

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicants: Anne L. Shorett Credit Shelter Trust  
10929 SE Lake Road  
Bellevue, WA 98004

File No.: PEXTHX-10-0002

Request: Extension of two-year construction period

Parcel No: 462650073

Location: Lot 73  
Yacht Haven Subdivision  
Shorett Drive  
San Juan Island

Summary of Proposal: A request for a one-year extension of the original two-year construction period for a shoreline variance

Land Use Designation: Rural Residential

Public Hearing: Held May 6, 2010

Application Policies and Regulations: SJCC 18.80.110(G)(7) Construction Period and Extensions

Decision: The application is approved.

**S.J.C. COMMUNITY**

**MAY 21 2010**

**DEVELOPMENT & PLANNING**

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

3                                   Phil Olbrechts, Hearing Examiner

4                   RE: Anne L. Shorett Credit Shelter Trust	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.</b>
5                   2-Year Building Extension 6                   (PEXTHX-10-0002)	

7                                   **INTRODUCTION**

8                   The applicant has applied for a one year extension of the two-year construction period  
9                   for a shoreline variance. The Examiner approves the request.

10                                  **TESTIMONY**

11                   Julie Thompson – San Juan County Staff

12                   Staff interprets the extension period allowable to the Hearing Examiner to not just  
13                   be limited to reasons related to litigation, but also to any reasonable purpose.

14                                  **EXHIBITS**

- 15                   Exhibit #1:           Staff Report, dated April 16, 2010; prepared by Julie Thompson  
16                   Exhibit #2:           Extension request letter by Francine Shaw, dated March 11, 2010  
17                   Exhibit #3:           Department of Ecology Variance approval, dated April 21, 2008  
18                   Exhibit #4:           Hearing Examiner Decision, dated April 2, 2008

19                                  **FINDINGS OF FACT**

20                   **Procedural:**

- 21                   1.           Applicant. The applicant is the Anne L. Shorett Credit Shelter Trust.  
22                   2.           Hearing. The Hearing Examiner conducted a hearing on the subject  
                  application on May 6, 2010.

23                   **Substantive:**

- 24                   3.           Site and Proposal Description. The applicant received approval of a  
25                   shoreline variance from the Department of Ecology on April 21, 2008 to allow  
                  construction of a residence 25 feet from the top of the bank. The appeal period ended  
                  on May 12, 2007. The applicant is now requesting an extension of the two-year  
                  period to begin construction as required in SJCC 18.80.110(G)(7). Construction has  
                  been delayed in part due to the need to design a joint-use septic system with a  
                  {PAOPAO0065.DOC;I\13071.900000\900000 }

1 neighboring property owner. However, the Trust has conveyed a small section of  
2 property to San Juan County for correcting the Shorett Drive easement misalignment,  
3 the building site has been cleared and leveled, Orcas Sewage design is in the process  
4 of designing the joint-use septic system; and a joint-use septic system is being  
5 negotiated with the neighbor.

## 6 CONCLUSIONS OF LAW

### 7 **Procedural:**

8 1. Authority of Hearing Examiner. Permits for shoreline variance are reviewed and  
9 processed by Development Services Department staff, and The Hearing Examiner,  
10 after conducting an open-record public hearing, renders a decision on the permit.  
11 SJCC18.80.110. Further, SJCC18.80.110(G)(7) provides the Hearing Examiner with  
12 the discretion to extend the two-year time period for a reasonable time.

### 13 **Substantive:**

14 2. Shoreline Designation. The subject property is designated as Rural Residential.

15 3. Comprehensive Plan and Zoning Designations. The subject property is  
16 designated as Rural Residential..

17 4. Permit Review Criteria. The San Juan County Code ("SJCC") governs the  
18 policies and criteria for shoreline variances. SJCC 18.80.110(G)(7) establishes the  
19 authority for extensions.

### 20 **San Juan County Code Regulations**

21 **SJCC 18.80.110(G)(7):** *Construction or substantial progress toward construction of*  
22 *a project for which a shoreline permit is granted must be undertaken within two years*  
23 *after the permit approval. Substantial progress toward construction shall include the*  
24 *letting of bids, making of contracts, purchase of materials involved, utility installation*  
25 *and site preparation, but shall not include use or development inconsistent with the*  
*master program or the terms of permit approval. However, the two-year period shall*  
*not include time during which development could not proceed due to reasonable*  
*related administrative appeals or litigation, nor include time necessary to obtain*  
*other required permits for the project from state and federal agencies. The hearing*  
*examiner may, with discretion, extend the two-year time period for a reasonable time.*

1 5. Due to the desire to design a joint-use septic system, and the negotiations and  
2 designs inherent in such a process, the two-year period has come to a close without  
3 substantial progress of construction being made. However, as stated in the code  
4 provision, the Hearing Examiner has the discretion to extend that period for a  
5 reasonable time. As such, based on the information provided by the applicant, a one-  
6 year extended period shall be granted.

### 7 **DECISION**

8 The building extension request is approved, with a one-year extension. The  
9 construction deadline is extended to May 12, 2011, at which point the applicant must  
10 show substantial progress toward completing construction as defined in SJCC  
11 18.80.110(G)(7).

12 Dated this 19<sup>th</sup> day of May 2010.

13   
14 Phil Olbrechts  
15 County of San Juan Hearing Examiner

### 16 **Effective Date, Appeal Right, and Valuation Notices**

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

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

25 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.