

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicant(s): Victor and Mary Moses  
5210 NE 43<sup>rd</sup> St.  
Seattle, WA 98105-4915

File No.: PSJREV-11-0001

Request: Shoreline Permit Revision

Parcel No: 461454013/461454014

Location: Lots 13 and 14 Pearl Island Subdivision  
Pearl Island

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

Land Use Designation: Rural Residential 5

Public Hearing: Held June 8, 2011

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  
JUN 27 2011  
DEVELOPMENT & PLANNING

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

3                                   Phil Olbrechts, Hearing Examiner

|   |   |
|---|---|
| 4                   RE: Victor and Mary Moses   | <b>FINDINGS OF FACT, CONCLUSIONS<br/>OF LAW AND FINAL DECISION.</b> |
| 5                   Shoreline Permit Revision<br>6                   (PSJREV-11-0001) |   |

7                                   **INTRODUCTION**

8                   The Applicants have applied for a revision to an approved shoreline substantial  
9                   development permit for a pier ramp float (“PRF”). The revisions are comprised of  
10                  shortening the length of the pier from 130 feet to 114 feet, lengthening the ramp by  
11                  30 feet and extending the float by 4 feet. The revision is approved subject to  
12                  conditions.

13                                  **TESTIMONY**

14                  Victor Moses, one of the applicants, verified that the revision would extend the pier  
15                  waterward of Pearl Island at high tide approximately 15 feet; Mr. Moses also verified  
16                  that the pier would not extend over eelgrass grass, kelp, or the like.

17                  There was no other testimony.

18                                  **EXHIBITS**

19                  See Attachments list on page 3 of the staff report dated 5/25/11, all of which are  
20                  admitted into the record, including the staff report.

21                                  **FINDINGS OF FACT**

22                  **Procedural:**

- 23                  1.           Applicant. The Applicants are Victor and Mary Moses.
- 24                  2.           Hearing. The Hearing Examiner conducted a hearing on the subject  
25                  application at 10:15 am on June 8, 2011.

26                  **Substantive:**

- 27                  3.           Site and Proposal Description. The Applicants have applied for a revision  
28                  to an approved shoreline substantial development permit for a joint use PRF . The  
29                  revisions are comprised of shortening the length of the pier from 130 feet to 114 feet,  
30                  lengthening the ramp by 30 feet and extending the float by 4 feet. The shoreline

1 substantial development permit for the PRF was approved in 1991 under file no.  
2 90SJ052.

3  
4 4. Characteristics of the Area. The property is located within the Pearl Island  
5 subdivision, a developed single family neighborhood located upon Pearl Island.

6 5. Adverse Impacts of Proposed Use. The revisions will reduce  
7 environmental impacts. The float is being extended at the request of the Washington  
8 State Department of Fish and Wildlife in order to keep the float from bottoming out at  
9 lower tides. The Applicants also propose to replace creosote pilings with steel  
10 pilings. There is no eelgrass underneath any part of the revised structure. There are  
11 no other adverse impacts discernable from the record or reasonably suggested.

## 12 CONCLUSIONS OF LAW

### 13 Procedural:

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

### 17 Substantive:

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

20 **SJCC 18.80.110(M)(2):** *If the hearing examiner determines that the proposed*  
21 *changes are within the scope and intent of the original permit, as defined by WAC*  
22 *173-27-100(2), the revision shall be granted.*

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

25 (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;*

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

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

3 (f) No adverse environmental impact will be caused by the project revision.  
4

5 3. The proposed revision meets all of the criterion above. The proposed revision will  
increase the overwater area by 94 square feet, which is less than 10% of the overwater  
6 construction area. The total area of the PRF (1,236 square feet) remains less than the  
1,400 square feet authorized for joint use community docks by SJCC  
7 18.50.190(G)(2)(b). It is unclear whether the length of the dock will comply with the  
maximum length authorized by 18.50.190(G)(2)(b) (200 feet waterward of the  
8 ordinary high water mark) and this will be made a condition of approval. The use of  
the facility will not change as a result of the revision. As discussed in the findings of  
9 fact, no adverse impacts are created by the proposal.  
10

### 11 DECISION

12 The proposed is approved, subject to the conditions of the original project approved  
in PSJ000-09-0002 in addition to the following:  
13

- 14 1. The site plan submitted for the revision shall become the revised site plan.
- 15 2. The Applicants shall schedule a site inspection with staff upon completion of the  
project to verify compliance with this decision and applicable regulations.
- 16 3. The length of the PRF shall not extend more than 200 feet from the ordinary high  
water mark as required by SJCC 18.50.190(G)(2)(b).

17 Dated this 22nd day of June 2011.

18   
19 \_\_\_\_\_  
Phil Olbrechts  
San Juan County Hearing Examiner  
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### 21 Effective Date, Appeal Right, and Valuation Notices

22 Hearing examiner decisions become effective when mailed or such later date in  
23 accordance with the laws and ordinance requirements governing the matter under  
consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be  
24 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.  
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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.