

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS, AND DECISION**

Applicant(s): James W. Thorp, Trustee  
4023 Williams Avenue  
Renton, WA 98056

Agent: Richard Sandmeyer  
P.O. Box 4120  
Roche Harbor, WA 98250

File No.: PSJREV-16-0001

Request: Revision of Shoreline Substantial Development Permit  
96SJ015

Parcel No: 461454020

Location: Pearl Island

Summary of Proposal: An application for revision of shoreline permit 96SJ015  
to change lots of the existing joint use dock

Shoreline Designation: Suburban

Public Hearing: November 17, 2016

Application Policies and Regulations: WAC 173-27-100 Revisions to Permits  
SJCC 18.80.110(M) Procedures for Revisions to  
Shoreline Permits

Decision: Approved subject to conditions

S.J.C. DEPARTMENT OF  
DEC 02 2016  
COMMUNITY DEVELOPMENT

BEFORE THE HEARING EXAMINER  
FOR SAN JUAN COUNTY

S.J.C. DEPARTMENT OF

DEC 02 2016

COMMUNITY DEVELOPMENT

In the Matter of the Application of

James W. Thorp, Trustee

NO. PSJREV-16-0001

Thorp Joint Use Dock Permit Revision

for approval of a revision of approved  
shoreline permit 96SJ015 to change the  
lots served by the existing joint use dock

SUMMARY OF DECISION

The request for revision of approved shoreline substantial development permit 96SJ015 to change the lots served by the existing joint use dock agreement on Pearl Island is **APPROVED** subject to compliance with the conditions of the original permit.

SUMMARY OF RECORD

**Request:**

James W. Thorp, Trustee (Applicant), requested a revision of approved shoreline substantial development permit 96SJ015 to change the lots served by the existing joint use dock agreement on Pearl Island.

**Hearing Date:**

The San Juan County Hearing Examiner held an open record public hearing on the request on November 17, 2016.

**Testimony:**

At the open record public hearing, the following individuals presented testimony under oath:

Lee McEnery, Planner, San Juan County Department of Community Development  
Richard Sandmeyer, Agent for Applicant

**Exhibits:**

The following exhibits were admitted in the record:

1. Department of Community Development Staff Report to the Examiner, dated November 2, 2016
2. Application and letter regarding transfer of dock rights, dated September 6, 2016
3. Hearing Examiner decision HE 40-96

4. Legal Ad
5. Posting and Notification Information

Upon consideration of the testimony and exhibits submitted at the open record public hearing, the Hearing Examiner enters the following findings and conclusions:

### FINDINGS

1. On October 22, 1996, shoreline substantial development permit (SSDP) 96SJ015 was approved for alterations to the configuration of joint use dock on Pearl Island Lot 20 that predated the Shoreline Management Act. *Exhibits 1 and 3.*
2. The Applicant (O'Connor) for the 1996 permit owned Pearl Island Lots 20 and 21. The 1996 permit acknowledged joint use of the existing dock by the owners of four lots: 20, 21, 24, and 25. The permit also acknowledged that joint use would run with the land. At the time of the 1996 permit proceedings, Lot 19 had been using the dock under an informal arrangement. *Exhibits 1 and 3.*
3. At an undisclosed time, the joint use agreement changed such that the dock served Lots 20, 21, 24, 25, and 26 with use rights allocated as follows:

Lot 20	25%
Lot 21	25%
Lot 24	12.5%
Lot 25	12.5%
Lot 26	25%

*Exhibit 2; Sandmeyer Testimony.*

4. The current Applicant (Thorp) owns Lot 26 and acts as trustee for the family trust that owns Lots 24 and 25. The family trust is selling Lot 25 and wants to transfer the rights of Lot 24 to Lot 25 prior to sale. Thus, the current request to revise the joint use dock permit would re-establish the number of lots served by the joint use dock as four. *Exhibit 2; Sandmeyer Testimony.*
5. Under the proposal, use rights would be allocated as follows:

Lot 20	25%
Lot 21	25%
Lot 24	0
Lot 25	25%
Lot 26	25%

*Exhibit 2.*

6. The application, submitted September 6, 2016, was signed by the owners of Lots 20, 21, 24, 25, and 26. *Exhibit 2.*
7. Notice of hearing was published on October 5, 2016 and was mailed to all owners of surrounding property within 300 feet, which is limited to the five parcels that signed the application. Notice of hearing was provided to the owner of Lot 19 by email and by a telephone call from Applicant's agent. Notice of hearing was posted on-site on October 8, 2016. *Exhibits 1, 3, 4, and 5; Sandmeyer Testimony.*
8. Lot 19 now enjoys joint use dock rights of a different dock to the west (Miller). *Sandmeyer Testimony.* The owners of Lot 19 did not comment on the request. *McEnergy Testimony.*
9. Upon review, Planning Staff submitted that approval of the proposed revision would be within the scope and intent of the original permit of the previous SSDP approval. Staff recommended approval, noting dock would remain subject to the conditions in the 1996 permit (96SJ015). *McEnergy Testimony; Exhibit 1.*
10. The Applicant representative indicated that a joint use dock agreement, to include maintenance, was in development at the time of the hearing. *Sandmeyer Testimony.*

## CONCLUSIONS

### Jurisdiction

The Hearing Examiner has jurisdiction to decide applications for revisions to approved shoreline permits pursuant to San Juan County Code 2.22.100(1) and 18.80.110(M), and Revised Code of Washington 36.70.970.

### Criteria for Review

#### ***Revisions to Approved Shoreline Permit***

Pursuant to SJCC 18.80.110(M), when an applicant seeks to revise a shoreline permit, an application in a form prescribed by the administrator together with detailed plans and text describing the proposed changes shall be filed with the administrator. Following receipt of this information, the administrator shall schedule a public hearing on the request.

1. The administrator shall ensure that notice of the hearing is published in a newspaper of general circulation within the County prior to the hearing. The administrator shall submit to the hearing examiner all of the written documents referred to above. At the beginning of the hearing, the recommendation of the administrator shall be read into the record.
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.
3. If the hearing examiner determines that the proposed changes are not within the scope and intent of the original permit, then the applicant must apply for a new shoreline permit.

4. Any permit revision approved by the hearing examiner shall become effective immediately. Within eight days of the hearing examiner's action, the approved revision shall be submitted to the Washington Department of Ecology. In addition, the administrator shall submit a copy of the examiner's decision to all parties of record to the original permit action.
5. Appeals shall be in accordance with WAC 173-27-220 and SJCC 18.80.140.

Pursuant to 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.

**Conclusions Based on Findings**

1. Notice was given, the required hearing was conducted and attended by an Applicant representative, and the Community Development & Planning Department recommendation was read into the record. *Findings 1, 6, 7, and 9.*
2. The proposed change in identification of lots served by the joint use dock is within the scope and intent of the original permit. No over water or upland construction or alterations to the existing dock are proposed. The number of lots to be served is the same as in the original permit. The use as permitted would be unchanged. The proposal's compliance with applicable regulations and policies of Shoreline Master Program would remain unchanged from the time of the 1996 permit issuance. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.*

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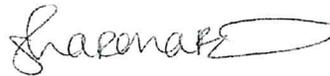
## DECISION

Based on the preceding findings and conclusions, the request to revise the approved shoreline substantial development permit 96SJ015 to change the lots served by the existing joint use dock agreement on Pearl Island is **APPROVED** subject to compliance with the following:

1. The dock remains subject to the conditions imposed in Permit 96SJ015.
2. A draft of a new joint use agreement between Lots 20, 21, 25, and 26 shall be submitted to the Community Development & Planning Department for review and approval prior to recording. The new joint use agreement must be recorded within 60 days of the instant approval.

Decided December 2, 2016.

By:



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Sharon A. Rice  
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 requirements 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.