
11 waterfront lots subject to the joint use agreement will remain unchanged.

12 **DECISION**

13 The revision is approved.

14 Dated this 23rd day of October, 2013.

15
16 
17 Phil A. Olbrechts

18 County of San Juan Hearing Examiner

19 **Effective Date, Appeal Right, and Valuation Notices**

20 Hearing examiner decisions become effective when mailed or such later date in
21 accordance with the laws and ordinance requirements governing the matter under
22 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
23 RCW 90.58.140, WAC 173-27-130, and SJCC 18.80.110.

24 This land use decision is final and in accordance with Section 3.70 of the San Juan
25 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.