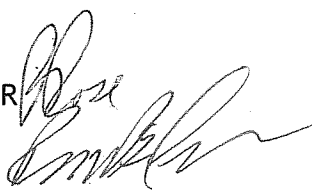



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TO: SAN JUAN COUNTY COUNCIL

THROUGH: PETE ROSE, COUNTY ADMINISTRATOR 

FROM: RENÉ BELIVEAU, DEPUTY DIRECTOR 

SUBJECT: UPLAND ESSENTIAL PUBLIC FACILITY ORDINANCE - ISSUES AND OPTIONS

FOR MEETING OF: JANUARY 5, 2010

After taking public testimony on December 8, 2009, the Council continued deliberations on the Upland Essential Public Facility Ordinance to 10:45 January 5, 2010. Prior to and during the hearing several organizations and individuals offered suggestions on the ordinance. Following is a summary of and discussion on suggested revisions:

1. Definition of Essential Public Facility (pg. 4 of 13, draft ordinance approved by legal counsel).

Consider adding to and clarifying the definition as follows:

- a. “. . . County roads, County docks, County boat launching, and County barge landing sites and facilities”;

Staff comment: This suggested clarification seems reasonable and prudent.

- b. “. . . primary electrical transmission and distribution systems including systems owned and operated by OPALCO”.

Staff comment: Again, this suggested clarification seems reasonable and prudent given that OPALCO is currently the only electrical service provider in the County.

- c. “. . . ~~county~~ government administrative offices”.

Staff comment: Both terms (County administrative offices and government administrative offices) are used in the Comprehensive Plan and development code. To

be consistent and fair to other governmental services providers, staff concurs that this reference should be changed as noted above.

- d. Consider adding primary communication facilities (with or without primary wireless communication facilities).

Staff comment: If communication facilities are to be called out as essential public facilities it will be important to limit this distinction to facilities serving the public and/or emergency service providers. The definition needs to be narrow enough that it does not include private ham radio or other private telecommunication facilities.

Including primary wireless communication facilities would provide some latitude for particular facilities having difficulty meeting the current standards. If they can meet the standards they are required to do so. If they cannot meet a particular requirement, the proponent could present their case to the Hearing Examiner in an application for an Essential Public Facility Conditional Use Permit.

- e. Consider adding some or all sewer and water systems as essential public facilities. This was requested by several individuals and organizations, with varying degrees of specificity including:

- Add all sewer and water systems.
- Add public wastewater treatment facilities.
- Add Washington State Dept. of Health approved Class A water systems.
- Add community water systems that serve activity centers and urban growth areas.
- Add community sewage treatment facilities that serve activity centers and urban growth areas.

Staff discussion: Comprehensive Plan Element 7, Sections 7.3.B and 7.3.C state that community water systems and community sewage systems serving Urban Growth Areas (UGAs), Local Areas of More Intense Rural Development (LAMIRDs) and Master Planned Resort Activity Centers should be designated as essential public facilities. Adding those facilities would provide clarity without being overly broad and without creating a conflict with SJCC 18.60.250 (Extension of urban-level capital facilities and services into rural areas) which limits construction of new sewage systems outside UGAs, Master Planned Resorts and LAMIRDs.

Staff does not recommend adding all sewer and water systems as EPFs because they aren't all public, they aren't all essential (e.g. is a water system serving four homes essential or public?), and adding them may not be consistent with the Growth Management Act which limits extension of urban level services outside of urban areas. In addition, our development codes adequately provide for them in most circumstances. e.g. community sewage treatment facilities are allowed in all Activity Center Land Use Districts (UDC table 3.1), and water treatment and storage facilities are allowed in all land use districts (Tables 3.1 and 3.2). Finally, the proposed regulations provide a process for designating additional facilities based on their particular circumstances, allowing flexibility for systems located outside UGAs, LAMIRDs and Master Planned Resorts.

- f. Consider adding all facilities identified as Essential Public Facilities in Comp Plan Elements 7, 8 and Appendix 2. Those not already included are County Sheriff facilities and public school facilities (schools are listed but associated facilities such as a bus barn are not).

Staff Comment: Since the Comp Plan already states that County Sheriff facilities and public school facilities should be considered EPFs, adding them to the definition would improve clarity and consistency.

2. Revise the ordinance to show the Council as the decision maker for facilities that are not specifically called out in the Comprehensive Plan or development code (top of pg. 7). John Cain's suggested language follows:

2. Determination of an Essential Public Facility. Any public or private entity may submit a written request that the County make a determination that a facility is an EPF.

a. Requests for designation as an EPF shall contain a conceptual description of the facility, an explanation of the need for the facility, a preliminary development schedule, identification of any sites that are under consideration, and required fees.

b. After receiving such a request, the County Council shall by resolution make a determination regarding whether or not a facility is an essential public facility.

Staff Comment: Determining whether a particular facility in a particular location is an essential public facility is a somewhat subjective policy decision which could be made by either the Planning Director or the Council. The above language does not include the same public process that was originally proposed, but the Council could choose to hold public meetings or hearings on a case by case basis without adopting requirements that will then apply to all requests.

3. Clarify that facilities that are listed as an EPF in either the Comprehensive Plan or development code are not required to go through the designation process outlined in SJCC 18.30.050.E.2 (top of pg. 7). Also consider whether all non-county owned, or privately owned facilities should go through the designation process.

Staff comment: This needs to be clarified. The original intent was that only facilities that are not specifically called out in the Comprehensive Plan or development code would go through this designation process. Following is suggested language to clarify this:

2. *Determination of an Essential Public Facility. Many facilities serving the public are either listed under the definition of Essential Public Facility or are identified in the Comprehensive Plan as an Essential Public Facility. These facilities are predetermined to be EPFs and no additional review is required.*

The following process applies to facilities that have not been predetermined to be an EPF. These facilities, which could be either publicly or privately owned, Any public or private entity may submit a written request that the Director [Note: Director may be replaced by County Council] make a determination that a facility is an EPF in accordance with the following . . .

4. Do not restrict impervious surfaces to 30% of the site (pg. 9, Table 6.2) and require that stormwater in excess of predevelopment conditions be handled in accordance with current standards.

Staff note: At this point, the proposed change to this table is simply a clarification. If one reads footnote 13 it states that the allowable impervious area in RFF lands is 30% exclusive of roads and driveways. This is a significant amount of impervious area in locations that typically consist of 5 and 10 acre parcels, and is considerably more than what is allowed in other Rural designated lands including those designated for Commercial and Industrial uses. We anticipate that this issue will be addressed as part of our upcoming Low Impact Development amendments.

Under the proposed amendments if an EPF needed additional impervious area the proponent could request it as part of an application for an Essential Public Facility Conditional Use Permit (the process being established for facilities that have difficulty meeting a development standard).

An additional option that could be considered is to increase the allowable impervious area for lands designated for commercial and industrial uses to better accommodate both EPFs and business development that is directed to those areas. (This option was originally proposed to and rejected by the Planning Commission). If the Council wishes to explore this option it would likely be necessary to conduct another public hearing to allow for public input on the issue.

5. (From staff) Consider clarifying SJCC 18.30.050.E.4 on expansion of existing facilities which are not an allowed use within their land use district(s) (bottom of pg. 8). A suggested modification to clarify the proposed language follows:

4. *Existing Non-conforming Uses ~~Essential Public Facilities~~. Where an existing essential public facility (EPF), or a proposed expansion of an existing facility is a non-conforming use (i.e. it is not an allowed use within its land use district), it may be expanded on site or in combination with an adjacent parcel or parcels provided the County Council holds a public hearing and determines that the public benefits of expanding the facility in the existing location outweigh the economic, social and environmental impacts associated with relocating the facility. After said determination, the hearing examiner is vested with the authority to consider an application for expansion according to the Essential Public Facility Conditional Use Permit procedures of SJCC Chapter 18.80.*

Prepared by Shireene Hale

Shireene Hale, Planning Coordinator

AN ORDINANCE REGARDING ESSENTIAL PUBLIC FACILITIES AMENDING SAN JUAN COUNTY CODE SECTIONS 18.20.030, 18.20.050, 18.30.050, AND 18.60.050; AND ADDING A NEW SECTION TO SAN JUAN COUNTY CODE CHAPTER 18.80

BACKGROUND

- A. The Growth-Management Act (GMA) states at RCW 36.70A.200(5) that no comprehensive plan or development regulation may preclude the siting of essential public facilities.
- B. There are many kinds of essential public facilities with different siting and design requirements.
- C. The islands of San Juan County vary in their need for public services.
- D. San Juan County desires to ensure that its established land use districts allow the siting of all essential public facilities.
- E. San Juan County desires to ensure that its development standards do not preclude the siting and approval of essential public facilities.
- F. **FINDINGS.** The County Council makes the following findings:
1. These amendments are being considered by the County Council as part of the first set of Unified Development Code amendments for 2009.
 2. An environmental checklist was prepared evaluating potential environmental effects of the essential public facility amendments to the County Code, a notice of Determination of Non-significance was published on September 24, 2008, and the notice was provided to federal, state and local agencies in accordance with San Juan County Code 18.80.050 and WAC 197-11-340.
 3. The 60-day notice on the essential public facility amendments, as required by RCW 36.70A.106, was provided to the Department of Community, Trade and Economic Development on September 12, 2008, and was assigned Material ID No. 13437.
 4. Efforts to involve and inform the public included:
 - A Planning Commission workshop held September 19, 2008;
 - A mailing to service providers on September 22, 2008; and
 - Two public meetings held the morning and evening of October 2, 2008.
 5. The County Planning Commission conducted a duly advertised public hearing on the essential public facility amendments on October 10, October 17, and November 21, 2008, and January 16, 2009. The Commission received public testimony and provided findings and recommendations including recommended ordinance language.
 6. The County Council conducted a duly advertised public hearing on December 8, 2009 at which time the public had an opportunity to comment.
 7. The County Council finds that some changes to the ordinance that differ from the recommendations of the Planning Commission are necessary to clarify and simplify the ordinance and assure that the ordinance adequately provides for essential public facilities. These changes are included in this ordinance.

8. After considering the evidence in the record, the County Council approved this ordinance.

NOW THEREFORE, BE IT ORDAINED by the County Council of San Juan County, State of Washington, as follows:

SECTION 1. San Juan County Code (SJCC) 18.20.030 ("C" Definitions) and Ordinance 15-2005 § 3 Exhibit B are each amended to read as follows:

- "Calendar decade"** means a 10-year period beginning January 1st of any year evenly divisible by 10.
- "Campground and camping facilities"** means a facility in which sites are offered for less than 30 days for persons using tents or other personal, portable overnight shelters.
- "Capital facilities"** means physical structures or facilities owned or operated by a government entity which provides or supports a public service.
- "Capital improvements"** means improvements to land, structures, initial furnishings, and selected equipment.
- "Channel"** means an open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stock watering channels. (See WAC 173-14-030 (8)(b); see also "stream.")
- "Class I beach"** means a beach or shore having dependable, geologically fully developed, and normally dry backshore.
- "Class II beach"** means a beach or shore having only marginally, geologically partially developed and not dependably dry backshore.
- "Class III beach"** means a beach or shore having no dry backshore.
- "Clearing"** means the destruction or removal, by hand or with mechanical means, of vegetative ground cover or trees including, but not limited to, root material or topsoil material.
- "Cluster development"** means the massing of development on one or more parts of a property.
- "Coastal high hazard areas"** means the areas within any areas of special flood hazard that are subject to high velocity waters, including but not limited to storm surge or tsunamis.
- "Commercial recreational facility"** means a place designed and equipped for the conduct of sports and leisure-time activities which is operated as a business and open to the public for a fee (see "indoor recreational facilities and outdoor recreational facilities.")
- "Commercial sign"** means any object, device, display or structure that is used for attracting attention to any commercial use, product, service, or activity.
- "Commercial use"** means activity involving the sale of goods or services.
- "Common area"** means any area contained within the boundaries of a proposed land division or within a multifamily residential development and owned by the lot owners as tenants-in-common, joint tenancy, or through an association or nonprofit association, and provided specifically for the common use of the residents.
- "Communication towers"** means towers, dishes, or antennas established for the sending or receiving of signals.
- "Community club or facility"** means a not-for-profit use that provides social, health, recreational, cultural, or educational facilities to a community.
- "Community Development and Planning Department"** means the San Juan County Community Development and Planning Department, the former San Juan County Permit Center and the former San Juan County Planning Department.
- "Community dock,"** for purposes of SJCC 18.50.190(C)(8) and 18.50.340(G), means a dock serving three or more residential waterfront properties.
- "Community structure"** means a structure which is intended for the common use of the residents of a particular subdivision or community.

- “Comprehensive Plan”** means the San Juan County Comprehensive Plan and all of its goals, objectives, policies, documents, and maps.
- “Concurrency”** means a condition in which an adequate capacity of capital and transportation facilities and services is available to support development at the time that the impacts of development occur. (See also “adequate capacity,” “available capacity,” and “levels of service.”)
- “Concurrency facilities”** means the public facilities and services for which concurrency is required in accordance with the policies of the Comprehensive Plan. They include transportation facilities (ferry service and parking areas, Types 1 and 2 public docks, intersections in activity centers or urban growth areas, and collector public roads), and “Category A” capital facilities (County solid waste and recycling facilities; community water systems that serve urban growth areas, AMIRDs (village, hamlet, and residential activity centers and island centers), or master planned resort activity centers; and community sewage treatment facilities that serve village and master planned resort activity centers).
- “Concurrency test”** means the comparison of a project’s impact on concurrency facilities to the available capacity, including existing and planned capacity, of the concurrency facilities.
- “Conditional use”** means a use that is identified in Tables 3.1 and 3.2 in SJCC 18.30.030 and 18.30.040 by the symbol “C” and which requires a conditional use permit.
- “Conditional use permit”** means a permit issued by San Juan County stating that the land uses and activities meet all criteria set forth in local ordinances, and all conditions of approval in accordance with the procedural requirements of SJCC 18.80.100.
- “Conditional use, shoreline”** means a use, development, or substantial development which is classified as a conditional use in the Shoreline Master Program (SMP; see Element 3 of the Plan and Chapter 18.50 SJCC), or which is not classified within the SMP.
- “Condominium”** means the division of a building or land pursuant to the Horizontal Property Regimes Act, Chapter 64.32 RCW, or to the Condominium Act, Chapter 64.34 RCW.
- “Conical surface”** means the FAA imaginary surface that is the lower boundary of an airspace which extends outward and upward from the periphery of the horizontal surface.
- “Conservancy designation”** means the land use designation of the Comprehensive Plan designed to protect valuable natural resources, wildlife, historical, and scenic areas.
- “Conservancy environment, shoreline”** means an environment designation that is applied to areas which are largely free of intensive development.
- “Consolidated formation”** means any geologic formation in which the earth materials have become firm and coherent through natural rock-forming processes.
- “Construction contractor yards and offices”** means service establishments primarily engaged in general contracting or subcontracting in the building construction trades. These include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles.
- “Contiguous”** means adjoining as defined herein, but will often have the added component of sharing the common boundary for a considerable distance, along the whole or most of one side or border.
- “Contract Purchaser”** See “Applicant.”
- “Correctional Facility”** means any facility operated by or under contract to a public agency for the confinement of individuals accused or convicted of criminal or delinquent activity.
- “Cottage enterprise”** means a commercial or manufacturing activity conducted in whole or in part in either the resident’s single-family dwelling unit or in an accessory building, but is of a scale larger than a home occupation.
- “County”** means San Juan County, Washington, its board, commissions, and departments.
- “Covered moorage”** means a pier and/or float or system of floats covered by a roof.
- “Critical areas”** means geologically hazardous areas frequently flooded areas, critical aquifer recharge areas, wetlands, and fish and wildlife conservation areas, all as defined in this chapter.

and regulated in SJCC 18.30.110 through 18.30.160.

“Critical habitat” means an area or type of environment that may be of crucial importance to the perpetuation of an organism or biological population which normally lives or occurs there.

“Critical water resource areas” means selected watersheds and critical aquifers where resources are potentially threatened by salt water intrusion or primary contaminants or limited due to poor recharge.

“Cul-de-sac” means a road closed at one end by an area of sufficient size for turning vehicles around.

“Current use” means the use of land or improvements at the time of permit application.

SECTION 2. SJCC 18.20.50 (“E” definitions) and Ordinance 52-2008 § 4 are each amended to read as follows:

“Eastsound Subarea Plan” means the document containing the Eastsound Subarea Plan and official map.

“Eating establishment” means a use providing preparation and retail sale of food and beverages.

“Ecology (WDOE)” means the State of Washington Department of Ecology.

“Emergency” means an immediate danger to public health or safety or of serious environmental degradation.

“Endangered species” means a species which is in danger of extinction throughout all or a significant portion of its range, as classified by the Washington Department of Fish and Wildlife, WAC 232-120-14 and the Washington Department of Natural Resources, Washington Natural Heritage Plan.

“Environmental checklist” means a form prescribed by the director and the state of Washington to identify the potential environmental impacts of a given proposal.

“Environmental impact statement (EIS)” means a draft, final, or supplemental written document that reviews the likely significant and nonsignificant adverse and positive impacts of a proposal, ways to avoid, minimize or lessen the adverse impacts, and alternatives to the proposal.

“Environmentally Sensitive Area(s) (ESA)” means **Critical Area(s)**.

“Equivalent residential unit (ERU)” is a way to express water or sewage system use by nonresidential customers as an equivalent number of residential customers. An ERU is usually calculated using average daily demand figures.

“Erosion” means the detachment and movement of soil or rock by water, wind, ice, or gravity.

“Erosion hazard areas” means areas characterized by soils identified in the USDA San Juan County Soil Survey as having severe water erosion hazards:

1. The Pickett Soil portion within the Pickett-Rock Outcrop Complex—PrD only where slope exceeds 15 percent;
2. PrE;
3. The Roche Soil portion within the Roche-Rock Outcrop Complex, 30 to 70 percent slopes—RxE; and
4. Roche gravelly loam, 8 to 15 percent slopes—RgC.

“Essential Public Facility (EPF)” means a facility that provides a necessary public service as its primary mission, and that is difficult to site. EPFs include, but are not limited to, those facilities listed in RCW 36.70A.200; any facility that appears on the list maintained by the State Office of Financial Management under RCW 36.70A.200(4); secure community transition facilities as defined in RCW 71.09.020; state education facilities; state or regional transportation facilities as defined in RCW 47.06.140 and facilities determined to be an Essential Public Facility under SJCC 18.30.050(E). Essential public facilities of county or state-wide significance also include, but are not limited to: passenger and vehicle ferry terminals (public); public elementary and secondary schools; solid waste collection, transfer and disposal facilities; county recycling facilities; county roads, docks, boat

launching and barge landing sites and facilities; county equipment storage and maintenance yards; county septage handling and treatment facilities; primary electrical transmission and distribution systems; fire stations and emergency service facilities; public libraries; post offices; parks; county administrative offices; and general aviation airports.

~~“Essential public facilities” means those facilities that are typically difficult to site, such as airports, state educational facilities, state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes (RCW 36.70A.200) and secure community transition facilities as defined in RCW 71.09.020(14). They do not necessarily include all public facilities or services; they may be, but are not necessarily, publicly owned. Essential public facilities in San Juan County include solid waste and recycling facilities, County septage collection and treatment, government administrative facilities, sheriff facilities, public works facilities, public school facilities, and community water systems and sewage treatment facilities that serve activity centers and urban growth areas.~~

~~“Estuaries” means the zone in which fresh and saltwaters mingle and affect the total land and water habitat. They are often referred to as “flats,” “mud bays,” “marshes,” or “saltchucks.”~~

~~“Excavation” means the mechanical removal of earth.~~

~~“Existing use” means the use of a lot or structure or improvements at the time of the enactment of the Unified Development Code (this code).~~

~~“Experimental aquaculture” means an aquaculture project that uses methods or technologies which are unprecedented or unproven in the state of Washington.~~

~~“Extraction” means the commercial removal of naturally occurring materials from the earth, excluding water.~~

SECTION 3. SJCC 18.30.050 (Land use regulations – General provisions) and Ordinance 52-2008 § 7 are each amended to read as follows:

The regulations in this section apply to all land uses in all districts unless stated otherwise.

A. Archaeological and Historical Site Protection.

1. When an application for development is received for an area known to be archaeologically or historically significant, no action shall be taken on the application and the applicant shall not initiate any excavation or development activity until the site has been inspected by a qualified archaeologist, historian, or architect, as appropriate, designated by the Director.
2. If during excavation or development of a site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity shall be halted, and the Director shall be notified at once.
3. The following shall be stated as a condition of approval on all development permits issued by the Director or hearing examiner:
If during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate area shall be halted, and the Director shall be notified at once.

B. Right to Farm and Forestry Provisions.

1. **Applicability.** Right to farm and forestry provisions apply to all resource and rural land use districts except rural residential. The provisions of this section are not to be construed to in any way modify, supersede or abridge state or County law relative to nuisances; rather, they are only to be used in the interpretation and enforcement of the provisions of this code.
2. **Purpose.** To provide the residents of the County proper notification of the County's recognition and support of farming and forestry activities.
3. **Nuisance.** The following shall not be considered a nuisance: agricultural and forestry

activities, lumber mills operating between 7:00 a.m. and 7:00 p.m., facilities, or appurtenances thereof, conducted or maintained for commercial agricultural or forestry purposes on land designated as rural general use, rural farm-forest, rural industrial, rural commercial, agricultural resource, or forest resource.

4. **Disclosure.** The disclosure statement in subsection (B)(4)(c) of this section shall be used under the following circumstances and in the following manner:

a. San Juan County shall mail a copy of the disclosure statement to all owners of real property in the County with the annual tax bill.

b. Approval of any land division, land use, building, or development of lands designated rural general use, rural farm-forest, rural industrial, rural commercial, agricultural resource, or forest resource, and of any lands within 500 feet of lands which are designated as agricultural resource, forest resource, or mineral resource, shall be conditioned on the execution by the applicant of a statement of acknowledgment containing the disclosure statement on a form provided by the ~~permit center~~ Department. The executed form shall be recorded by the County auditor in the same manner as a deed. However, if disclosure conforming to the provisions of this subsection has been recorded for a prior permit, subsequent disclosures shall not be required.

c. The required disclosure statement is as follows:

San Juan County has determined that the use of real property for agricultural and forestry operations is a high priority and favored use in the county. The county will not consider to be a nuisance those inconveniences or discomforts arising from such operations, if such operations are consistent with commonly accepted best management practices in compliance with local, state, and federal laws. If your real property includes or is within 500 feet of real property designated as Rural General Use, Rural Farm Forest, Rural Industrial, Rural Commercial, Agriculture, or Forestry, you may be subject to inconveniences or discomforts arising from such farming and forestry operations, including but not limited to noise, tree removal, odors, flies, fumes, dust, smoke, the operation of farm and forestry machinery during any 24-hour period, the storage and disposal of manure, and the application of permitted fertilizers and permitted pesticides. One or more of these inconveniences may occur as a result of agricultural and forestry operations which are in conformance with existing laws and regulations.

C. Development Permits and Resource Lands. Development permit approvals for the use of lands adjacent to lands designated as AG and FOR resource lands or lands with a mineral resource land (MRL) overlay designation, may be conditioned to ensure that the use of such lands shall not interfere with the continued use in the accustomed manner and in accordance with best management practices of those lands designated for resource purposes.

D. Overlay Districts and Subarea Plans. Overlay districts and subarea plans provide policies and regulations in addition to those of the underlying land use districts. The regulations for these areas are found in SJCC 18.30.080 through 18.30.190.

E. Siting and Permitting of Essential Public Facilities (EPFs). The Growth Management Act directs that no comprehensive plan or development regulation may preclude the siting of essential public facilities (RCW 36.70A.200(2)). The identification, location, and permitting of essential public facilities shall be guided by the policies of the Comprehensive Plan, and subject to the following procedures: including Section B, Element 2 (Land Use), Element 3 (Shoreline Master Program), and Appendix 2 (Joint Planning Polices), along with the requirements of SJCC Titles 16 and 18.

1. General. Facilities that meet County development standards shall follow the standard permitting procedures. Facilities that cannot meet one or more requirements may be permitted

as provided in this section.

- ~~1. The location policies of the County Comprehensive Plan and the Joint Planning Policy (Appendix 2 of the Plan) shall be followed to the maximum extent possible.~~
2. Determination of an Essential Public Facility. Any public or private entity may submit a written request that the Director make a determination that a facility is an EPF.
 - a. Requests for designation as an EPF shall contain a conceptual description of the facility, an explanation of the need for the facility, a preliminary development schedule, identification of any sites that are under consideration, and required fees.
 - b. After receiving such a request, the Department and applicant shall hold a public meeting to discuss the request. At least 10 days prior to the meeting, the Department shall provide notice in the legal section of the official County newspaper, and if particular sites are under consideration, at least 15 days prior to the meeting, notice shall be mailed to all owners of property within 300 feet of the parcel boundaries of those sites.
 - c. Following the public meeting, the Director shall issue a written determination whether the proposed project is an EPF as defined in this Code and the Comprehensive Plan and shall publish notice of said determination in the official County newspaper.
 - d. The Director's decision that a facility is not an essential public facility may be appealed to the Hearing Examiner in accordance with the provisions of SJCC Chapter 2.22 and SJCC 18.10.030 and 18.80.140. The Director's decision that a facility is an essential public facility is not a final decision, and it may only be appealed with a final decision on the underlying action (e.g. with the final decision to approve a conditional use permit for a facility).
- ~~2. Essential public facilities shall be located if possible within land use designations for which the uses are allowed (cf. Tables 3.1 and 3.2 in SJCC 18.30.030 and 18.30.040).~~
33. Siting of New EPFs. When developed in conformance with the following requirements, a new EPF may be located in ~~in~~ land use districts where one or more the uses which comprise the facility are prohibited, where they are inconsistent with the Comprehensive Plan goals and policies for the district, or within frequently flooded or geologically hazardous areas, or within resource lands, frequently flooded areas, geologically hazardous areas, wetlands, fish and wildlife habitat conservation areas or special lands, essential public facilities may be allowed and located, but only if no practicable alternative exists and then only to the minimum extent possible and in accordance with applicable regulations. The final selection of a site, including where necessary a determination that no practicable alternative exists, shall be made by the County Council.
 - a. Prior to initiating the following process the applicant shall pay the associated fees.
 - b. The Department and applicant shall identify potential sites for the proposed facility.
 - c. The Department and applicant shall develop a methodology for selecting the site which includes, at a minimum, consideration of:
 - i) Impacts on existing land uses, resource lands, open space, scenic resources, and the natural and rural environment;
 - ii) How the location will help maintain or enhance the quality or minimize the cost of the service;

- iii) Economic, social and environmental impacts and benefits to the public;
 - iv) Priority should be given to sites located in land use districts that are most compatible with the facility; furthermore, sites in Resource, Natural, or Conservancy designations, and those where the facility would be located in wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas or frequently flooded areas are disfavored;
 - v. The siting criteria and recommendations provided by the joint County/ Town of Friday Harbor task force, if it is established (applicable only to facilities located on San Juan Island);
 - vi. Prevention of incompatible uses adjacent to general aviation airports; and
 - vii. The extent to which design features or operational conditions can eliminate or reduce unwanted project impacts.
- d. The applicant shall prepare an analysis and comparison of the potential sites, using the methodology developed as described above.
- e. The Department and applicant shall hold a public meeting to discuss the analysis and the potential sites. At least 10 days prior to the meeting, the Department shall provide notice in the legal section of the official County newspaper, and at least 15 days prior to the meeting, notice shall be mailed to all owners of property within 300 feet of the parcel boundaries of the sites under consideration.
- f. Following this meeting the applicant shall select the site and prepare a written request to the County Council for approval of the site and authorization to apply for an Essential Public Facility Conditional Use Permit. This request shall include a conceptual description of the facility, a conceptual site plan, an explanation of the need for the facility, an explanation of the methodology used to select the site, the analysis and comparison of sites that were considered, and an explanation of why the proposed site was selected.
- g. After receiving such a request, the County Council shall conduct a public hearing to accept public input. At least 10 days prior to the hearing, the County shall provide notice in the legal section of the official County newspaper, and at least 15 days prior to the hearing notice shall be mailed to all owners of property within 1,000 feet of the parcel boundaries of the proposed site.
- h. If the Council finds that the proposal is appropriate and in the public interest based on the above selection methodology, analysis and testimony they shall approve the site and authorize application for an Essential Public Facility Conditional Use Permit.

After Council approval, the hearing examiner is vested with the authority to consider an Essential Public Facility Conditional Use Permit application according to the procedures of SJCC Chapter 18.80. If the request is denied, the Council shall state the reasons for denial, shall identify preferred alternative sites, and shall identify actions the applicant can take to gain approval of a site.

4. Existing Non-conforming Essential Public Facilities. Where an existing essential public facility (EPF) is non-conforming, it may be expanded on site or in combination with an adjacent parcel or parcels provided the County Council holds a public hearing and determines that the public benefits of expanding the facility in the existing location outweigh the economic, social and environmental impacts associated with relocating the facility. After said determination, the hearing examiner is vested with the authority to consider an application for expansion according to the Essential Public Facility Conditional Use Permit procedures of SJCC Chapter 18.80.

4. ~~After selection of the site, the hearing examiner is vested with the authority to approve or deny the permit application for these facilities according to the conditional use procedures of SJCC 18.80.100.~~
5. Where a facility is located or proposed in an appropriate land use or shoreline district, but cannot meet one or more of the development standards included in SJCC Title 16 or 18, the proposal may be approved with an Essential Public Facility Conditional Use Permit as provided in SJCC Chapter 18.80.
5. ~~Facility providers shall strive to mitigate inconsistencies with existing land uses and shall be compatible with the applicable comprehensive plan (County or town) for the area affected.~~

Section 4. SJCC Chapter 18.60.050 Table 6.2 and Ordinance 26-2002 § 4 are each amended to read as follows:

Table 6.2. Density, Dimension, and Open Space Standards for Rural, Resource, and Special Land Use Districts.

Development Standard	Land Use District ⁽¹⁾									
	Rural					Resource		Special		
	RGU	RR	RFF	RI	RC	AG	FOR	C	N	
Maximum Density (parcel area/total number of dwelling units)	[Please refer to the <i>Comprehensive Plan</i> official maps.]								See note 2	
Minimum Lot Area	See SJCC 18.70.010(E)								See note 2	
Minimum Front or Road Setbacks ^(4, 5, 6, 16)										
Existing road for collector (feet from centerline)	45	45	45	45	45	45	45	45	45	
All other roads (feet from centerline)	40	40	40	40	40	40	40	40	40	
Minimum Rear and Side Setbacks ^(4, 5, 6, 16)										
Parcels smaller than five acres (feet)	10	10	10	10	10	10	10	10	10	
Parcels five acres or larger, and average width ≥ 80 feet (feet)	15	15	15	15	15	15	15	15	15	
Maximum Dimensions										
Building height (feet) ^(7, 8)	35 ⁽⁹⁾	35 ⁽⁹⁾	35 ⁽⁹⁾	35 ⁽⁹⁾	35 ⁽⁹⁾	35	35	35	35	
Area of impervious surface (%) ^(10, 15, 16)	10	10	30 45 ⁽¹³⁾	20	10	10	10	10	10	
Set-Aside Requirements										
Minimum required open space or landscaped area (%) ^(11, 16)	30	30	30	30	30	N.A. ⁽¹²⁾	N.A.	N.A.	N.A.	
Maximum developable area (%) ⁽¹⁶⁾	N.A.	N.A.	N.A.	N.A.	N.A.	See note 14	See note 14	N.A.	N.A.	

Notes:

1. Rural, resource, and special land use districts:

RGU = Rural general use	RR = Rural residential	RFF = Rural farm-forest
RI = Rural industrial	RC = Rural Commercial	AG = Agricultural resource lands
FOR = Forest resource lands	C = Conservancy	N = Natural
2. Only one single-family residence is allowed per existing parcel. Land division for the purpose of additional development is prohibited.
3. Setbacks from roads outside of activity centers are measured from the centerline of the existing road. This measurement shall be to a line parallel to and measured perpendicularly from the appropriate line. Side and rear setbacks are measured from the edge of the property in the same manner as street setbacks.
4. Fences are exempt from setback requirements, except when impairing safe sight lines at intersections, as determined by the County engineer.
5. Setbacks do not apply to mail boxes, wells, pump houses, bus shelters, septic systems and drainfields, landscaping (including berms), utility apparatus such as poles, wires, pedestals, manholes, and vaults, and other items as approved by the administrator Director.
6. Road right-of-way setbacks may be waived, at the discretion of the County engineer, when the presence of shoreline setbacks, property lines, topography or other restrictions make it unreasonable to construct a structure without encroaching into the road right-of-way setback.
7. Chimneys, smokestacks, fire or parapet walls, ADA-required elevator shafts, flagpoles, utility lines and poles, skylights, communication sending and receiving devices, HVAC and similar equipment, and spires associated with places of worship are exempt from height requirements.
8. Structures used for the storage of materials for agricultural activities are exempt for the maximum building height requirements.
9. Approved subarea plans may establish different height requirements in rural districts.
10. Impervious surface is measured by calculating the horizontal land area of all surface areas that create a barrier to or retard the entry of water into the soil in comparison with natural conditions prior to development, including but not limited to buildings, parking areas, driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces. See also SJCC 18.60.070, Storm drainage standards.
11. Required only for parcels over one acre in size.
12. "N.A." = Not Applicable.
13. In RFF land use districts, no more than 30 percent of the area of a parcel shall be covered by impervious surfaces, exclusive of roads and driveways.
14. On all agricultural or forest resource lands (AG and FOR), the maximum area of development which is not related to agricultural or forestry uses and activities shall be limited to 20 percent of the parcel area, but not less than one acre, regardless of the assigned density. Further, in the division of a parcel by any means, the allowable area for conversion of the parent parcel to nonfarm and/or nonforestry use shall not be exceeded. This shall not apply to parcels smaller than five acres.
15. This standard may be exceeded for parcels that are less than five acres in size. However, in such cases where the total percentage of impervious surface will exceed that specified, the administrator Director shall require measures to be employed to reduce the long-term stormwater runoff from the parcels, such as French drains for directing roof runoff into appropriately sized dry wells, and retention/detention measures for large parking areas.
16. This development standard shall not apply to residential development in subdivisions which consist of lots less than 0.3 acres in area that are (except for access roads and driveways) surrounded on all sides by property preserved as permanent open space.

NEW SECTION. SECTION 5. A new section is added to SJCC Chapter 18.80 to read as follows:

A. Purpose and Applicability. Essential Public Facility Conditional Use Permits allow for the approval of essential public facilities that cannot meet one or more of the development standards included in SJCC Title 16 or 18, or that are located and/or expanded in a land use district where they are not allowed. For facilities proposed in a district where they are not allowed, the County Council must approve the site and authorize application for an Essential Public Facility Conditional Use Permit in conformance with SJCC 18.30.050(E) (Siting and Permitting of Essential Public Facilities). For facilities authorized or required to obtain an Essential Public Facilities Conditional Use Permit, the permit takes the place of a standard Conditional Use Permit.

B. Notice and Public Hearing. Notice of application and of public hearing is required in accordance with the procedures in SJCC 18.80.030. An open record pre-decision hearing is required.

C. Decision making Authority. The hearing examiner has the authority to approve or deny Essential Public Facility Conditional Use Permits and to impose reasonable conditions of approval providing such conditions do not render the facility or operation impracticable.

D. Essential Public Facility Conditional Use Permits—Criteria for Approval.

An application for an Essential Public Facility Conditional Use Permit shall be approved if the following criteria are met:

1. The proposal includes reasonable mitigation of adverse impacts on existing land uses and the natural and rural environment. An application for approval of an EPF Conditional Use Permit may not be denied because impacts are not fully mitigated.
2. The location, size, and height of structures and screening vegetation shall not unreasonably interfere with the allowable development or use of neighboring properties;
3. Owners of property located within 1,000 feet of the subject parcel were offered an opportunity to participate in developing reasonable measures to mitigate negative impacts.
4. The facility will comply with the public health, safety and environmental protection requirements of SJCC Titles 16 and 18 related to access, fire protection, water, sewage disposal, stormwater management, and containment of chemicals.
5. To the extent possible the facility will comply with other requirements and development standards set forth in SJCC Title 16 and 18. Where a modification to a specific standard is proposed, it may be approved provided the new or expanded facility is necessary to adequately serve the public, the need for relief from the standard is justified, and it is not reasonable for the standard to be adhered to;
6. Unless the operation warrants a rural location, government offices with more than 6 employees shall be located within Urban Growth Areas, Village Districts or in locations with existing water and sewer service.
7. If located on San Juan Island, new public schools and government administrative offices should be located only within the Town of Friday Harbor, the UGA, or another area where adequate water supply and sewage disposal exist without new extensions of urban services.
8. If located on Lopez or Orcas Island, new public schools and government administrative offices should be located within an Urban Growth Area, a Village District, or in another area where adequate water supply and sewage disposal exist without new extensions of urban services.
9. Other facilities should not be located outside an Urban Growth Area or Village District unless its operation warrants a rural location.
10. If located on San Juan Island, the applicant explored the possibility of sharing or co-locating facilities which could serve both the County and the Town of Friday Harbor either on the proposed site or at a site located in the Town.

11. The proposal does not include the siting of an incompatible use adjacent to a general aviation airport operated for the benefit of the general public.

12. If located within 200 feet of the shoreline, the facility is water dependent or associated with a water dependent use.

E. Term. Unless a shorter time period is specified in permit conditions, development authorized through an EPF Conditional Use Permit shall be substantially completed within five years from the date of permit approval or the permit shall become null and void. An extension of up to one year may be granted by the decisionmaking authority if the permittee demonstrates good cause for an extension.

F. Appeals. Hearing examiner decisions on EPF conditional use permits are final decisions that may be appealed in accordance with the procedures specified in SJCC 18.80.140.

SECTION 6. Savings Clause.

This ordinance shall not affect any pending suit or proceeding; or any rights acquired; or liability or obligation incurred under the sections amended or repealed; nor shall it affect any proceeding instituted under those sections. All rights and obligations existing prior to adoption of this ordinance shall continue in full force and effect.

SECTION 7. Severability.

If any provision of this ordinance or its application to any person is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected. Remaining sections of the ordinance shall be interpreted to give effect to the spirit of the ordinance prior to removal of the portions declared invalid.

SECTION 8. Effective Date.

This ordinance shall take effect on the tenth working day after adoption.

SECTION 9. Codification.

Sections 1-5 shall be codified.

ADOPTED this ____ day of _____ 2009.

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

ATTEST: Clerk of the Council

Lovel Pratt, Member
District 1, San Juan South

By: _____
Ingrid Gabriel, Clerk
Date:

Rich Peterson, Chair
District 2, San Juan North

REVIEWED BY COUNTY
ADMINISTRATOR

Howard Rosenfeld, Member
District 3, Friday Harbor

Pete Rose Date:

APPROVED AS TO FORM ONLY
RANDALL K. GAYLORD

Richard Fralick, Vice Chair
District 4, Orcas West/Waldron

By: _____
Date:

Gene Knapp, Member
District 5, Orcas East

Bob Myhr, Member
District 6, Lopez/Shaw