



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250

(360) 378-2354 | (360) 378-2116

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Inter-Island Propane
Donnie Galt
Jimmie Lawson
PO Box 222
Friday Harbor, WA 98250

May 10, 2018

Re: Judge Hancock's decision re: PCUP00-17-0018

Dear Mr. Galt and Mr. Lawson,

On April 30, 2018, Judge Alan Hancock issued a decision overturning the Hearing Examiner decision on PCUP00-17-0018, and ordered the County to issue the requested conditional use permit subject to the conditions in the Department of Community Development staff report. This letter serves as notification that your conditional use permit PCUP0017-0018 is issued subject to the conditions in the attached staff report. The Judge's order (Attachment A) and the staff report (Attachment B) are attached.

Please feel free to contact me if you have any questions. I can be reached at 360 370 7571 or by email at erikas@sanjuanco.com.

Sincerely,

A handwritten signature in blue ink that reads "Erika Shook".

Erika Shook, AICP
Director

Attachments:

- A. Final Order and Judgement in Case No. 17-2-05158-7
- B. Department of Community Development Staff Report to the Hearing Examiner on PCUP00-17-0018



STATE OF WASHINGTON
COUNTY OF SAN JUAN

RECEIVED

MAY - 4 2018

SAN JUAN COUNTY
PROSECUTING ATTORNEY

INTER ISLAND PROPANE, LLC,
Petitioner,

v.

SAN JUAN COUNTY,
Respondent.

NO. 17-2-05158-7

**FINAL ORDER AND JUDGMENT
GRANTING THE APPEAL,
REVERSING THE HEARING
EXAMINER'S DECISION, AND
ORDERING THE ISSUANCE OF A
CONDITIONAL USE PERMIT**

Petitioner Inter Island Propane, LLC, appealed the decision of Hearing Examiner Sharon A. Rice dated October 2, 2017, denying its application for conditional use permit to install a bulk propane storage and distribution facility in Eastsound, Orcas Island, San Juan County, Washington. The court held a hearing on the appeal on April 20, 2018, and heard the oral arguments of counsel. The court has reviewed the entire record in this case and the briefs of counsel. The court has issued its letter decision granting the appeal, reversing the hearing examiner's decision, and ordering respondent San Juan County to issue the conditional use permit, which is incorporated by this reference herein. NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that petitioner's appeal is granted, the hearing examiner's decision is reversed, and San Juan County shall issue the requested conditional use permit to petitioner Inter Island Propane, LLC, subject to the conditions contained at pages 17

1 and 18 of the San Juan County Department of Community Development's Staff Report to the
2 Hearing Examiner dated July 3, 2017, as follows:

- 3 1. A landscaping strip at least 20 feet wide must be provided along the frontage of
4 Seaview Lane.
- 5 2. A landscaping strip at least 20 feet wide must be provided along the north and
6 south property lines.
- 7 3. The property owner and any tenant is responsible for maintenance of all
8 landscaping required by the Eastsound Subarea Plan, which shall be maintained
9 in good condition so as to present a healthy appearance. Tree limbs are not
10 allowed to extend over walkways or driveways below a height of eight feet above
11 grade.
- 12 4. Lighting shall comply with the standards in SJCC 18.60.170.
- 13 5. No retail sales or services are allowed on site.
- 14 6. No use shall be made of equipment or material which produces unreasonable
15 vibration, noise, dust, smoke, odor, or electrical interference to the detriment of
16 adjoining property.
- 17 7. Fire Marshal conditions:
 - 18 1) Prior to any construction activities on the site, the following is required:
 - 19 a) A building permit that includes construction plans for the foundation
20 and the container shall be submitted and approved by the Department
21 of Community Development.
 - 22 b) An operational fire permit is required to be submitted to and approved
23 by the Fire Marshal for the Bulk Plant. A written operations and
24 maintenance manual (O&M) meeting the requirements of NFPA 58
25 Chapter 14 shall be submitted to the Fire Marshal's Office prior to an
operational permit being issued. The O&M requirements include Fire
Response.
 - c) Installation of the container, the container specifications and valves,
filling station, and equipment on trucks utilizing the site shall meet the
requirements of National Fire Protection Association (NFPA) 58 and
the IFC.
 - 2) The container shall meet the setbacks from property lines and public ways
per IFC Table 6104.3. A 30,000 gallon container is required to be setback
at least 50 feet from property lines and public ways per IFC Table 6104.3.
 - 3) A designated fire truck turn-around/fire lane must be provided on site.
 - 4) Bollards or other approved collision prevention devices must be installed
in compliance with NFPA 58 and the IFC.
 - 5) Prior to occupancy, a Fire and Life Safety Inspection is required. This will
be conducted after or concurrently with acceptance testing of the site in the
presence of the Fire Marshal and a designee of the Orcas Island Fire and
Rescue Fire Chief.
 - 6) Prior to occupancy, hydrants shall be installed meeting the requirements
of SJCC 13.08 including:

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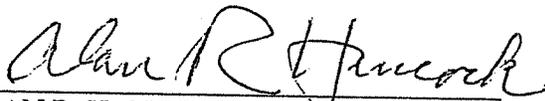
a) A hydrant installed on the corner of Seaview and Aeroview to fulfill the hydrant distance minimums outlined in SJCC 13.08.080.

b) The hydrant must be tested and demonstrate that it can meet the commercial hydrant flow for this site per SJCC 13.08.010 which is 500 gallons per minute for 60 minutes.

7) If the property is to be gated or fenced, a Knox key box system shall be installed allowing firefighters access to the site.

8. Development authorized by this permit shall be 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 decision making authority if the permittee demonstrates good cause for an extension.

DATED: April 30, 2018


ALAN R. HANCOCK, Judge

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MAY - 4 2018

SAN JUAN COUNTY
PROSECUTING ATTORNEY

COURT OF WASHINGTON FOR SAN JUAN COUNTY
INTER ISLAND PROPANE, LLC, Plaintiff,
and
SAN JUAN COUNTY, Defendant.

NO. 17-2-05158-7

DECLARATION OF MAILING
(no mandatory form)

I certify under the penalty of perjury under the laws of the state of Washington that on May 1, 2018 I deposited in the U.S. mail, postage prepaid, a copy of the following:

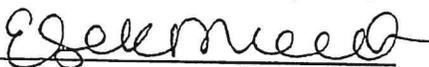
Court's Decision on LUPA Appeal, and Final Order and Judgment Granting the Appeal, Reversing the Hearing Examiner's Decision, and Ordering the Issuance of a Conditional Use Permit.

addressed to the Plaintiff Defendant at the last known address:

Carla J. Higginson
Higginson Beyer, P.S.
175 Second Street North
Friday Harbor, WA 98250

Amy S. Vira
Deputy Prosecuting Attorney
PO Box 760
Friday Harbor, WA 98250

Signed on May 1, 2018 at Coupeville, Washington


Elizabeth Merchant

Superior Court Coordinator
Island County Superior Court
101 NE Sixth St.
PO Box 5000
Coupeville, WA 98239

DECLARATION OF MAILING (no mandatory form)
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SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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STAFF REPORT TO THE HEARING EXAMINER

HEARING DATE: July 13, 2017
REPORT DATE: July 3, 2017
PROJECT PLANNER: Julie Thompson
FILE #: PCUP00-17-0018
PROJECT DESCRIPTION: A conditional use permit application to install a 30,000-gallon propane tank
STAFF RECOMMENDATION: Approval with conditions

PROJECT DATA	
Site/Address and Location:	27 Aeroview Lane, Eastsound
Parcel Number(s):	271158011
Site Size:	43,666 square feet (1 acre)
Owner(s):	Inter-Island Propane PO Box 222 Friday Harbor, WA 98250
Land Use Designation:	Eastsound Service and Light Industrial (SLI)
Existing Land Use:	Undeveloped
Surrounding Land Use:	North: Residential South: Residential East: Aircraft hangar West: Residential
Land Division Status:	Second Alteration to Aeroview, Lot 11
Fire District:	Orcas Island
School District:	Orcas Island
Nearest Arterial and Distance:	Seaview Street at west property line
Critical Areas:	Critical aquifer recharge area

DESCRIPTION OF THE SITE

The parcel is currently undeveloped. The land slopes gently uphill from east to west. The north and east property lines are densely vegetated. The south line is also vegetated, but there are some openings. The east line does not appear to have much screening. The property is in a critical aquifer recharge area.

The land use designation for this property is Service and Light Industrial (SLI) in the Eastsound Subarea Plan. Per Ordinance 21-2015, the ordinance adopting the update

to the Eastsound subarea plan and incorporating it into Title 18, the Unified Development Code of the San Juan County Code, the purpose for this designation is:

- a. To accommodate commercial services and light industrial or construction related activities as well as accessory office and retail sales related to such services and activities which may not be appropriate within the Village Commercial District.
- b. To accommodate the existing airport-related facilities and services which are located outside of the Airport Use District.
- c. To concentrate the above uses around the Eastsound airport where they have already been established.
- d. To concentrate the above uses in a manner that will enable efficient use of the transportation system.
- e. To prohibit new residential development other than residential units accessory to a commercial or industrial use and located within a commercial or industrial building.

DESCRIPTION OF THE SURROUNDING NEIGHBORHOOD

The land use designation to the north and west is Eastsound Residential 4 to 12 units per acre and is developed with high-density residential use. To the south and east the land use designation is SLI, the same designation as the subject property. Existing development in the SLI contains private aircraft hangars with accessory residential use.

DESCRIPTION OF THE APPLICATION

Inter-Island Propane provides propane delivery service in the San Juan Islands. They are proposing to install a 30,000-gallon propane storage tank and required fencing at 27 Aeorview Lane in Eastsound to more efficiently serve their clientele on Orcas.

They plan to improve the land for a fenced and screened propane storage and distribution center. Within the secured area will be a new, self-contained 30,000-gallon propane storage tank, empty consumer-sized propane tanks, and parking for trucks used to transport propane and customer tanks. The storage tank is pre-built on skids, and the tank, pump and piping are built to meet and exceed National Fire Protection Agencies—NFPA 58, which is the industry standard for safe LP Gas storage, handling, transportation, and use. The tank is designed to sit directly on a level graveled ground or a concrete slab. They propose a 12' x 80' slab using less than 33% of the lot. This proposal also includes bringing in power from Seaview Lane along the west property line to the storage tank. The power would be used to run the pump installed on the tank and to provide low impact security lighting. Extensive vegetation is currently located around the west and north sides of the property. There will be a twenty foot buffer of natural vegetation from the edge of Seaview Lane (west side).

There will be no buildings constructed and they do not intend to have any retail business or activity. All business activity will be directed to their main office in Friday Harbor.

STAFF ANALYSIS

SJCC 18.30.460 Eastsound subarea land use regulations.

Table 2 in SJCC 18.30.460 shows the allowed industrial uses by Eastsound land use district. Bulk fuel storage is listed as an allowed use in the Service and Light Industrial district by conditional use permit. The definitions in SJCC 18.20.020 define bulk fuel storage as "the storage of fuel in structures or tanks for subsequent wholesale distribution".

SJCC 18.30.500 Table 12—Service and Light Industrial District

This table identifies the development standards for the service and light industrial district, which is the district this proposal will be located in.

1. Maximum building height is 35 feet.

There will be no buildings on the site.

2. No structure shall be built within 40 feet of the centerline of the public right of way.

See #1, above.

3. Side and rear yard setbacks are 10 feet from the property line.

Although no actual building will be constructed, the propane tank will require a building permit. Appropriate setbacks will be verified when the building permit is reviewed. Setbacks greater than specified in this section will be required per the International Fire Code and will be a requested condition of approval.

4. Utilities are required to be placed underground.

The applicant plans to do so.

5. Outdoor storage must be screened from view from adjoining properties, roads and the shoreline. The screening must be no less than five feet high consisting of fencing, evergreen vegetation or other similar materials. Outdoor storage related to allowed nonresidential use must be screened before an occupancy permit will be issued.

Screening of outdoor storage will be provided by a 120' x 120' chain link fence with green screening slats.

6. At least 5 percent of the lot must remain in open space (area not occupied by buildings, parking and driveways. It must be maintained in a natural condition or landscaped. Permit applications shall specify open space and identify landscape features.

The plan is to use 14,400 square feet of the 43,666 square foot property (33%), leaving 29,266 square feet of open space (67%).

7. No more than 60 percent of the lot may be covered by buildings, parking and driveways.

Approximately 33% of the property will be used, but no buildings are planned.

8. New development must be designed to conserve natural site features to the extent possible. Landscaped buffers are required along public street frontage in all new development, and screening is required between existing residential uses and new, nonresidential developments. In addition to the landscaping requirements listed in SJCC 18.30.670(D), a landscaping strip with a minimum width of 20 feet must be provided along the entire primary road frontage of the site and along any property line abutting any residential district. The landscaping strip must include evergreen trees.

Public street frontage: Seaview Lane is to the west. A landscaping strip at least 20 feet wide must be provided along this property line and along the north and south property lines, which are developed for residential use. The property to the east is considered an aircraft transportation use so no landscaping is required, but there appears to be a considerable amount of vegetation present which could be left in place to provide a certain amount of screening for that neighbor.

9. No approved use may generate ground vibration perceptible without instruments at any point along or outside of the property line of the site of the use, except for motor vehicle operations.

The propane storage tank will not generate any ground vibration.

10. All development in this district must comply with the Federal Aviation Regulations Part 77, relating to heights of land uses proximate to airports and protection of airspaces critical to airport operations.

The proposed development is in the vicinity of but not proximate to the Eastsound airport.

11. Any use, which is allowable under a conditional use permit, on a lot adjacent to or across the street from a residential dwelling (except nonconforming residences), a lot in a platted subdivision, or a residential designation in the subarea plan must not emit continuous and/or uninterrupted noise, glare, flashing lights, or similar disturbances perceptible without instruments more than 200 feet in the direction of the affected residential use or lot.

The proposed use is propane storage and distribution and has a residential lot adjacent and across the street. No continuous and/or uninterrupted noise, glare, or flashing lights will be associated with this use. There will be intermittent engine noise from the propane filling and delivery trucks, but it will not be continuous and uninterrupted. The noise will be generated when trucks are being warmed up for delivery on Orcas or when the storage tank is being filled. There will also be noise from a crane truck when it lifts customer tanks onto a flatbed. Again, this will be short and intermittent. The use will be during daylight times only. Glare from the truck lights is also generated, though neither the noise nor glare are continuous or uninterrupted. The large natural buffer to the west and north, along with 5 feet of fencing, will assist in any intermittent noise or glare generated. A security light is proposed to be installed adjacent to the tanks. The light would be on at night in order to illuminate the tanks for security purposes. The light will be shielded to minimize glare to adjacent properties.

12. No approved use may generate or cause any visible smoke, gases, dust, steam, heat or odor to be emitted into the atmosphere, except as necessary for the heating or cooling of buildings, and the operation of motor vehicles on the site. Air emissions are allowed for emergency power generation.

The proposed storage tank will not produce any visible smoke, gasses, dust, steam, heat, or odor to be emitted into the atmosphere. Propane will be stored in the tanks and transferred to trucks for distribution to consumers upon demand.

SJCC 18.30.660 Signs.

No signs are proposed at this time. If in the future the applicants decide they want signs, they must meet the requirements in the applicable section of code in effect at that time.

SJCC 18.30.670 Design standards.

Buildings are not proposed so the first three sections of the design standards do not apply to this proposal. Part D lists the requirements for landscaping.

- D. Landscaping. Landscaping required by the Eastsound subarea plan shall be designed, installed and maintained in conformance with the following provisions:
 1. Types. Landscaping required by this plan is one of the following three types:
 - a. Screening. Screening is to provide a visual barrier at least five feet high. When screening is specified, landscaping shall generally consist of a mix of evergreen groundcovers, trees and shrubs. Shrubs shall be at least two feet tall at the time of planting and, if shrubs (or hedges) are to provide the majority of the screen, shall have a minimum height of five feet at maturity. Trees shall be at least four feet tall at the time of planting and all plants shall be spaced so as to grow together within three years of planting to achieve a sight-obscuring screen of at least 80 percent opacity.

Required screening shall be at least five feet deep. Existing vegetation, walls, fences or grading (maximum slope three to one) may be incorporated into the design of the screen if they contribute to the intent of this requirement.

SJCC 18.30.500 Table 12 requires a landscaping strip along public street frontage in all new development, and screening is required between existing residential uses and new, nonresidential developments. The north and south bordering properties are residential, so screening is required, but the requirements for screening in the table are more specific and shall be followed.

- b. Landscaped Buffers. A buffer is a separation, but not necessarily a visual barrier. When landscaped buffers are specified, landscaping shall generally consist of a mix of evergreen and deciduous groundcovers, trees and shrubs, chosen and spaced to cover the buffer area within three years of planting. However, buffers required along public streets shall consist of walkways, groundcovers, shrubs and deciduous trees only. Buffers shall be at least eight feet wide for the length required unless specified otherwise in the Eastsound subarea plan. Deciduous trees shall have a minimum trunk diameter of one and one-half inches at planting and be spaced so that branches will touch after 10 years of normal growth. Along public streets such buffers shall include at least one tree for every 30 feet of lineal street frontage. Existing vegetation, walls, fences or grading (maximum slope three to one) may be incorporated into the design of the buffer if they contribute to the intent of this requirement.

As noted in Table 12 of SJCC 18.30.500, a landscaped buffer is required along public street frontage in all new development. The requirements in that table are more specific and shall be followed.

- c. Open Space Landscaping. Open space may be natural or landscaped including grass, paved walkways and open decks, but does not include parking areas or driveways. Ten square feet of open space is required.

Approximately 67% of the property will be open space with natural vegetation left in place.

2. Maintenance. The property owner and any tenant is responsible for maintenance of all landscaping required by the Eastsound subarea plan, which shall be maintained in good condition so as to present a healthy appearance. All landscaped areas required by the Eastsound subarea plan shall be provided with a readily available water supply. Tree limbs are not allowed to extend over walkways or driveways below a height of eight feet above grade.

3. Plant Selection. Plant varieties selected to fulfill requirements of the Eastsound subarea plan shall be of a type suitable to the climate and site conditions.

Where the director determines a proposed landscaping plan will not meet screening and buffer development standards in subsection (D)(1) of this section, the director may require that plant lists and design for required landscaping be reviewed or prepared by a landscape architect.

SJCC 18.30.680 Standards for new and substantially altered development.

A. Applicability. The regulations in this section apply to all new development and all substantial alterations within the urban growth area (UGA). A substantial alteration is where the total cost of all alterations (such as electrical, mechanical, plumbing, and structural changes) for a building or facility within any 12-month period or single development permit application amounts to 50 percent or more of the value of the building or facility. In determining the current value of the building or facility, the assessor's fair market value, or a current appraisal by a qualified professional, may be used.

B. General Regulations. See SJCC 18.60.240, *below*.

SJCC 18.30.690 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 lot. 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. 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. An exception to the exterior lighting standards applies to holiday lighting between October 15th and February 15th.

A security light is proposed adjacent to the tanks. The light would be on at night in order to illuminate the tanks for security purposes. The light would be shielded to minimize glare to adjacent properties.

Lighting shall comply with the standards in SJCC 18.60.170:

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.

18.35.020—140 Critical areas.

The only critical area on this site is a critical aquifer recharge area. Since there are no buildings, no chemicals will be stored or used on site that pose a threat to the aquifer.

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.

No retail sales and services are proposed.

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.

No such uses are proposed.

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. *NA*

C. Concrete Batch Plants – Additional Standards. *NA*

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.

There will be no operations other than loading and unloading, so no building is required. Noise and emissions have been addressed and will meet these standards.

SJCC 18.40.420 Tank farm facilities.

The following standards apply to all tank farm facilities:

- A. 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.

Since the applicant does not plan for any buildings, water and sewage disposal are not proposed.

- B. All tank farm facilities must meet the site standards for industrial uses (SJCC18.40.280).

These standards are addressed above.

- C. Type A screening (SJCC18.60.160) shall be provided.

The Eastsound subarea plan has specific landscaping and screening standards that are addressed above.

- D. All tank farm facilities must comply with applicable state and federal standards.

According to a memo from the Office of the Fire Marshal dated June 27, 2017:

Propane is a liquefied petroleum gas that is defined as a "Flammable liquefied gas" for the purposes of regulation under the International Fire Code (IFC). The storage container and distribution facility is subject to the requirements of Chapters 50, 57, and 61 of the IFC, and NFPA 58. Per NFPA 58, the facility that stores LPG in containers of more than 4,000 gallons is a "Bulk Plant".

His memo contains seven recommended conditions of approval to ensure compliance with the applicable standards. These recommendations are in the conditions of approval section of this staff report.

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.

D. New Development Minimum Requirements.

1. New development that includes (a) the creation or addition of 5,000 or more square feet of impervious surface and (b) land-disturbing activities of less than one acre shall comply with minimum requirements 2 through 11 in Sections I-2.6 through I-2.15 of the SMM, and the small parcel minimum requirements of subsection (C) of this section.
2. New development that includes (a) the creation or addition of 5,000 or more square feet of impervious surface, and/or (b) land-disturbing activities of one acre or more, shall comply with minimum requirements 1 through 11 in Sections I-2.5 through I-2.15 of the SMM, and a stormwater site plan shall be prepared.
3. Stormwater Site Plan. A stormwater site plan required by subsections (D)(2), (E)(1) or (2) of this section shall be developed to the standards of Sections I-3.4 and I-3.5 of the SMM, and include:
 - a. Project overview;
 - b. Plot plan, including the elements of subsection (C)(2) of this section and:
 - i. Locations of structures and other impervious surfaces;
 - ii. Locations of stormwater runoff control facilities;

- iii. Road rights-of-way and easements;
- c. Preliminary conditions summary;
- d. Analysis of off-site water quality impacts (including groundwater) resulting from the project, and mitigation measures;
- e. Analysis and design of proposed stormwater runoff control facilities, including treatment and source control BMPs (cf. Section I-4 of the SMM, which provides a list of and selection process for BMPs);
- f. Erosion and sediment control plan;
- g. Special reports and studies;
- h. Stormwater and drainage system maintenance and operations manual.

At the time of building permit application, the applicant will need to determine how much new impervious surface will be created and what level of stormwater plan will be required.

18.60.240 Standards for new and substantially altered development – Eastsound and Lopez Village urban growth areas.

- A. Applicability. All new development, and all substantial alterations, within the urban growth areas of Eastsound and Lopez Village.
- B. General Regulations.
 - 1. All development subject to this section that is not served by the existing public sewage treatment system:
 - a. Must have sewer capability that meets the design specifications of the sewer district systems for later connection;
 - b. Must connect to the public system within one year of such service becoming available to the development.

No buildings are proposed, so no connection to the sewer system is proposed.

- 2. All development subject to this section that is not served by an existing community Class A water system must connect to the community Class A water system within one year of such service becoming available to the development.

No water connection is proposed.

- 3. For all development subject to this section the applicant must execute and record with the auditor a statement, binding on the owner, successors, heirs, and assigns, which provides that the owner will not object to the formation of a utility local improvement district for water or sewer.

There already exist public water and sewer companies in Eastsound, so this regulation does not apply.

4. Development and associated improvements and structures shall be located on the property so that they shall not preclude future potential development at a density of four units per acre or greater.

The Service and Light Industrial district does not allow residential development except when it is accessory to an allowable use. However, since no residential structures are proposed, this standard can be met without having to show it on the site plan.

5. Land divisions shall provide remainder lots that will allow an average density with the division of four units or greater.

No land division is involved, so 5 and 6 are not applicable.

6. The following note shall be on the face of the plat of all subdivisions and short subdivisions, and on all deeds filed as part of an exempt division:

This land division is located within an urban growth area.
This land division has been designed in a manner to allow the future redivision to achieve an average density of four homes per acre.

7. Development applications are exempt from the requirements of subsections (B)(4) through (6) of this section where:
 - a. Commercial development is both within a land use district that does not prohibit residential development or limits it to accessory use, and the area available for future development is less than 0.5 acre.
 - b. Residential development will achieve a residential density of four units per acre or greater.
 - c. Development is within a land use district or density designation that has been indicated on the official maps as not requiring planning to maintain the potential to develop residential densities of four units per acre or greater.

SJCC 18.80.030(A)(2)(a) requires publication of a notice of application.

A notice of application was published May 24, 2017. It was republished on May 31, 2017 to include the SEPA determination of non-significance (DNS). Attachment 5.

- **SJCC 18.80.030(A)(2)(b)&(c)** require notification of the application to all property owners within 300 feet of the subject property and posting of the notice of application on the subject property.

The applicant submitted an affidavit of posting stating that he posted the subject property on May 24, 2017 and a declaration of mailing stating he mailed the notice of application on May 24, 2017 verifying that the property has been posted and that neighboring properties within 300 feet have been notified of the application. Attachment 6.

- **SJCC 18.80.100(D). Conditional Use Permits – Criteria for Approval.** 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;

This proposal can be conditioned to be consistent with the Eastsound Subarea Plan, the SJCC and 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;

It is consistent with the goals and policies of the Service and Light Industrial land use designation which is to accommodate commercial services and light industrial or construction related activities, as well as accessory office and retail uses which are an integral and necessary part of those uses.

3. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;

The concerns raised by other residents in this neighborhood detail how the proposed use could cause significant adverse impacts to the human and natural environment. The applicant has done a great deal of outreach to the neighbors to try to alleviate those concerns. The Fire Marshal's recommended conditions of approval address some of those concerns. Exhibit 7.

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;

It would seem that Orcas Island can only support a limited number of propane distribution and storage areas, so additional requests for a propane business are likely limited as is property in a land use designation where bulk fuel storage is allowed.

5. The proposal will be served by adequate facilities including access, fire protection, water, stormwater control, and sewage disposal facilities;

According to the Eastsound Water Users Association (EWUA), there are five hydrants located within 300-550 feet of the property and the Eastsound fire

station is located less than one-half mile away. Potable water is available from EWUA, but since no structures are being erected, they have no need for water or sewage disposal. At a minimum, a stormwater construction pollution prevention plan will be required at the time of building permit application. Depending on the amount of new impervious surface created by the driveway, parking area and storage area, a stormwater management plan may also be required.

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;

No buildings are proposed, nor is vegetation removal.

7. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood;

There will be a slight increase in traffic generated by this proposal. The applicant foresees delivery to the tank about once every two weeks. Delivery trucks to service customers will use the access road once or twice daily.

8. The proposal complies with the performance standards set forth in Chapter 18.40 SJCC;

The performance standards for site development for industrial uses, outdoor storage yards, and tank farm facilities address such standards as compliance with federal, state, and county safety requirements, provisions for water supplies, wastewater, and sewage disposal facilities, incidental retail sales, impacts to adjoining property owners, screening, and protection of the public health, safety, and welfare. This proposal is in compliance with the site development standards in the Eastsound subarea plan which is consistent with those in Chapter 18.40.

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

This parcel is near, but not adjacent to, an airport.

10. The proposal conforms to the development standards in Chapter 18.60 SJCC.

Again, since this parcel is in Eastsound, the development standards are found in SJCC 18.30.500 Table 12, and it conforms to those standards.

APPLICATION PROCESSING PROCEDURES

- Date Application Submitted: May 12, 2017
- Date Application Complete: May 12, 2017

SEPA

A DNS was issued on May 31, 2017, Attachment 2. The material identification number is 201702801. The comment deadline was June 14, 2017. We received no comments on the SEPA determination.

NOTICING

- Published: May 24 and May 31, 2017
- Mailed: May 24, 2017
- Site Posted: May 24, 2017

AGENCY COMMENT

A total of three agencies or groups were asked to review the proposal and make comments if they had any. We received comments from the Fire Marshal (Attachment 7) and the Eastsound Planning Review Committee (contained in Attachment 11).

- In a memo dated June 27, 2017, the Fire Marshal stated that the proposal is subject to the requirements of Chapters 50, 57, and 61 of the IFC, and NFPA 58 as a "bulk plant". He recommended seven conditions of approval that would ensure compliance with the specific codes. These include:
 - 1) Prior to any construction activities on the site, the following is required:
 - a) A building permit that includes construction plans for the foundation and the container shall be submitted and approved by the Department of Community Development.
 - b) An operational fire permit is required to be submitted to and approved by the Fire Marshal for the Bulk Plant. A written operations and maintenance manual (O&M) meeting the requirements of NFPA 58 Chapter 14 shall be submitted to the Fire Marshal's Office prior to an operational permit being issued. The O&M requirements include Fire Response.
 - c) Installation of the container, the container specifications and valves, filling station, and equipment on trucks utilizing the site shall meet the requirements of National Fire Protection Association (NFPA) 58 and the IFC.
 - 2) The container shall meet the setbacks from property lines and public ways per IFC Table 6104.3. A 30,000 gallon container is required to be setback at least 50 feet from property lines and public ways per IFC Table 6104.3.
 - 3) A designated fire truck turn-around/fire land must be provided on site.
 - 4) Bollards or other approved collision prevention devices must be installed in compliance with NFPA 58 and the IFC.
 - 5) Prior to Occupancy, a Fire and Life Safety Inspection is required. This will be conducted after or concurrently with acceptance testing of the site in the presence of the Fire Marshal and a designee of the Orcas Island Fire and Rescue Fire Chief.

- 6) Prior to occupancy, hydrants shall be installed meeting the requirements of SJCC 13.08 including:
 - a) A hydrant installed on the corner of Seaview and Aeroview to fulfill the hydrant distance minimums outlined in SJCC 13.08.080.
 - b) The hydrant must be tested and demonstrate that it can meet the commercial hydrant flow for this site per SJCC 13.08.010 which is 500 gallons per minute for 60 minutes.
- 7) If the property is to be gated or fenced, a Knox key box system shall be installed allowing firefighters access to the site.

He also made an additional recommendation:

- 1) A fire suppression system to apply water to cool the container in the event of fire is recommended. This would supplement the efforts of firefighters and would likely reduce the magnitude of an emergency, should one arise. This recommendation is due to Orcas Island Fire District's dependence on volunteer firefighters, in conjunction with the consideration that mutual aid is not readily available due to our island location. This system should be designed in such a manner as to allow firefighters to unlock a valve to a suppression system and activate the water cooling system.
- The chair of the Eastsound Planning Review Committee (EPRC) stated that they discussed the proposal to install a 30,000 gallon propane tank at 27 Aeroview Lane at its June meeting. They have the following comments:

While bulk fuel storage facilities are allowed upon approval of a conditional use permit in the service and light industrial designation, the EPRC is concerned about locating a large fuel tank in close proximity to relatively high density residential neighborhoods and to airport facilities. Residential uses are located on all side of the proposed use. Airport facilities with fuel storage are also located adjacent to the site to the east. Ingress and egress is limited to a single road. Should there be an explosion, fire, or other safety-related mishap, the ability to evacuated residents and bring in emergency personnel could be severely restricted to the single point of ingress and egress.

The proposed use is required to be screened on all sides in order to provide a visual buffer from residential uses.

Due to the proximity to residential uses and a single point of ingress and egress, the EPRC found that the project would be more appropriately located away from higher density residential uses. The EPRC recommends that the applicant demonstrate provisions for safety measures to ensure protection of people living in the nearby neighborhoods, including emergency provisions for evacuation and access by emergency personnel. If such provisions cannot be adequately demonstrated, the application should be denied.

PUBLIC COMMENT

We received approximately thirty comments on this application. They are listed in the table in Attachment 11 by date received. Most of these people live in or near the neighborhood. There are safety concerns because of previous emergencies in similar circumstances; concerns about noise from the trucks; increased insurance rates; proximity to the airport and hangars; concerns about increased traffic in the residential neighborhood; there are existing facilities; too close to homes; unattractive and detract from community; questions about Orcas ability to respond to a leak; difficult to evacuate in case of emergency; foul smell of gas; decrease property values; noise and light pollution; street maintenance; danger to children and pets due to increased traffic; and it imposes danger to the community garden located in the vicinity.

There were a few suggestions: Fire and EMS should provide mitigation measures; the number of daily truck trips should be limited; and safety measures and provisions for evacuation should be developed.

The applicant responded to each of the people who submitted comments, offering to meet to discuss their concerns and how he might be able to calm those fears. He did meet with some of them in late June and has another community meeting scheduled for July 5. His comments are contained in Attachment 12.

CONCLUSION

This application to install a 30,000 gallon propane storage tank and to install underground utilities meets the criteria for a conditional use permit as set forth in SJCC 18.80.100(D).

STAFF RECOMMENDATION

Approve the application with the following conditions:

1. A landscaping strip at least 20 feet wide must be provided along the frontage of Seaview Lane.
2. A landscaping strip at least 20 feet wide must be provided along the north and south property lines.
3. The property owner and any tenant is responsible for maintenance of all landscaping required by the Eastsound Subarea Plan, which shall be maintained in good condition so as to present a healthy appearance. Tree limbs are not allowed to extend over walkways or driveways below a height of eight feet above grade.
4. Lighting shall comply with the standards in SJCC 18.60.170.
5. No retail sales or services are allowed on site.
6. 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.
7. Fire Marshal conditions:
 - 1) Prior to any construction activities on the site, the following is required:

- a) A building permit that includes construction plans for the foundation and the container shall be submitted and approved by the Department of Community Development.
 - b) An operational fire permit is required to be submitted to and approved by the Fire Marshal for the Bulk Plant. A written operations and maintenance manual (O&M) meeting the requirements of NFPA 58 Chapter 14 shall be submitted to the Fire Marshal's Office prior to an operational permit being issued. The O&M requirements include Fire Response.
 - c) Installation of the container, the container specifications and valves, filling station, and equipment on trucks utilizing the site shall meet the requirements of National Fire Protection Association (NFPA) 58 and the IFC.
- 2) The container shall meet the setbacks from property lines and public ways per IFC Table 6104.3. A 30,000 gallon container is required to be setback at least 50 feet from property lines and public ways per IFC Table 6104.3.
 - 3) A designated fire truck turn-around/fire land must be provided on site.
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 - 5) Prior to Occupancy, a Fire and Life Safety Inspection is required. This will be conducted after or concurrently with acceptance testing o the site in the presence of the Fire Marshal and a designee of the Orcas Island Fire and Rescue Fire Chief.
 - 6) Prior to occupancy, hydrants shall be installed meeting the requirements of SJCC 13.08 including:
 - a) A hydrant installed on the corner of Seaview and Aeroview to fulfill the hydrant distance minimums outlined in SJCC 13.08.080.
 - b) The hydrant must be tested and demonstrate that it can meet the commercial hydrant flow for this site per SJCC 13.08.010 which is 500 gallons per minute for 60 minutes.
 - 7) If the property is to be gated or fenced, a Knox key box system shall be installed allowing firefighters access to the site.
8. Development authorized by this permit shall be 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 decision making authority if the permittee demonstrates good cause for an extension.

ATTACHMENTS

1. Request for review
2. Determination of non-significance
3. SEPA environmental checklist
4. Application materials
5. Legal notice for May 24 and 31, 2017
6. Posting and notification requirements
7. Fire Marshal memorandum dated June 27, 2017

8. Meeder Ransome letter dated June 15, 2017
9. Gibson Energy letter dated June 19, 2017
10. Meeder Ransome letter dated June 20, 2017
11. Comment letters from the public listed by date received
12. Comments and responses from the applicant listed by date received
13. Email dated July 2, 2017 from the applicant to the neighbors inviting them to the July 5, 2017 community meeting



San Juan County Community Development & Planning

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 (360) 378-2354 | (360) 378-2116 | Fax (360) 378-3922 | www.sanjuan

REQUEST FOR REVIEW

Attachment 1

Applicant Name and File #: Inter Island Propane ^{PCUPOD-17-0018} DATE: 5-31-17

Please review the application materials and return written comments to Jillie by 6-14-17.
 If you request additional information or materials from the applicant, please notify SJC Community Development & Planning in writing.

State Agencies	
<input type="checkbox"/>	Dept. of Archaeology
<input type="checkbox"/>	Dept. of Agriculture – Kelly McLain
<input type="checkbox"/>	Dept. of Commerce
<input checked="" type="checkbox"/>	Dept. of Ecology/SEPA
<input type="checkbox"/>	Dept. of Ecology/Shoreline – Bob Fritzen
<input type="checkbox"/>	Dept. of Fish and Wildlife – Doug Thompson
<input type="checkbox"/>	Dept. of Fish and Wildlife - SEPA
<input type="checkbox"/>	Dept. of Health – Kelly Cooper
<input type="checkbox"/>	Dept. of Health - Shellfish
<input type="checkbox"/>	Dept. of Natural Resources – SEPA
<input type="checkbox"/>	Dept. of Natural Resources – NW Region
<input type="checkbox"/>	Dept. of Social & Health Services –Terri Sinclair-Olson
<input type="checkbox"/>	Dept. of Transportation Env Svcs – Roland Storme
<input type="checkbox"/>	Dept. of Transportation – Ferries – Robert Price
<input type="checkbox"/>	Energy Facility Site Evaluation Council–Stephen Posner
<input type="checkbox"/>	Interagency Committee on Outdoor Recreation
<input type="checkbox"/>	Parks and Recreation Commission
<input type="checkbox"/>	Puget Sound Partnership
<input type="checkbox"/>	UW-Friday Harbor Labs, Director
<input type="checkbox"/>	UW-Real Estate Office, Property Rights Manager
<input type="checkbox"/>	Washington State Parks NW Region
Tribal Agencies	
<input type="checkbox"/>	Lummi Historic Preservation Office
<input type="checkbox"/>	Lummi Natural Resources – Alan Chapman (Shoreline)
<input type="checkbox"/>	Samish Indian Nation – Jackie Ferry
<input type="checkbox"/>	Swinomish Tribal Commission – Tim Hyatt
<input type="checkbox"/>	Tulalip, Natural Resources
County Agencies	
<input type="checkbox"/>	San Juan County Council
<input type="checkbox"/>	San Juan County Planning Commission
<input type="checkbox"/>	San Juan County Prosecutor – Amy Vira
<input type="checkbox"/>	San Juan County Assessor
<input type="checkbox"/>	San Juan County Community Development & Planning
<input type="checkbox"/>	Chief Building Official – Fred Schaller

County Agencies (Cont.)	
<input type="checkbox"/>	San Juan County Engineer
<input type="checkbox"/>	San Juan County Health Dept – Kyle Dodd
<input type="checkbox"/>	San Juan County Parks Dept – Dona Wuthnow
<input type="checkbox"/>	San Juan County Dept of Emergency Management
<input checked="" type="checkbox"/>	San Juan County Fire Marshal – Richard Meyers
<input type="checkbox"/>	Fire Districts (Indicate: #2, #3, #4, or all)
Town, Utilities, & Utility Districts	
<input type="checkbox"/>	Town of Friday Harbor – Mike Bertrand
<input type="checkbox"/>	Eastsound Sewer District
<input type="checkbox"/>	Eastsound Water Users
<input type="checkbox"/>	Fisherman Bay Sewer Association
<input type="checkbox"/>	Fisherman Bay Water Association
<input type="checkbox"/>	Rosario Water Association
<input type="checkbox"/>	OPALCO
<input type="checkbox"/>	CenturyLink
Schools and Libraries	
<input type="checkbox"/>	School District: Lopez Orcas San Juan Shaw
<input type="checkbox"/>	Libraries: Lopez Orcas San Juan Shaw
Other	
<input type="checkbox"/>	San Juan Conservation District
<input type="checkbox"/>	SJC Noxious Weed Control Board
<input type="checkbox"/>	San Juan County Parks Board – Dona Wuthnow
<input checked="" type="checkbox"/>	Eastsound Planning Review Committee
<input type="checkbox"/>	Deer Harbor Plan Review Committee
<input type="checkbox"/>	Lopez Village Plan Committee

Distribution completed by:

Synda Greensey

Date:

5/31/17