



SAN JUAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT

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

**FINDINGS, DECISION AND CONDITIONS OF APPROVAL FOR
FRIENDS OF HUNA ALLIANCE RELIGIOUS ASSEMBLY
CONDITIONAL USE PERMIT**

SJC DEPARTMENT OF
JUN 21 2019
COMMUNITY DEVELOPMENT

FILE NUMBER: PCUP00-18-0026

OWNER/APPLICANT: HUNA ALLIANCE
C/O JAMES "WILL" McCLURE
PO Box 1462
EASTSOUND, WA 98250

AGENT: FRANCINE SHAW
PO Box 868
FRIDAY HARBOR, WA. 98250

APPLICATION: CONDITIONAL USE PERMIT FOR A "RELIGIOUS ASSEMBLY" USE ON A
PROPERTY LOCATED IN A 'FOREST RESOURCE 20' LAND USE
DESIGNATION

SITE ADDRESS: 147 ALLIANCE WAY, ON ORCAS ISLAND

TAX PARCEL NUMBER: 260341002

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

SUMMARY OF DECISION: *APPROVED – SUBJECT TO CONDITIONS*

DATE OF DECISION: JUNE 21, 2019

I. INTRODUCTION

The applicant, Huna Alliance is a registered and state-recognized religious organization. The Staff Report and application materials explain that the pending application has been filed for two purposes: 1) to determine whether a religious assembly facility is allowed in the proposed location; and 2) the characteristics/scale of the proposed development and conditions that will apply if it is to go forward. The application was the subject of two public notice and comment opportunities, which generated written responses that are included in the record. Thus, all public notice requirements and comment periods were satisfied. Staff reviewed the application and determined that it conforms to applicable codes and policies, and merits approval, subject to conditions. The project was subject to SEPA review, which resulted in a Determination of Non-Significance that was not opposed or appealed. Opposition to the project focused mostly on concerns about access, and access rights held by the property owner. At the public hearing, the Examiner provided the applicant an opportunity to supplement the record with legal instruments or other documents to address the access concerns expressed by project opponents. In the weeks following the hearing, the applicant submitted copies of easements, Title records, surveyor comments, and the like, all of which confirmed access and rebutted challenges made at the hearing. Those materials are now included as part of the record as Exhibit 8. (*Staff Report; Ex. 1b, Articles of Incorporation, organizational documents; Ex. 1d, SEPA DNS; Exs. 2 and 5, re: notices; Ex. 8, easements and documents verifying access rights*). Based on the record, the pending application satisfies applicable approval and review criteria and is approved, subject to conditions, as explained in this Decision.

II. CONTENTS OF RECORD

TESTIMONY AT PUBLIC HEARING:

All witnesses who spoke at the public hearing held on February 27th provided testimony under oath. Colin Maycock, one of the County's planners assigned to review the pending application, briefly summarized his review, proposed conditions, and recommendation of approval. Francine Shaw appeared at the public hearing with Will McClure. They offered sworn testimony, verifying application materials, noting the applicant is a state-registered religious organization and a certified non-profit religious entity. Sheila Schedlbauer, an adjacent property owner, spoke at the hearing in opposition to the proposal, and provided a letter that is included in the record. She expressed sincere concerns about access, the narrow road that might be used to access the site, potential traffic impacts and the like. The Examiner held the record open for receipt for supplemental materials addressing access issues raised during the hearing. Those are now included as Ex. 8. A digital recording of the public hearing and copies of all exhibits included in the record are maintained by the County and available for review under county public record policies.

EXHIBITS:

1. Staff Report, with attached Exhibits 1a-1k, and 2 through 6, as described and numbered on page 29 of the Staff Report;
7. Additional written public comments provided to the Examiner at the public hearing, including emails/letters from S. Franklin and L. Somme; H. Malone; and the Schedlbauers; and
8. Collection of post-hearing records submitted on behalf of the applicant confirming access to the site, including: a summary of existing easements prepared by Chicago Title; map of the area showing access from two county roads, Pinneo and Dolphin Bay; review of the existing easements by San Juan title; map showing the segments of Kurth Road that addressed by each of the easements; review of the easements by a professional surveyor attesting that the existing easements provide access to the parcel; map of the area, with several photographs showing road improvements.

III. APPLICABLE LAW

Jurisdiction.

Under SJCC 18.80.090(C), if a development application is processed as a Conditional Use Permit application, “the Hearing Examiner is the decisionmaker.” SJCC 18.80.100(C), captioned “Decisionmaking Authority”, provides that “[t]he hearing examiner has the authority to approve or deny conditional use permit ... applications, and to impose conditions of approval on such permits.”

Conditional Use Permit required for “Religious Assembly Facility” in the Forest Resource land use district.

There is no dispute that the site of the proposed religious assembly facility is on a parcel of land designated by the County as Forest Resource 20. SJCC 18.30.040 includes a table that clearly lists “Religious assembly facility” as a land use that is allowed by a conditional use permit in the “FOR” [Forest] land use designation.

Standards for Assembly Facilities; Criteria for CUP approval.

San Juan County’s Unified Development Code includes specific standards that apply to all Assembly Facilities, such as that proposed in this application, found in SJCC 18.40.060. The Criteria for approval of a Conditional Use Permit are found at SJCC 18.80.100(D).

Burden and Nature of Proof.

Under SJCC 18.80.040(B), “[t]he burden of proof is on the project permit applicant. The project permit application must be supported by evidence that it is consistent with the applicable state law, County development regulations, the Comprehensive Plan, and the applicant meets his burden of proving that any significant adverse environmental impacts have been adequately analyzed and addressed.”

IV. ISSUE PRESENTED

Whether a preponderance of evidence demonstrates that the applicant has satisfied its burden of proof to meet the criteria for approval of the requested Conditional Use Permit?

Short Answer: Yes, subject to conditions.

V. FINDINGS OF FACT

1. Upon consideration of all the evidence, exhibits, testimony, codes, policies, regulations, and other information contained in the file, the undersigned Examiner issues the following findings, conclusions and Decision approving the requested Conditional Use Permit as set forth below.

2. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such, including without limitation the Introduction provided above.

3. The applicant submitted the pending application to the San Juan County Community Development & Planning Department on or about September 24, 2018, followed by additional substantive documentation. The application was deemed complete for purposes of review and vesting on or about October 4, 2018. (*Staff Report at page 25; and Exhibits 1a – 1k, collection of application materials*).

4. As specified in the application materials and Staff Report at page 2, the project proposed in this application is limited in scale and characteristics as follows:

- A 1,416 square foot religious assembly facility, comprised of a 1,200 sq.ft. building, with 600 sq.ft. of assembly space, and 216 sq.ft. for restroom facilities;
- Off-street parking lot for up to 12 vehicles, no larger than 3,570 sq.ft.;
- A walkway no larger than 236 sq.ft.;
- A 240 sq.ft. apron;

- An onsite septic waste disposal system; and
- A “Group B” water system.

5. The Staff Report confirms that notices and publication required for the application were provided in accord with applicable county requirements, noting that there were actually two notice and comment periods for this matter.

6. After reviewing the applicant’s SEPA Environmental Checklist and other relevant materials, County staff issued a Determination of Non-Significance for the project on or about October 10, 2018, which was not appealed. *Staff Report, at page 25; Exhibits 1d, SEPA Checklist and DNS.*

7. Written comments from neighbors or other adjacent property owners generally opposing the project are included in the record. *See Exhibits 4 and 7.* Most comments expressed general concerns about the proposed use in the forested area and questioned whether the property owner has access to/from the site, and whether such access is adequate to serve the proposed facility. The applicant submitted copies of easements, Title records, surveyor comments, and legal instruments that rebutted general challenges regarding access issues to the site.

8. The application materials and the Staff Report show that the proposed facility is not expected to generate more than 12 round trips, up to twice a week (on average). Staff appropriately concluded that a facility and meeting schedule of such a limited period and scale would not cause adverse impacts on the surrounding area. To ensure traffic impacts do not pose a problem, the Director shall have discretion and authority to impose additional conditions deemed necessary to mitigate impacts caused by any additional celebrations, events, or seminars at the facility that generate traffic in excess of 12 round trips, up to twice a week. Obviously, if the facility is to be used more frequently, and with heavier attendance than that described in the application materials, this permit shall be void, and a new Conditional Use Permit shall be required, to assure that the proposed use will not cause significant adverse impacts like congestion, shared-access problems, emergency access problems, appropriately sized water supply and septic system capacity, and the like.

9. The Staff Report explains that water and septic system service will be required for the new facility, and that such systems should be reviewed and approved as part of any subsequent building permit process. *Staff Report, page 8.* The Staff Report generally explains how the proposal can be designed, or can be conditioned, to satisfy all applicable performance standards for Assembly Facilities found in SJCC 18.40.060 (*Staff Report, pages 6 and 7*); and how the project can be designed or conditioned to satisfy other applicable county development regulations. (*Staff Report, pages 7-25*). Except as modified in this Decision, the Examiner adopts all statements of fact and findings included in the Staff Report as Findings of Fact supporting this Decision and Conditions of Approval set forth below.

10. The Record establishes that the applicant has met its burden to satisfy the criteria for approval of a Conditional Use Permit, found in SJCC 18.80.100(D)(1-10). (*Staff Report, pages 23-25*).

11. Based on the Record, the undersigned Examiner finds that the applicant’s proposal is very limited in size and scale, so it can be designed or can be conditioned to conform with all applicable county FINDINGS OF FACT, DECISION, AND CONDITIONS

development regulations. Accordingly, it merits approval, with conditions to ensure that the size/scale of the use will not result in adverse impacts on surrounding properties. If the proposal is to be expanded beyond the size of facility and frequency of use described in the application materials and the Staff Report, a new Conditional Use Permit will be required.

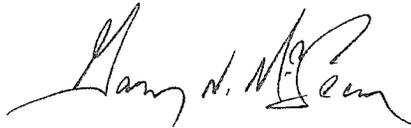
VI. CONCLUSIONS of LAW

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed Conditional Use Permit for a new religious assembly facility as described in the application materials and Staff Report can be designed, conditioned, developed and operated in a manner that conforms to all applicable land use requirements, without generating adverse impacts. Upon reaching such findings and conclusions as noted above, the CUP application meets the standards necessary to obtain approval by the County.
2. The Department's recommended conditions of approval as set forth in the Staff Report are reasonable, supported by the evidence, and capable of accomplishment. Each and every condition is adopted and incorporated herein by reference, except as modified below.
3. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VII. DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the record, and the Examiner's online site visit, the undersigned Examiner APPROVES the Conditional Use Permit for the Huna Alliance religious assembly facility, subject to the attached Conditions of Approval.

ISSUED this 21st Day of June, 2018



Gary N. McLean
Hearing Examiner

CONDITIONS OF APPROVAL

***Huna Alliance
Conditional Use Permit***

***for Religious Assembly Facility
at 147 Alliance Way, on Orcas Island
(Tax parcel number 260341002)***

File No. PCUP00-18-0026

A. This Conditional Use Permit authorizes development of a Religious Assembly Facility on TPN 260341002, that shall comply with all applicable development regulations and codes in effect at the time complete application materials are submitted for subsequent permits or approvals necessary for any aspect of the project. The project authorized by this permit is expressly limited as follows:

- A 1,416 square foot religious assembly facility, comprised of a 1,200 sq.ft. building, with 600 sq.ft. of assembly space, and 216 sq.ft. for restroom facilities;
- Off-street parking lot for up to 12 vehicles, no larger than 3,570 sq.ft.;
- A walkway no larger than 236 sq.ft.;
- A 240 sq.ft. apron;
- An onsite septic waste disposal system; and
- A "Group B" water system.

B. The frequency, nature and size of gatherings shall be limited in a manner that does not generate more than 12 round trips, up to twice a week (on average). The Director shall have discretion and authority to impose additional conditions deemed necessary to mitigate impacts caused by occasional celebrations, events, or seminars at the facility that generate traffic in excess of 12 round trips, up to twice a week. If the facility is used more frequently, and with heavier attendance than that described in the application materials on a regular basis, this permit shall be subject to revocation, in the manner provided in applicable codes.

1. Approval of a Group B water system shall be obtained from the San Juan County Health and Community Services Department prior to construction of the religious assembly facility. A copy of that approval shall be submitted to the San Juan County Department of Community Development (DCD).
2. Proof of an adequate sewage disposal facility shall be obtained from the San Juan County Health and Community Services Department prior to construction of the religious assembly facility. A copy of that proof shall be submitted to DCD.

3. Proof shall be obtained from the San Juan County Fire Marshal that fire protection is adequate for the proposed use prior to the use of the religious assembly facility. A copy of that proof shall be submitted to DCD. Occupancy limits imposed by the Fire Marshal for assembly facilities shall apply.
4. Proof shall be obtained from San Juan County Public Works that the private driveway Alliance Way is consistent with County standards.
5. No more than one sign is allowed. No sign may be internally illuminated or of reflective materials, or be larger than two square feet.
6. Applicant must demonstrate compliance with the county's critical areas regulations pertaining to wetlands, Chapter 18.35 SJCC, prior to approval of a development permit.
7. Applicant must demonstrate compliance with the county's critical areas regulations pertaining to geologically hazardous areas, Chapter 18.35 SJCC, prior to approval of a development permit.
8. Applicant must demonstrate compliance with the county's critical areas regulations pertaining to critical aquifer recharge areas, Chapter 18.35 SJCC, prior to approval of a development permit.
9. Applicant must demonstrate compliance with the County's stormwater regulations in Chapters 18.60 and 18.70 SJCC prior to approval of a development permit.
10. Approval of a building permit is contingent on compliance with the standards and BMPs identified in Exhibit 1h, pages 10-13.
11. The parking area shall contain a minimum of twelve, twelve, 9 feet by 18 feet parking spaces. The parking area shall be constructed consistent with the approved conceptual site plan, Exhibit 1i.
12. At least one ADA accessible parking space shall be provided in the parking area.
13. The applicant shall show compliance with the construction standard consistent with the International Fire Code, Appendix D, for driveway access prior to construction and operation of this facility.
14. Compliance with the lighting standards in SJCC 18.60.170 is required.
15. Applicant shall maintain or exceed 'Type C' screening requirements of SJCC 18.60.160(D).
16. No use of the property shall be made that produces unreasonable vibration, noise, dust, smoke, odor or electrical interference to the detriment of adjoining properties.
17. Failure to comply with conditions of approval is grounds for revocation of this permit.

18. Upon determination by the Director of DCD that any condition listed above has been violated, following issuance of a Notice of Violation, the Director may, in addition to her other code enforcement remedies, revoke the conditional use permit.
19. No site work shall begin before an approved building permit is issued by the County for the facility. This means no work – no clearing, no grading, no site-preparation or other disturbance of soils or changes in the status quo on the property beyond regular maintenance or cleanup for the property as is/where is.

EFFECTIVE DATE, APPEALS, 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/or SJCC 18.80.110.

Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County Council, unless the County council has adopted, by ordinance, written procedures for the discretionary review of such decisions. See Section 4.50 of the San Juan County Home Rule Charter and 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 any 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 confer with advisors of their choosing, possibly including a private attorney.

Affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation.