

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS, AND DECISION

Applicant(s):	Avalon LLC c/o Myron Williams 65 Gill Lane Friday Harbor, WA	S.J.C. DEPARTMENT OF JUL 11 2016 COMMUNITY DEVELOPMENT
File No.:	PCUP00-14-0020	
Request:	Conditional Use Permit (CUP)	
Parcel No:	352324006, 352331010	
Location:	203 and 322 Daniel Lane, off Cattle Pt. Rd, San Juan Island	
Summary of Proposal:	Daniel Lane Business Park CUP: an application for a conditional use permit to allow a business park for commercial and industrial uses	
Land Use Designation:	Rural General 5 (RGU)	
Public Hearing:	June 16, 2016	
Application Policies and Regulations:	SJCC 18.80.100(D) CUP Criteria	
Decision:	Approved subject to conditions	

**BEFORE THE HEARING EXAMINER
FOR SAN JUAN COUNTY**

In the Matter of the Application of

Avalon LLC

for approval of a conditional use permit
to allow business park for commercial
and industrial uses at
203 and 322 Daniel Lane San Juan Island

) NO. PCUP00-14-0020 **S.J.C. DEPARTMENT OF**
)
) **JUL 11 2016**
) **COMMUNITY DEVELOPMENT**
) **Daniel Lane Business Park CUP**

SUMMARY OF DECISION

The request for conditional use permit to authorize a business park for commercial and industrial uses at 203 and 322 Daniel Lane, off Cattle Point Road, Friday Harbor, San Juan Island is **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request:

Avalon LLC (Applicant) requested a conditional use permit to authorize a business park for commercial and industrial uses at 203 and 322 Daniel Lane, off Cattle Point Road, Friday Harbor, San Juan Island.

Hearing Date:

The San Juan County Hearing Examiner held an open record public hearing on the request on June 16, 2016. On the record at hearing, the Applicant agreed to extend the deadline for decision issuance by five business days.

Testimony:

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

Lee McEnery, Planner, San Juan County Department of Community Development
Francine Shaw, Applicant Agent
Myron Williams

Exhibits:

The following exhibits were admitted in the record:

1. Department of Community Development Staff Report, dated October 5, 2015
2. Application letter, dated December 23, 2014
3. Application cover sheet, dated January 23, 2015

4. Agent authorization
5. Site plan, both lots
6. Happy Meadow short subdivision, 3 pages
7. Landscape plan, 2 pages
8. Project description, 19 pages
9. SEPA Determination of Non-significance, dated September 2, 2015
10. SEPA checklist, 14 pages, dated September 2, 2015
11. Vicinity map
12. Aerial vicinity map
13. Land use designation map
14. Aerial photo map
15. Wetland map
16. Aerial photo Lot 2
17. Declaration of road maintenance, 7 pages
18. Clearing grading permit, 2 pages, dated October 12, 2011
19. SEPA DNS for clearing/grading, August 10, 2011
20. Impervious surface, Lot 1, aerial photo
21. Additional information, dated May 1, 2015
 - a. SJCC 18.60.070 storm drainage standards
 - b. 12/6/2010 letter from PA to CDPD re short plats
 - c. Happy Meadow short sub, 3 pages
 - d. 6/2013 aerial of Lot 1
 - e. pages 3,4,5,7 and 8 of approved stormwater plan for Lot 2
 - f. SJCC 18.60.060 clearing and grading standards
 - g. page 7 of Ord. 01-2015
 - h. CDP statement regarding critical area regulations for streams (2 pages)
22. Fish and Wildlife Conservation Area (and wetland) showing "U" and "F" stream
23. Bare Earth map
24. Bare earth with stream
25. Address assignment, 3 pages
26. Right-of-way application, 3 pages
27. Construction Stormwater General Permit, September 23, 2011
28. Notice information, 13 pages
29. Comment from Port of Friday Harbor, 5 pages, dated September 4, 2015
30. Department of Ecology comment letter, dated September 9, 2015
31. Department of Ecology comment letter, dated September 11, 2015

32. San Juan County Health and Community Services water approval, dated December 18, 2014
33. San Juan Public Works comment letter, dated September 15, 2015
34. San Juan Public Works comment letter with concurrency analysis, dated September 22, 2015
35. San Juan Public Works comment letter, February 2, 2016
36. Pacific Surveying and Engineering response to PW letter above, dated February 10, 2016
37. San Juan Public Works comment letter, dated February 12, 2016
38. Pacific Surveying and Engineering response to PW letter, dated March 4, 2016
39. San Juan Public Works comment letter from Christine Coray, including design drawings, dated March 30, 2016
40. Memorandum from Francine Shaw regarding hours of operation, dated June 13, 2016, with attached WAC Chapter 173-60 and SJCC Chapter 9.06
41. San Juan County Building Permit Receipt Number 00011360, issued to Myron Williams
42. Federal Aviation Administration correspondence, dated June 6, 2016, regarding Applicant's FAA Form 7460-1
43. Findings, Conclusions, and Decision of the San Juan County Hearing Examiner in the San Juan Business Park (04CU032/05APL001), issued October 25, 2005, with attached Planning memo dated August 23, 2005 and attached agreement regarding site plan revisions dated received September 22, 2005
44. Email from Lee McEnery to Francine Shaw, dated June 13, 2016, regarding hours of operation for adjacent use (Lush, 04CU032)

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. The Applicant requested a conditional use permit to authorize a business park for commercial and industrial uses on 10.13 acres addressed as 203 and 322 Daniel Lane, off Cattle Point Road, on San Juan Island. The property subject to the application is comprised of two lots of the Happy Meadows Short Plat, recorded in March 2014.¹ The two subject lots are not contiguous. They are separated by another lot of the short plat, but they connect by a “flagpole” along Daniel Lane. The intervening parcel is developed with a business park similar to that proposed, which was approved via file number 04CU032 known as San Juan Business Parl. *Exhibits 1, 5, and 8; see Exhibit 14.*
2. The majority of the northern subject parcel, 5.43-acre Lot 1, contains a wetland. The wetland drains into a stream, heading southeast toward Griffin Bay. The southeastern

¹ The property subject to the application is two parcels located in Section 23 Township 35 North, Range 3 West, also known as Tax Parcel numbers 352324006 and 352331010. *Exhibits 5 and 8.*

corner of Lot 1 contains a structure for equipment storage and parked equipment. The western half of the southern subject parcel, 4.79-acre Lot 2, contains a gravel pad that is bounded by a fence, while the eastern half is developed with a large stormwater pond for drainage retention and a 556 square foot single story cabin. Both subject lots have access from Daniel Lane, a private two-lane gravel road. *Exhibits 1, 5, 8, 12, and 16.*

3. The subject parcels are bounded on the north by Friday Harbor, on the east and south by Cattle Point Road. Parcels across Cattle Point Road have Rural General Use zoning. The area west of these parcels is zoned Rural Farm Forest 5 and primarily developed with residences. To the north, properties are undeveloped. Northeast of the subject property is the Friday Harbor airport and an existing animal shelter. There is a storage business to the east and two commercial uses across Cattle Point Road to the south. Currently there are two residences accessed from Daniel Lane by a single access at the south end of Daniela Lane. *Exhibits 1 and 14.*
4. The subject parcels have a Rural General Use (RGU) zoning designation, which allows a density of one dwelling per five acres. San Juan Island has only 54 parcels, comprising 286.74 acres, with the RGU designation. Commercial and industrial uses are allowed in the RGU zone upon conditional use review and approval. *San Juan County Code (SJCC) SJCC 18.30.040, Table 3.2; Exhibits 1 and 8.*
5. Critical areas on the two lots include fish and wildlife conservation areas, the County-wide critical aquifer recharge area, and wetlands including a large category 3 wetland in the northwest of Lot 1. The approved subdivision map depicts an area on Lot 1 in which buildings and development may be placed; this development envelope is vested to the prior critical area regulations, which became effective March 28, 2014. *Exhibits 1, 6, and 22.*
6. A building permit issued April 7, 2016 (BUILDG-15-0298) authorized construction of an agricultural building on Lot 1; the permit restricts use of the structure to agricultural storage. The County has no record of building permits for the shed on Lot 1 or the small cabin on Lot 2. The first record of the cabin's existence is 2015 Assessor's records that show it as a one bedroom residence. An after-the-fact owner builder exemption application (OWNBPX-15-0016) was submitted July 31, 2015 for the cabin during an amnesty period. Staff noted that owner builder exemptions are only available for non-habitable buildings, and the proposal would convert the structure into a residence. This issue would need to be resolved prior to building permit issuance and occupancy. *Exhibit 1.*
7. The proposal would establish a business park and construct four new buildings that would be leased by others to operate house commercial and industrial uses. Lot 1 (the north lot) is proposed to be developed with two story, 9,000 square foot building, 21 parking spaces, and drive lanes, all focused in the southeast corner of the parcel outside of the wetland buffer. Lot 2 is proposed to contain three new single story buildings, 91 parking spaces, and circulation areas west of the existing stormwater detention pond.

Two of the three buildings would be 6,000 square feet, and the third is proposed to be 15,000 square feet in area. All four buildings would be internally divided at a later time to suit users' needs. All building entrances, parking, and storage areas would be on the east side of the proposed buildings, facing away from the adjacent residential development. The existing 550 square foot shed on Lot 2 is proposed to be remodeled into a 1,000 square foot care taker residence. The submitted landscape plan shows a 15-foot Type A landscaped buffer with a six-foot tall fence on the west boundary of Lot 2. Fencing is also proposed north and south of the development envelope; there is existing fencing installed to the west. Because the uses in the business park are speculative, the Applicant proposed a wide range of operation hours from 6:00 am to 9:00 pm. An outdoor storage area on Lot 1 would not be visible from any public road. *Exhibits 1, 3, 5, and 8.*

8. Anticipated uses are contractor offices with associated indoor and outdoor storage, business offices, personal services, and retail businesses. Contractor offices and materials/equipment yards are defined as Light Industrial, Outdoor Storage, or Industrial uses pursuant to SJCC 18.30.040 Table 3.2, while personal and professional services, business offices, and retail uses are considered Commercial uses. All of the anticipated future uses are allowed by conditional use permit in SJCC 18.30.040 Table 3.2. If in the future uses other than these listed above are proposed to locate on-site, additional land use permits may be needed. *Exhibits 1 and 8.*
9. Because parcels to the west are considered residential and the proposed use is non-residential, 15-foot landscaping buffers meeting the County Code's Screen-A standards would be required on the west boundaries of both subject parcels. Screen-B landscaping would be required on the south boundary and along the east side of Lot 2 to screen the site from Cattle Point Road and Daniel Lane. Screen-C landscaping is required on the east side of both parcels to soften the appearance of the parking areas and building elevations. Planning Staff recommended conditions of approval that would ensure compliance with the applicable landscape standards, if approval is granted. *Exhibits 1, 5, 7, and 8.* The Applicant representative noted there is adequate room available on both lots for the landscaping buffers required by the County Code and specifically agreed to this requirement. *Exhibits 5 and 7; Shaw Testimony.*
10. A Group B water system and on-site community septic system have already been constructed to serve development of the subject parcels. The septic drainfield serving both parcels is developed on Lot 2, and individual septic tanks are located on each parcel. San Juan County Health and Community Services have determined that water and sewage disposal are adequate. *Exhibits 1 and 8.*
11. In the existing condition, site runoff naturally drains downhill to the east and eventually into North Bay. Part of the path the site's runoff travels includes a ravine, which is shown as a stream on the GIS. The fish distribution of this stream is "unknown" on the uphill west side of Cattle Point Road and "fish-bearing" east (downslope) of Cattle Point Road. Presently, stormwater runoff from Lot 1, which is already developed, surface

flows into the roadside ditch along Daniel Lane and enters this ravine. Runoff from proposed impervious surfaces on would be directed to the existing detention pond in the east end of the lot, from which is drains to the Daniel Lane ditch, which is not a public drainage facility. A drainage plan has been approved for each lot after review by the County Public Works Department. The majority of required grading has already been done. Due to grading needed for construction on Lot 2, a construction stormwater general permit from Department of Ecology is required. A previously approved construction stormwater permit for development of the lots expired December 15, 2015 and would need to be renewed through the proper process if proposed improvements would disturb more than one acre of land. *Exhibits 1, 18, 21, 24, 27, 33, 34, 38, and 39.*

12. Cattle Point Road is a two lane paved public road classified as a Major Collector road in the Transportation Element of the County Comprehensive Plan. Daniel Lane connects with Cattle Point Road approximately 1/4 mile to the south of the subject parcels. A road maintenance agreement between Parcels 352324006 and 352331008 addresses maintenance, repair, and capital improvements for Daniel Lane, recorded in AFN 2005 0504009. The business park would increase traffic on local roads. The proposal was evaluated by Public Works for traffic concurrency and was approved. Improvements to Daniel Lane are required to address the projected increase in traffic. The Applicant submitted a right-of-way permit application, which was reviewed and approved by Public Works subject to the following conditions: the driveway entrance must meet San Juan County Standard Plan 120 for commercial vehicles; the existing 23-foot wide driving surface and five-foot ditch on the Daniel Lane easement must be improved to 26 feet wide with an eight-foot ditch up to Portage Place; north of Portage Place, the driveway entering Lot 2 must be improved to 20 feet wide driving surface; and the intersection at Cattle Point Road must be improved to 35 feet wide to meet the required turning radius. Planning Staff notes that the site plan was not revised to reflect these improvements and recommended a condition of approval to require compliance with these requirements. *Exhibits 1, 8, 17, 26, 33, 34, and 39.*
13. All of San Juan County is designated as a critical aquifer recharge area regulated pursuant to the County's critical areas ordinance. Applicable standards regulate the storage and handling of substances that could, if spilled, result in a health hazard in drinking water. *SJCC 18.3.110; SJCC 18.30.140.C.* Because the future uses in the business park are not known, it is not possible to effectively address these standards at this time. The Applicant agreed to imposition of a condition of approval that would ensure future compliance with these standards. *Exhibit 8; Shaw Testimony.*
14. The County Code's commercial uses standards contain a provision that states: "Building coverage impacts identified in Table 8.2 in SJCC 18.80.090 as medium or low may be allowed. Traffic and parking impacts need not necessarily meet the levels criteria of Table 8.2." Table 8.2 classifies lot coverage under 5,000 square feet as low, greater than 5,000 but less than 10,000 square feet as medium, and greater than 10,000 square feet as high impact. Parking up to two new spaces is low, up to nine spaces is medium, and 10 or more spaces is high impact, per these standards. *SJCC 18.40.110.B.* The Applicant

consulted with Community Development and Planning to determine whether the proposal could be approved consistent with this table in the RGU zoning district. Planning Staff informed the Applicant that the proposal could proceed through the conditional use process. *Exhibit 8.*

15. Planning Staff expressed the concern that the proposed hours of operation between 6:00 am and 9:00 pm would allow noise outside of normal business hours and result in impacts to nearby residential uses. Staff recommended requiring the hours of operation to be restricted to those between 7:00 am and 6:00 pm, to avoid impacts to surrounding properties consistent with SJCC 18.40.110.A.3. *Exhibit 1; McEnergy Testimony.* The Applicant representative requested that only outdoor activities be restricted to the 7:00 am to 6:00 pm timeframe, but that indoor activities be allowed to be conducted between 6:00 am and 9:00 pm. The Applicant contended that such a restriction would adequately protect surrounding uses from noise impacts. With regard to the adjacent San Juan Business Park (Lush), those uses are limited to the 7:00 am to 6:00 pm timeframe as a result of litigation and not because such a timeframe must be imposed to prevent impacts from commercial uses. The Applicant representative contended that the businesses in the proposed business park would be required to comply with the County's noise ordinance (SJCC Chapter 9.06) and in so doing, would avoid the excess noise prohibited by commercial site development standards. *Exhibits 40, 43, and 44; Shaw Testimony.*
16. No off-site commercial or exterior neon signs are proposed. Planning Staff recommended conditions of approval addressing compliance with lighting standards. *Exhibits 1 and 8.*
17. The Applicant has built a fire apparatus/emergency vehicle turn around on Lot 1 and a turnout on Lot 2 to allow for passing of oncoming vehicles. *Exhibits 5 and 8.*
18. Consistent with the State Environmental Policy Act (SEPA), San Juan County acted as lead agency for review of the probable, significant adverse environmental impacts of the proposed grading pursuant to SEPA. A determination of non-significance (DNS) was issued on September 2, 2015. No comments and no appeals were received regarding the DNS. *Exhibits 1, 9, and 10; McEnergy Testimony.*
19. The application was completed March 30, 2016. The conditional use permit application and supporting materials were submitted December 23, 2014. The Department of Community Development and Planning requested additional information, upon receipt of which the matter was set for hearing on October 15, 2015. Shortly before hearing, it was determined that further information was required, and the hearing was postponed. The application was deemed finally complete on March 30, 2016. *Exhibits 1 and 2.*
20. Notice of application and public hearing was published on September 2, 2015 and April 13, 2016, posted on-site September 1, 2015, and mailed to owners of surrounding properties within 300 feet on September 1, 2015 and April 11, 2015. *Exhibits 1 and 28.*

21. Notice of application was sent to the following agencies: San Juan County Public Works, San Juan Health and Community Services, Department of Ecology, and Port of Friday Harbor, among others. *Exhibit 1.*
22. San Juan County Health and Community Services submitted comments acknowledging availability of water through the Happy Meadows Group B water system, which was approved for four connections. The County agency noted that the water system must contract with an approved manager/operator and maintain compliance with SJCC 8.06. *Exhibit 32.*
23. State of Washington Department of Ecology commented about the wetland mitigation project imposed through a settlement agreement resulting from litigation between Friends of the San Juans and the developer of the adjacent business park. This settlement required a 20,000 square foot wetland restoration site to be created, which has not yet occurred. However, Ecology acknowledged that the recording of the short plat created a development envelope on Lot 1 and established a 50-foot buffer for the wetland as the regulatory buffer, and that so long as development does not disturb this buffer, Ecology has no further authority in the proposal. *Exhibits 30 and 31.*
24. The Port of Friday Harbor submitted comments indicating that an FAA form 7460-1 must be filed because the subject parcels adjoin the Friday Harbor Airport. The Port noted that the proposal appeared to satisfy the criteria for that form. *Exhibit 29.* Prior to hearing, the Applicant submitted the form to FAA. *Exhibit 42.*
25. Public comment was offered at hearing by Terry Lush, owner of the intervening parcel between Lots 1 and 2, known as the San Juan Business Park. Mr. Lush supported approval of the instant application, asserting it would be a good use of the land. Regarding the question of hours of operation, he commented that while it is necessary for businesses to accommodate people who have to catch an early ferry, commercial uses would need to be quiet outside of normal business hours for the preservation of the neighborhood character. He felt that restricting outdoor uses to the time between 7:00 am and 6:00 pm was a reasonable compromise. He testified that there have been no conflicts between his property and the neighborhood, and no complaints, since the litigation regarding his parcel ended. Mr. Lush stated that he lives 20 feet from the driveway to Lot 1. He personally is not concerned about traffic. He addresses the potential impacts of commercial uses by including the commercial use standards of the County Code into his lease agreements. *Lush Testimony.*
26. Having reviewed all submitted materials and heard testimony at hearing, Planning Staff concluded that the proposal can be conditioned to comply with all applicable provisions of the County Code and recommended approval subject to such conditions. *Exhibit 1; McEnery Testimony.* With the exception of the condition recommending hours of operation be restricted to 7:00 am to 6:00 pm, as addressed in finding 14 above, the Applicant representative waived objection to the recommended conditions. *Shaw Testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for conditional use permit pursuant to Chapter 36.70.970 of the Revised Code of Washington and Chapters 2.22 and 18.80 of the San Juan County Code, including SJCC 18.80.090.C.

Criteria for Review

Pursuant to SJCC 18.80.100.D, a conditional use permit shall be granted by the County only if the following criteria are met:

1. The proposed use will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;
2. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located;
3. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;
4. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval;
5. The proposal will be served by adequate facilities including access, fire protection, water, stormwater control, and sewage disposal facilities;
6. The location, size, and height of buildings, structures, walls and fences, and screening vegetation associated with the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties;
7. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood;
8. The proposal complies with the performance standards set forth in Chapter 18.40 SJCC;
9. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70.547); and
10. The proposal conforms to the development standards in Chapter 18.60 SJCC.

Other Applicable Code Provisions

SJCC 18.40.110 Commercial uses – General standards for site development.

- A. All Commercial Uses. The following standards apply to all commercial uses as listed in Tables 18.30.030 and 18.30.040 and to any use determined by the director to be commercial use.
1. Water supplies and sewage disposal facilities adequate to serve the proposed use shall be provided. Occupancy shall not be permitted before water supplies and sewage disposal facilities are approved and installed.

2. Use of a County access road or private road for access to new commercial development shall be permitted only if the applicant demonstrates that public health, safety, and welfare will be protected, and if traffic and maintenance impacts to the road are minimized by conditions on the permit.
 3. No use shall be made of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, or electrical interference to the detriment of adjoining property.
- B. Commercial Development in Rural Designations. The following standards apply to all commercial uses located in the rural land use designations listed in Table 18.30.040, as determined by the director.
1. The proposed use will result in minimal additional demands on services and utilities available in rural areas and will not result in more than a minimal and manageable increase in demand on community water supplies, sewage disposal systems, or roads.
 2. Building coverage impacts identified in Table 8.2 in SJCC 18.80.090 as medium or low may be allowed. Traffic and parking impacts need not necessarily meet the levels criteria of Table 8.2.

SJCC 18.40.280 Industrial uses – Standards for site development.

- A. All Industrial Uses. The following standards apply to all industrial uses as listed in Tables 18.30.030 and 18.30.040 and to those other uses determined by the administrator to be industrial uses.
1. The use of chemicals, industrial solvents, or other noxious or hazardous substances shall comply with all federal, state, and County safety, fire, structural, storage, and disposal standards.
 2. Water supplies, wastewater, and sewage disposal facilities adequate to serve the proposed use shall be provided.
 3. Retail sales and services incidental to a principally permitted use are allowable, provided:
 - a. The operations are contained within the main structure which houses the primary use;
 - b. Retail sales occupy no more than 15 percent of the total building square footage;
 - c. No retail sales or display of merchandise occurs outside the structure; and
 - d. All products offered for retail sales on the site are manufactured, warehoused, or assembled on the premises.
 4. No use shall be made of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, electrical interference to the detriment of adjoining property.
 5. Use of a County access road or private road for access to new industrial development shall be permitted only if the applicant demonstrates that public health, safety and welfare will be protected, and if traffic and maintenance impacts to the private road are minimized by conditions on the permit.
- B. Industrial Uses in Rural Designations. For all allowable and conditionally permitted industrial uses located in rural land use districts, as listed in Table 18.30.040, if estimated

traffic volume generated would exceed the volume that would be generated by rural residential use of the site (five trips per day per unit of maximum density), any easements or road improvements required by the County engineer to accommodate the increase must be provided prior to occupancy.

C. Concrete Batch Plants – (not applicable)

D. Light Industrial Uses – Additional Standards.

1. All operations other than loading and unloading shall be conducted within a fully enclosed building.
2. Production of noise at the property lines of the premises shall not exceed normal ambient noise levels in the vicinity, as discernible without instruments.
3. No emissions of dust, dirt, odors, smoke, toxic gases or fumes will occur.

SJCC 18.40.320 Outdoor storage yards.

All outdoor storage yards for vehicles and equipment, in association with commercial or industrial use, shall be screened from public roadways and paths using either a Type A Screen or a Type C Screen used in conjunction with a fence built with natural materials standing a minimum of six feet high (see SJCC 18.60.160).

SJCC 18.40.370 Signs – General regulations.

A. Off-premises, outdoor commercial signs shall not be permitted.

...

B. Exterior neon signs, signs that are illuminated from within, and signs or portions of signs that move, flash, or are otherwise animated shall not be permitted in any area.

...

E. Multiple Signs on a Building. The maximum aggregate size for multiple signs is limited to one percent of the floor area of the building, except that each occupant is allowed a sign of at least two square feet. In no case may an individual occupant's sign be larger than 15 square feet.

F. No sign mounted on a building shall extend above or beyond the eave, rake, or parapet of the wall on which it is mounted. Any sign projecting beyond six inches from a perpendicular wall shall be at least six feet, eight inches above grade.

G. Signs painted on buildings shall be measured by the smallest polygon enclosing the letters and symbols of the sign.

H. Awnings and canopies with letters, wording, or symbols, and/or those covered with translucent material and containing internal illumination shall be considered signs in their entirety. Awnings and canopies not containing internal illumination or letters, wording, or symbols shall not be considered signs.

I. Wall graphics are allowable provided they do not constitute commercial advertising that would otherwise be prohibited.

SJCC 18.40.390 Identification and advertising signs.

- A. Freestanding advertising and identification signs shall not be approved or installed where it is feasible and practical to mount or paint the proposed sign on a building. Signs shall be attached to buildings unless the business cannot be seen from a public road.
- B. Residential and commercial identification signs and residential and commercial advertising signs that are located outside of activity centers shall not exceed two square feet.
- C. Businesses (other than home occupations or cottage enterprises) located more than 200 feet from a public right-of-way or property line, or when the building is not visible from a right-of-way, are allowed one freestanding sign; provided, that the sign is six square feet or smaller in size. This regulation only applies in rural and resource land use designations as defined in the Comprehensive Plan; see SJCC 18.10.040(A).

SJCC 18.60.020 Water supplies.

- A. All development must conform to the standards set by SJCC Title 8, Health and Safety, and must satisfy the policies of Element 4 of the Comprehensive Plan (Water Resources) regarding the availability and adequacy of the water resource, the protection of water quality, and the control or avoidance of pollution, and conservation of water.
- B. Each new use of land that requires potable or nonpotable water or any major new use of water unrelated to new land use (the collection of rainwater for nonpotable use is exempt from this requirement) and for which the County has approval authority, shall:
 - 1. Provide documented evidence of available and adequate water quantity and quality for the intended use. Water supply is available and adequate when:
 - a. Data are developed which show that the source meets the source approval requirements of the water wells and water systems code (Chapter 8.06 SJCC);
 - b. A water facility provider makes a concurrency determination (see SJCC 18.60.200) that it has sufficient capacity to provide the needs of the new use without lowering LOS standards below the minimum adequate level.

A determination by a non-County concurrency facility and service provider that there is adequate capacity available (see SJCC 18.60.200) does not necessarily reserve that capacity or guarantee that water will be delivered. Such reservations and guarantees may require the purchase of a membership or other action as defined by the service provider.

...

- 2. Meet standards for water system design and employ all County-wide water conservation measures. Applications shall indicate all structural or operational measures included for the conservation of water.

SJCC 18.60.030 Wastewater disposal.

All development must conform to the standards set by SJCC Title 8, Health and Safety. Applicants for subdivision and binding site plan approvals shall demonstrate conformance for both the preliminary and final approvals. Commercial, industrial, public, and institutional facilities that generate nonresidential and/or industrial wastewater shall be served by an appropriate wastewater treatment system or facility approved by the agency with jurisdiction.

A determination by a non-County concurrency facility and service provider that there is adequate capacity available (see SJCC 18.60.200) does not necessarily reserve that capacity or guarantee that sewage disposal service will be provided. Such reservations and guarantees may require the purchase of a membership or other action as defined by the service provider. Short and long subdivisions must demonstrate actual connections and guarantees of service before final approval. Maintenance, operation, and repair of on-site sewage disposal systems are governed by Chapter 8.16 SJCC.

SJCC 18.60.070 Storm drainage standards.

All new development and redevelopment must conform to the standards and minimum requirements set by the Washington Department of Ecology Stormwater Management Manual for Western Washington, Publication Nos. 05-10-029 through 05-10-033. In addition, the best management practices identified in the January 2005 Low Impact Development Technical Guidance Manual for Puget Sound, produced by the Puget Sound Action Team, are acceptable alternatives for managing runoff, controlling soil erosion, and maximizing and protecting recharge.

SJCC 18.60.160 Landscaping.

A. Application. All development for which this code requires landscaping or screening is subject to the landscaping provisions of this section. Water systems for landscaping shall meet the requirements of 18.60.020, and all structural or operational measures included for the conservation of water shall be indicated in the landscaping plan or descriptions.

...

D. Landscape Screening. The three types of landscaping screens are described and applied as follows.

1. "Screen-A" landscaping:

- a. Is a "full screen" that functions as a visual barrier. This landscaping is typically found between residential and nonresidential areas. b. Shall at a minimum consist of:
 - i. A mix of primarily evergreen trees and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;
 - ii. Seventy percent evergreen trees;
 - iii. Trees provided at the rate of one per 10 linear feet of landscape strip and spaced no more than 30 feet apart on center; and
 - iv. Evergreen shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center.

2. "Screen-B" landscaping:

- a. Is a "filtered screen" that functions as a visual separator. This landscaping is typically found between commercial and industrial uses; between differing types of residential development; and to screen industrial uses from the street.
- b. Shall at a minimum consist of:

- i. A mix of evergreen and deciduous trees and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;
 - ii. Fifty percent deciduous trees and 30 percent evergreen trees;
 - iii. Trees provided at the rate of one per 20 linear feet of landscape strip and spaced no more than 30 feet apart on center; and
 - iv. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center.
- 3. "Screen-C" landscaping:
 - a. Is a "see-through screen" that functions as a partial visual separator to soften the appearance of parking areas and building elevations. This landscaping is typically found along street frontage or between multiple-family developments.
 - b. Shall at a minimum consist of:
 - i. A mix of evergreen and deciduous trees generally interspersed throughout the landscape strip and spaced to create a continuous canopy;
 - ii. Seventy percent deciduous trees;
 - iii. Trees provided at the rate of one per 25 linear feet of landscape strip and spaced no more than 30 feet apart on center; and
 - iv. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center.
- E. Landscaping Street Frontages. The average width or depth of perimeter landscaping along street frontages and required locations on private property shall be provided as follows:
 - ...
 - 2. Ten feet of Screen-B landscaping shall be provided for an industrial development.
 - ...
 - 4. Ten feet of Screen-C landscaping shall be provided for all commercial or multiple-family residential and mobile home parks.
- F. Landscaping of Interior Lot Lines. The average width or depth of perimeter landscaping along interior lot lines shall be provided as follows:
 - 1. Fifteen feet of Screen-A landscaping shall be included in all commercial or industrial development along any portion adjacent to a residential development.
 - ...
 - 3. Ten feet of Screen-B landscaping shall be included in an industrial development along any portion adjacent to a nonindustrial development.
- G. Landscaping for Parking Lots. Parking area landscaping shall be provided within surface parking areas with five or more parking stalls to provide shade and diminish the visual impacts as follows:
 - ...
 - 2. Commercial, industrial, or institutional developments, shall include:
 - a. Twenty square feet per parking stall when five to 15 parking stalls are provided; and

- b. Twenty-five square feet per parking stall when 16 or more parking stalls are provided.
- 3. Trees shall be provided and distributed throughout the parking area at a rate of:
 - a. One tree for every five parking stalls for a commercial or industrial development;
- 4. The maximum distance between any parking stall and landscaping shall be 75 feet.
- 5. Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang.
- 6. Parking area landscaping shall consist of:
 - a. Canopy-type deciduous trees, evergreen trees, evergreen shrubs, and ground covers planted in islands or strips;
 - b. Shrubs that do not exceed a maintained height of 42 inches;
 - c. Plantings contained in planting islands or strips having an area of at least 100 square feet and with a narrow dimension of no less than five feet; and
 - d. 70 percent deciduous trees.
- H. Landscape Plan. When screening is required, a landscaping plan shall be submitted with the project application to indicate how the minimum screening requirements are met. The plan must meet the following requirements:
 - 1. The landscape plan shall be drawn on the same base map as the development plans and shall identify the following:
 - a. Total landscape area and separate hydro zones;
 - b. Landscape materials, botanical and common names, and applicable size;
 - c. Property lines;
 - d. Impervious surfaces;
 - e. Natural or manmade water features or bodies;
 - f. Existing or proposed structures, fences, and retaining walls;
 - g. Natural features or vegetation left in natural state; and
 - h. Designated recreational open space areas.
 - 2. The required landscaping shall be installed no later than three months after issuance of a certificate of occupancy for the project or project phase. However, the time limit for compliance may be extended to allow installation of such required landscaping during the next appropriate planting season. A financial guarantee shall be required prior to issuance of the certificate of occupancy, if landscaping is not installed and inspected prior to occupancy.
- I. Maintenance.
 - 1. All landscaping and necessary support systems shall be maintained for the life of the project.

2. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure.
 3. With the exception of dead, diseased, or damaged trees specifically retained to provide wildlife habitat, dead, diseased, damaged, or missing plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season.
 4. Landscape areas shall be kept free of trash.
- J. Bonds or Other Security. Performance bonds or other appropriate security shall be required for a period of no less than six months after the planting or transplanting of vegetation to insure proper installation, establishment, and maintenance. This time period may be extended to one year by the administrator, if necessary to cover a planting and growing season.

SJCC 18.60.170 Lighting.

- A. Exterior Lighting. Exterior lighting shall be energy-efficient and shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel. Exterior lighting shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. Exterior lighting fixtures must be shielded and the light must be directed downward and away from wetlands and wetland buffers, as well as lakes, ponds, the marine shoreline, and habitat of specific animals protected as fish and wildlife habitat conservation areas. All lighting fixtures shall be appropriate in scale, intensity, and height to the use they are serving. Any lighting installed in parking areas shall be of direct cutoff design so that the source is not visible from adjacent property. Decorative lighting shall be limited to incandescent lamps with a maximum of 25 watts per bulb and 500 watts overall.

Conclusions Based on Findings

1. With conditions, the proposed business park would be consistent with the applicable policies of the Comprehensive Plan and the Rural General Use land use designation, including: the Economy Element Policies 2.2.B.4 and 2.2.B.6 which promote a broad based, year round economic base, in part, through the appropriate siting of commercial and industrial land uses, and the Rural General Use Element 2.3.C.a, which promotes flexibility for a variety of small-scale low-impact uses to locate on rural lands compatible with the existing rural character that do not generate “more than a minimal and manageable increase in demand on existing rural governmental services and facilities, utilities, community water systems, sewage disposal systems and County roads.” The project would provide its own water and sewage disposal. There would be an increase in traffic over the existing condition, but the project has satisfied concurrency evaluation and with the completed and required future road improvements, the new traffic would not result in deleterious impacts to County roads. The increased building square footage would be serviced by County emergency services; but the record reflects no undue impact to those services. *Findings 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 22, and 26.*

2. Commercial and industrial uses are allowed in the RGU zone upon conditional use review and approval. As conditioned, the proposed facilities would be appropriate in design, character, and appearance with the standards applicable to the RGU zone. The buildings would occupy a very small section of Lot 1 and a modest portion of Lot 2. All structures would be setback the maximum possible distance from adjacent residential uses. The wetland and buffer on Lot 1 would be retained undisturbed. Conditions would ensure that all outdoor activities, including storage, would comply with the applicable site development standards. The proposal was reviewed and found to be consistent with concurrency requirements. Conditions would ensure there are no nuisance impacts to adjacent properties, ensuring compatibility. Conditions would ensure that screening landscaping is installed consistent with code. *Findings 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 23, 25, and 26; SJCC 18.30.040, Table 3.2.*
3. The record does not contain evidence showing significant adverse impacts to the human or natural environments. Uses considered for approval are limited to contractor offices and associated storage, business offices, personal services, and small retail outlets; any other uses proposed in the business park may be subject to additional land use permits. The majority of commercial and industrial activity is proposed to occur indoors, with limited storage outside. Conditions would ensure that outdoor activities are restricted to the hours of 7:00 am to 6:00 pm, which would reduce the potential for conflict between surrounding residential uses and the future commercial or industrial businesses on-site. All site activities are subject to compliance with the County's noise ordinance which incorporate state sound level restrictions based on the sensitivity of receiving properties. All future uses occupying the business park would undergo review prior to occupancy permit issuance. Conditions of the instant approval would ensure that future uses comply with all applicable regulations regarding the use of potentially hazardous materials, including maintenance and implementation of spill plans. The proposal was reviewed for compliance with SEPA and the DNS issued was not challenged. The record contains no evidence of hazards to people or the environment. *Findings 3, 5, 7, 8, 9, 11, 12, 13, 15, 17, 18, 25, and 26.*
4. Business park and/or commercial and industrial activities similar to those proposed are allowed only in limited portions of the County. With a limited amount of RGU acreage available, it is to be expected that the impacts of this type of activity will aggregate in certain areas. However, all future similar proposals would be required to undergo conditional use review, at which time proposed uses are required to demonstrate compliance with development standards prohibiting excess impacts to surrounding properties. Additional similar development would therefore not result in undue impacts in the zone. *Findings 3, 4, 7, 8, and 26; SJCC 18.80.110.*
5. As noted above, the business park would be served by the same fire protection offered to the rest of San Juan Island. The use of private water, drainage, and on-site septic would prevent impact to any municipal utility facilities. The proposal satisfied concurrency analysis. Conditions requiring road improvements would ensure that the project's additional traffic is adequately served by private and public roadways and would not

interfere with existing pedestrian and vehicular traffic. The record does not contain evidence of an increase in demand for public services and facilities. *Findings 7, 10, 12, 17, and 22.*

6. The proposed one story buildings would be set back as far as possible from adjacent residential uses. All new buildings and parking areas would be screened by landscaping consistent with the commercial development standards, by fences and by site design which orients building openings and parking areas to the east. No nearby property owners submitted concerns about impacts. The record does not support a conclusion of unreasonable interference with the use of surrounding properties. *Findings 1, 2, 3, 6, 7, 8, 9, 10, 12, 15, 25, and 26.*
7. The contemplated commercial and light industrial uses - contractor offices with associated indoor and outdoor storage, business offices, personal services, and retail businesses - would generate higher volumes of traffic than the existing condition, and may involve heavier vehicles relating to construction trades. Public Works reviewed the proposal, found it satisfied concurrency standards, and recommended approval with conditions requiring specific upgrades to both the private and public roads used to access to the site. Conditioned to comply with these requirements, the proposal is not anticipated to result in hazardous traffic conditions. Any future proposed land use that deviates from those already considered would require additional review at the time of proposal. *Findings 3, 6, 7, 8, 9, 13, 15, 25, and 26.*
8. As conditioned, the development standards of SJCC Chapter 18.40 - Commercial and Industrial site development standards - have been satisfied. Water and sewage disposal have been found to be adequate. Road improvements detailed in previous conclusions would ensure no impact to public health and safety. As proposed and conditioned, no uses of the site would result in nuisance vibration, noise, dust, odor, or electrical interference. The impacts of the additional building coverage would be managed through screening vegetation, setbacks, and drainage management on-site. A condition would ensure proper management of solvents, chemicals, or hazardous substances by any future uses with the business park. *Findings 5, 7, 8, 10, 11, 12, 14, 16, 17, 22, and 26.*
9. The Applicant has submitted a Form 7460.1 to the Federal Aviation Administration, in order to demonstrate that the proposal would not result in siting any incompatible use adjacent to the Friday Harbor Airport. A condition would ensure FAA approval of the Form 7460.1 prior to occupancy of any structure. *Findings 7 and 24.*
10. The requirements of SJCC Chapter 18.60 have been addressed in the conclusions above. Water and sewage disposal have been provided. Most site clearing has been completed. Stormwater management plans have been approved for both lots. Conditions would ensure compliance with landscaping and lighting standards. *Findings 5, 7, 8, 10, 11, 12, 14, 16, 17, 22, and 26.*

DECISION

Based on the preceding findings and conclusions, the request for conditional use permit requested a conditional use permit to develop a business park for commercial and industrial uses at 203 and 322 Daniel Lane, off Cattle Point Road, San Juan Island is **APPROVED** subject to the following conditions applicable to the Applicant and to all successors in interest including tenants or operators of specific uses within the business park:

1. The Applicant shall develop parcels 352331010 and 352324006 as shown on the site plans in the record at Exhibit 5. Additional requirements for landscaping and road design are listed in these conditions, though not depicted on the site plan. All the conditions apply to both parcels, regardless of future ownership.
2. The uses allowed by this permit include: contractor offices with indoor and/or outdoor storage, business offices, personal and professional services, and retail. Other uses may be subject to additional land use permits.
3. All uses in the business park shall restrict outdoor commercial and industrial activities to the hours between 7:00 am to 6:00 pm. Hours of business operations indoors are limited to 6:00 am to 9:00 pm. All businesses shall comply at all times with the County noise ordinance at SJCC Chapter 9.06.
4. All owners/tenants shall comply with maintenance agreement AFN 2005 0504009 for the maintenance, repair, and improvement of Daniel Lane.
5. The required improvements to Daniel Lane indicated in the Public Works comments in Exhibits 33, 34, 35, 37, and 39 and in applicable code sections shall be built, inspected, and approved by Public Works prior to occupancy.
6. The Applicant shall obtain permits and certificates of occupancy issued for all habitable buildings on the site, new or old, prior to occupancy of any building.
7. All future use of the business park is subject to the terms of the approved stormwater drainage plan for each lot.
8. The Applicant shall comply with all federal, state, and county safety, fire, structural, storage, and disposal standards regarding use of chemicals, industrial solvents, or other noxious or hazardous substances.
9. The Applicant shall not allow the use of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, or electrical interference to the detriment of adjoining property.
10. The Applicant may place one freestanding identification sign six square feet or smaller that meets all the standards of SJCC 18.60.370-390 near the intersection of Daniel Lane and Cattle Point Road. Permission from a landowner may be necessary.

11. The Applicant/developer shall meet the standards of SJCC 18.60.160 for landscaping. Landscaping shall be maintained as follows:
 - a. All landscaping and necessary support systems shall be maintained for the life of the project.
 - b. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure.
 - c. With the exception of dead, diseased, or damaged trees specifically retained to provide wildlife habitat, dead, diseased, damaged, or missing plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season.
 - d. Landscape areas shall be kept free of trash.
 - e. Performance bonds or other appropriate security shall be required for a period of no less than six months after the planting or transplanting of vegetation to insure proper installation, establishment, and maintenance. This time period may be extended to one year by the administrator, if necessary to cover a planting and growing season.

12. The Applicant/developer shall comply with property boundary landscaping requirements:
 - a. Fifteen feet of Screen-A landscaping is required on the west boundaries of both parcels.
 - b. Screen-B landscaping is required on the south boundary of Lot 2 and along the east, beside Daniel Lane.
 - c. Screen-C landscaping is required on the east side of both parcels, along Daniel Lane.

13. The Applicant/developer shall comply with parking area landscaping requirements:
 - a. Twenty-five square feet per parking stall when 16 or more parking stalls are provided.
 - b. Trees shall be provided and distributed throughout the parking area at a rate of one tree for every five parking stalls.
 - c. The maximum distance between any parking stall and landscaping shall be 75 feet.
 - d. Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang.

14. The Applicant/developer shall install energy-efficient exterior lighting that is shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel. Exterior lighting shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. Exterior lighting fixtures must be shielded and the light must be directed downward and away from wetlands and wetland buffers, as well as lakes, ponds, the marine shoreline, and habitat of specific animals protected as fish and wildlife habitat conservation areas. All lighting fixtures shall be appropriate in scale, intensity, and height to the use they are serving. Any lighting installed in parking areas shall be of

direct cutoff design so that the source is not visible from adjacent property. Decorative lighting shall be limited to incandescent lamps with a maximum of 25 watts per bulb and 500 watts overall.

15. The Applicant and all tenants shall comply with all requirements of the sewage disposal and water system of Health and Community Services or the appropriate regulatory agency prior to occupancy.
16. The Applicant/developer shall comply with FAA requirements for completion of form 7460-1 prior to occupancy of the proposal.
17. Failure to comply with the conditions of this permit may result in revocation.
18. Upon determination by the Director of DCD that Applicant has violated any condition listed above, following issuance of a Notice of Violation, the Director may, in addition to other code enforcement remedies, revoke the conditional use permit.

Decided July 11, 2016.

By:



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.