

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Doug and Andrea Rosenberg
8660 Valley View Drive
Tillamook, OR 97141

Agent: Jeff Otis
Otis Land Use Consulting
393 Bobbyann Road
Eastsound, WA 98245

File No: HE39-08 (08SJ009)

Request: Shoreline Substantial Development Permit (SSDP)

Location: Lot 9 of the Crane Island Plat
Crane Island

Parcel Nos: 261950009

Summary of Proposal: The applicants wish to remove an existing dock and replace it with a new and expanded dock located 40 feet north of the current dock.

Shoreline Designation: Rural Farm Forest

Public Hearing: After reviewing the report of the Community Development and Planning Department a public hearing was held on August 20, 2008.

Applicable Policies and Regulations: RCW 90.58 Shoreline Management Act (SMA)
SJCC 18.50 Shoreline Master Program (SMP)
SJCC 18.80.110(H) SSDP Criteria

Decision: Approval with conditions.

S.J.C. COMMUNITY

SEP 02 2008

DEVELOPMENT & PLANNING

Findings of Fact

1. The Rosenbergs wish to remove an existing dock which is located near their south property line. The property is located on Crane Island, a non-ferry served island located between Shaw and Orcas. The Rosenberg property contains a single family residence.
2. Crane Island contains a community dock and numerous single family and joint use docks. Both the individual properties to the north and to the south have single family residences and a small dock.
3. The Crane Island Association has a requirement for a 25' setback from property lines for a dock. The current dock encroaches upon that setback. Additionally, the design and location of the existing dock precludes use of the landward side because of shallow depths and because the ramp bisects the center of the float. The existing float is located parallel to the prevailing waves causing damage to boats and to the float during storms and large wakes. The path to the existing dock is steep and rocky and difficult to negotiate during inclement weather and at night.
4. The Rosenbergs currently have three small boats and a large cruising yacht of at least 52' in length. The large yacht has been a part of the scenery for a number of years.
5. The Crane Island community dock does not allow boats as large as 52 feet so it is not available as an alternative. The shoreline in this area is rocky, not sandy. Because of the geography of this area a mooring buoy is not a reasonable alternative.
6. The new dock is designed and oriented to provide better access, moorage and protection from waves and weather. The dock will consist of a 5'11" x 40' fixed pile pier, a 4' x 40' ramp with 5' feet of overlap on the float, and an 8' x 40' moorage float. Total area is 697 square feet. Total length measured from the ordinary line of high water is 113'.
7. There is no eelgrass nor kelp in the vicinity of the proposed dock. The dock is not located in a shore process corridor. It is not located in a drift sector. The location is not an area of poor flushing action.
8. A Hydraulic Project Approval has been issued by the State Department of Fish and Wildlife.
9. The property owners on either side have existing docks, so joint use with either of them is not realistic. One of the adjacent owners, Mr. Temple, originally declined any joint dock consideration. At the public hearing he indicated a desire for further time to reconsider his decision. That request was not made in good faith.

10. The proposed dock has been designed to meet all general design and construction standards of SJCC. The proposed dock constitutes the minimum size necessary to accomplish the intended boating use.
11. The Rosenbergs are part time residents of Crane Island, primarily during the summer. The 52' boat is normally in use approximately 2/3 of the spring and summer months and is stored off site during the non-cruising season. Even with the new expanded dock the 52' boat will not be in the Crane Island area for very much of the time.
12. The proposed new dock will be located approximately 60' north of the south property line. Mr. Temple's property and view corridor is located higher than the Rosenbergs' and is wooded. In examining the photographs from Ex 1 and Ex 2 it appears that the impact to Mr. Temple's view corridor will be lessened by the relocation of the proposed new dock.
13. A Determination of Non-Significance was issued on July 9, 2008. No comments were received.
14. The notice of hearing was published, mailed and posted on July 9, 2008.
15. The staff report is incorporated herein by reference as though fully set forth. The analysis and factual statements contained in the staff report are adopted as a finding herein.
16. Any conclusion herein which may be deemed a finding is hereby adopted as such.

Conclusions of Law

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding.
2. Proper notice was given in compliance with local and state requirements.
3. The proposal has complied with the requirements of the State Environmental Policy Act.
4. As conditioned the SSDP is consistent with the policies and regulation of the SMA and the SMP as well as compliant with the design and construction standards of SJCC.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

Conditions

1. The dock shall be constructed as proposed in the drawings and other materials submitted with the application, except as the same may be modified by these conditions.
2. The applicants shall obtain all other required permits and abide by the conditions thereof.
3. Boats at the dock shall not be used for commercial overnight accommodations.
4. The dock shall not be used for regular floatplane access and moorage.
5. The General Design and Construction Standards of SJCC 18.50.190(D) shall be met.
6. Construction shall not be commenced until all relevant appeal periods have run.
7. Development under this permit shall commence within two years of the date of permit approval and shall be substantially complete within five years thereof or the permit shall become null and void.
8. Failure to comply with any terms or conditions of this permit may result in its revocation.

Decision

The shoreline substantial development application is approved subject to the conditions set forth above.

DONE this 2nd day of September, 2008.


Wm. H. NIELSEN, Hearing Examiner

Shoreline Appeal

Any appeal of the shoreline substantial development permit shall be made to the Washington State Shoreline Hearings Board pursuant to RCW 90.58.180 and the rules adopted by said hearings board.