



SAN JUAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250
(360) 378-2354 | (360) 378-2116 | FAX (360) 378-3922
cdp@sanjuanco.com | www.sanjuanco.com

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

**FINDINGS, DECISION AND CONDITIONS OF APPROVAL FOR
ABC TRUST / BUMSTEAD SPECIAL EVENT VENUE
CONDITIONAL USE PERMIT**

**SJC DEPARTMENT OF
FEB 26 2020
COMMUNITY DEVELOPMENT**

FILE NUMBER: LANDUSE-19-0108

OWNER/APPLICANT: ABC TRUST, SANDRA G. CARTER (TRUSTEE)
191 N. 250 E.
MORGAN, UTAH 84050

AGENT: MICHAEL A. BUMSTEAD
20033 SE 416TH STREET
ENUMCLAW, WASHINGTON 98022

APPLICATION: CONDITIONAL USE PERMIT –
TO AUTHORIZE USE OF DESIGNATED PORTIONS OF THE APPLICANT’S
PROPERTY FOR AN ‘UNNAMED COMMERCIAL USE’ UNDER SJCC
18.30.040, AS A SPECIAL EVENTS VENUE FOR WEDDINGS, ‘CELEBRATION
OF LIFE’ /MEMORIAL CEREMONIES, AND FAMILY REUNIONS.

SITE ADDRESS: 63 SMALL ISLAND LANE, LOPEZ ISLAND

TAX PARCEL NUMBER: 252544002000 AND 252544003000

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

SUMMARY OF DECISION: *APPROVED – SUBJECT TO CONDITIONS*

DATE OF DECISION: FEBRUARY 26, 2020

I. INTRODUCTION

Sara G. Carter, from Morgan, Utah, is the Trustee for ABC Trust, the owner of two adjoining tax parcels that total 31.7-acres of property identified in this application. The property is zoned Rural Farm Forest and is located along the east/central shoreline of Lopez Island, facing Lopez Sound with Center Island and Decatur Island across the water to the east. Most of the property is covered with forest vegetation, with numerous structures on both parcels, including several houses and garages. (*Staff Report, page 3; Ex. 1, application materials, property layout/site plans*). Ms. Carter, the applicant, formally designated Michael A. Bumstead, from Enumclaw, Washington, to serve as her agent for this application. In this matter, the applicant seeks approval of a Conditional Use Permit to authorize use of designated portions of the property for an ‘unnamed commercial use’ under SJCC 18.30.040, specifically as a special events venue for weddings and ‘celebration of life’ ceremonies. (*Staff Report; Ex. 1, application materials*).

II. CONTENTS OF RECORD

TESTIMONY AT PUBLIC HEARING:

All witnesses who wished to speak regarding the pending application provided their testimony under oath at the public hearing, held on October 23, 2019. The following individuals offered substantive testimony:

1. Julie Thompson, the County’s planner assigned to review the pending application, summarized her review, proposed conditions, and several major issues raised by this application, including concerns about use of shoreline areas, potential noise from events on the site, parking, catering and other topics covered in the Staff Report;
2. Mr. Bumstead appeared at the hearing to speak for the applicant, addressing concerns raised by several neighbors, including potential noise impacts, previous use of the property for Boy Scout gathering over two years ago that involved shooting range activities resulting in complaints and visits from the County Sherriff, and general efforts he plans to take to ensure that events are operated and limited to prevent problems for neighbors;
3. Ms. Bumstead spoke briefly at the hearing and explained that her family has owned the property since the 1940s, that she has a big family, and that family gatherings on the property over the years sometimes see 40 or more people on the site;
4. Francine Shaw, local land use consultant, appeared at the hearing to support the Bumsteads, directed attention to aspects of the proposed use and certain conditions that could be used to avoid problems and obtain approval, and assisted the Bumsteads in responding to comments raised by local residents;

5. Eric Miller Klein, P.E. from Oregon, appeared to explain sound study work that his office performed on the applicant's property, and his professional opinion that the venue activities can be specially located to minimize sound impacts on surrounding properties;
6. Jerry Nepom, local resident, lives immediately north of the applicant's property, opposes the application, raised concerns about impacts on neighborhood residents, traffic, sound/noise, and what he believes to be an unreasonable number of proposed events and number of event attendees;
7. Jane Mauseth, local resident, owns property south of the proposed event-site, opposes the application, explained that she believes wedding and events centers are not appropriate in forest designated properties, and belong in Activity Center areas;
8. Barbara Nepom, local resident, raised concerns about this type of use on the RFF land use designation, and focused on concerns about enforcement, if events/attendees violate conditions or regulations; and
9. Rich Mauseth, local resident, expressed concerns about noise, noting how sound carries easily in the surrounding area, and concerns that event attendees could cause problems with ferry capacity on the limited routes/designated quota-space serving Lopez Island as a destination.

EXHIBITS:

- A. Staff Report, prepared by Project Planner, Julie Thompson, dated October 8, 2019;
 1. Application materials dated July 26, 2019;
 2. Conditional Use Permit Narrative date stamped August 21, 2019;
 3. Environmental Noise Impact Analysis dated February 5, 2019;
 4. Chapter 9.06 SJCC Noise Ordinance;
 5. Chapter 173-060 WAC re: Maximum Environmental Noise Levels;
 6. Email from Larry Pyne dated October 4, 2019;
 7. Email from Karen Aust dated October 4, 2019;
 8. Email from Fred Pacinelli dated October 5, 2019;
 9. Email from Carol Deckelbaum dated October 6, 2019;
 10. Email from Benling Wong dated October 6, 2019;
 11. Legal description;
 12. Legal ad dated September 25, 2019;
 13. Notification validation;
 14. Permit receipt dated July 26, 2019;
 15. Additional written comments received after Staff Report was issued;
 16. Letter from applicant's agent, Mr. Bumstead, in the form of an email dated Oct. 21, 2019, addressing various issues raised in public comments;

Based on comments received at the public hearing, the Examiner held the record open to provide the applicant with additional time to propose additional or modified conditions for their proposed use on the site. Ms. Thompson coordinated the post-hearing comment process, which included an opportunity for other parties of record and Staff to respond to any input from the applicant. Those materials were transmitted to the Examiner the day before Thanksgiving, on November 27, 2019, and are now numbered and included as part of the record as described below:

17. Post Hearing Written Submittals (24 pages total), comprised of:
 - A. 4-page memo from Ms. Thompson, dated Nov. 27th, summarizing feedback, providing modified Staff comments and recommendations;

- B. “Red Line” version of the applicant’s proposed Conditions of Approval, and proposed guest Rules of Conduct and Property Management Plan, with County Staff’s recommended language shown in Red;
- C. Applicant’s proposed Conditions and Rules of conduct, transmitted to Ms. Thompson by Ms. Shaw by email dated Nov. 6, 2019, on behalf of the applicant;
- D. Response from neighbors addressing the Applicant’s proposed Conditions and Rules, signed by Jerry & Barbara Nepom and Rick & Jane Mauseth, all of whom appeared at spoke at the public hearing, stamped received by the County on Nov. 14, 2019.

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 or Provisional Use Permit is required for an unlisted, unnamed, but not-prohibited, commercial use in the RFF Zone.

The “allowability” of various land uses in specific zoning districts is found in a table codified as SJCC 18.30.040. Properties identified under the Rural Farm Forest zoning/land use designation are required to obtain a Conditional Use Permit for certain commercial uses, and many types of commercial uses are expressly prohibited in such zone. See “Allowable and Prohibited Uses in Rural, Resource, and Special Land Use Designations Table”, at SJCC 18.30.040. Among the prohibited uses are: Camping facilities, Drinking establishments, Eating establishments, Hotel/Motel, Indoor entertainment facilities, Nursing homes, New resorts and camps, retail sales and services, and Warehouse/mini-storage facilities. *Id.* “Unnamed commercial uses” are listed as “P/C” in the RFF zone, meaning the Director has discretion to determine if the “unnamed commercial use” must first obtain a Provisional or Conditional Use Permit. *Id.*, in explanation box captioned “How to Use This Table”, which includes the following passage – “P/C = After review of SJCC 18.80.090 and Table 8.2, the administrator will determine whether a provisional or conditional use permit will be required.” This Decision is limited to review and approval of the proposal to operate a portion of the applicant’s property as a small-scale, limited use, special event / activity venue for weddings, celebrations of life (memorial events), and family reunions.

Site development standards for all Commercial Uses; Criteria for CUP approval.

San Juan County’s Unified Development Code includes specific site development standards that apply to commercial uses. These standards are found at SJCC 18.40.110. The Criteria for approval of

a Conditional Use Permit are found at SJCC 18.80.100(D), and include ten items that must be considered by the Examiner.

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 applicants have satisfied their burden of proof to meet the criteria for Conditional Use Permit approval?

Short Answer: Yes, but only if the proposed use is limited to strictly enforced 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 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.
3. The applicant submitted a Conditional Use Permit application to the San Juan County Community Development & Planning Department on or about July 26, 2019. (*Staff Report at page 18; and Exhibit 1, application cover page*).
4. As noted above, this application and the permit issued herein is/are applicable to a proposed special events venue for weddings, celebrations of life/memorial gatherings, and family reunions, to be operated on upland portions of the applicant’s property, which is located in the Rural Farm Forest land use designation on Lopez Island. The applicant’s property includes shoreline areas, but the application and proposed conditions of approval are all written to ensure that the proposed use will be limited to portions of the property that are outside the shoreline jurisdiction, i.e. more than 200 feet upland from the ordinary high-water mark.
5. In the Staff Report, Ms. Thompson represented that notices and publication required for the application were provided in accord with applicable county requirements. County staff determined that the application is exempt from SEPA review, citing SJCC 18.80.050. (*Staff Report, at page 18. Exhibits 12 and 13, Legal ad and notice verification materials*).

6. Following notices issued regarding the pending application, the County received multiple letters/emails from neighbors and surrounding Lopez Island residents/property owners in strong opposition to the proposed use. (*See Exhibits 6, 7, 8, 9 and 10*). There were no written comments from neighbors or other members of the general public supporting the application, and no one other than the applicant's team of designated representatives and agents appeared at the public hearing to offer comments supporting the pending application. After the Staff Report was issued, the County received comments from more than 15 additional Lopez Island residents or property owners, opposing the application as initially proposed, particularly the frequency of use. (*Ex. 15, collection of more than 15 written/emailed comments opposing the application*).

7. The Staff Report explains that the property is served by an on-site septic system, with a private desalination system serving as the property's water source. (*Staff Report, Project Data*). As described in the application materials, portable toilets will be used and maintained for sewage disposal purposes associated with the events venue.

8. As with all permits issued by the County, this permit does not waive or excuse an applicant's obligation to comply with any utility service provider's or local health office's lawful regulations or requirements, including without limitation electrical, telephone, cable, internet, sanitation, and water service issues. Depending on the eventual number of users, and volumes of water, sewerage, and other materials used in connection with serving the event venue on the site, the applicants are responsible for complying with any additional upgrades or alterations to their utility service facilities, as required by County officials, the health department, or other entities with regulatory or similar authority over the subject property.

Facts establishing compliance with Site Development Standards for Commercial uses, and Notice Requirements.

9. SJCC 18.40.110 lists a number of site development standards that apply to all commercial uses. The Staff Report, on pages 5 through 7, explains how the proposed facility will be or can be conditioned to comply with each of these standards, including without limitation those addressing water and sewer service; access; traffic; and parking. A major challenge facing this application is evidence that the proposed use can operate or be conditioned to operate in a manner that limits noise or other nuisances that could affect adjoining properties, to comply with SJCC 18.40.110(A)(3), among other county regulations on the topic.

10. The Staff Report, and a substantial portion of the public hearing testimony focused on noise issues, and the Noise Impact Analysis commissioned by the applicant for the proposed wedding and events venue. (*See Ex. 3, Environmental Noise Impact Analysis, Wedding & Event Feasibility Study, prepared by A-3 Acoustics, LLP, dated Feb. 5, 2019*). The Noise Impact Analysis, particularly its proposed Noise Control Plan, based on testing and data generated by on-site conditions at different times of day, was not rebutted. On this topic, opposition parties did not present testimony or evidence of comparable weight and professional expertise as that provided in the Noise Impact Analysis, and supporting testimony provided by the Engineer who prepared the report, Mr. Klein. Based on the record, the Examiner finds and concludes that all events authorized by this permit must be in full

compliance with the current County noise code regulations, and all conditions and design considerations contained in the Noise Control Plan found in Ex. 3.

11. Credible and substantial evidence in the record, in the form of compelling comments from neighboring residents and property owners, established that *enforcement* of applicable regulations and conditions of approval for the proposed use is a critical problem that merits attention. And, there is no dispute that San Juan County law enforcement and code enforcement officials face challenges few other jurisdictions are presented with, as they seek to serve populated areas spread across a collection of islands. Accordingly, the Examiner has added additional conditions of approval to ensure that the applicable County regulations and conditions of approval will be enforced, by an on-site off-duty law-enforcement officer hired to work at any event involving service of alcoholic beverages or those with more than 50 guests. All costs associated with such service shall be borne by the applicant, though it may be passed along to parties booking the venue for particular events.

12. Land use decisions, like permits, may not be based solely upon community displeasure. *Maranatha Mining v. Pierce County*, 59 Wn. App. 795, at 804 (Div. II, 1990); *Kenart & Assocs. v. Skagit Cy.*, 37 Wn. App. 295, 303, 680 P.2d 439, *review denied*, 101 Wn.2d 1021 (1984). Instead, permit decisions must be based upon the record placed before the decision maker, and reasons backed by policies and standards as the law requires. *Maranatha*, 59 Wn. App. at 805.

13. In this matter, the record includes complaints and expressions of concern from neighboring residents and property owners that the applicant's property has been used in recent years for activities and events that generated nuisances, like noise, alleged trespassing, heavier than usual car traffic for the immediate area, and general interference with the quiet enjoyment of adjoining properties. (*Testimony of the Mauseths and the Nepoms; Ex. 15, collection of over 15 opposition comments, many raising similar concerns; Exs. 6 – 10, written comments opposing application*). On one occasion, the property was used as a shooting range as part of a Boy Scout gathering. Neighbors described efforts to make contact with the applicant's family members on the site, without success in getting cooperation to address the situation. There is no dispute that the County Sheriff's office responded to the site, based on citizen complaints about noise generated by the shooting range. At the hearing, the applicant representatives agreed that the property will not be used as a shooting range in connection with any events and proposed a condition in their post-hearing submittal prohibiting firearms on the site during events. A condition on this topic has been included.

14. Unrebutted evidence and testimony in the record also show how the applicant's property has been used for other purposes that are not permitted outright in the property's RFF land use designation, including religious assembly gatherings that are described in public online postings regarding the applicant's property. (*See post-hearing response letter from neighbors, the Nepoms and the Mauseths, at Figure 3, a screenshot of online advertisement for current religious assemblies held weekly in the proposed event site on the applicant's property, without any permit, included in the Record as part of Exhibit 17; Ex. 15, collection of opposition emails/letters*). There is no dispute that the applicant's property is comprised on two parcels of land designated by the County as Rural Farm Forest, and that SJCC 18.30.040 includes a table that clearly lists "Religious assembly facility" as a land use that requires a provisional or conditional use permit, as determined by the administrator after review of SJCC 18.80.090 and Table 8.2. This permit should not be construed in any way to authorize

uses that are not expressly authorized by this permit, including as a religious assembly facility, or as an excuse for the property owner's requirement to obtain other permit(s) associated with such use.

15. The record includes substantial evidence and testimony that leaves the examiner with unease about the property owner's track record of following applicable county codes and policies, and basic "good neighbor" standards. For instance, the previous shooting range problem generated obvious noise impacts on neighboring properties; operating weekly gatherings on the site of a type and nature that clearly require a county permit; and failing to reach out to confer with neighbors who attended the public hearing before submitting post-hearing recommendations on potential conditions that might appropriately address neighbor's concerns tends to show a lack of consideration for surrounding property owners and residents. Accordingly, this permit must be limited as to its duration, scope, time-frame, and other aspects in order to mitigate potential impacts on surrounding properties and residents that would otherwise make the use inconsistent with the RFF land use designation and county regulations applicable to the property.

16. As proposed in the application, the requested events venue use could occur too frequently, and without adequate conditions needed to comply with applicable land use policies and regulations for the area. Conditions of approval imposed as part of this Decision are necessary, capable of accomplishment, and fully supported by evidence and information in the record. Again, 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."

17. SJCC 18.80.030(A)(2) requires publication of a notice of application and notice to property owners within 300 feet of the proposed use. The Staff Report confirms that a proper notice of this application was published and provided in accord with applicable county practices. *See Exhibits 12 and 13.*

18. The modified recommendation and analysis provided in Staff's post-hearing memo included as part of Exhibit 17 includes a credible and adequate summary of the analysis conducted, applicable codes and policies, and reasons for conditions of approval that are stricter and more specific than those proposed by the applicant. Without the conditions of approval and modifications to the event venue use included and described in this Decision, the requested permit should be denied.

19. SJCC 18.80.100(D) sets forth the ten criteria for approval of a Conditional Use Permit. The following findings are written in *italics*, immediately after re-statement of the applicable subsections 1-10 of SJCC 18.80.100(D). Each of the *italicized findings* are supported by previous Findings, and the Staff Report, on pages 16 - 18:

- 1) The proposed use will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;

In the Comprehensive Plan, Section 2.2.B lists the general goals and policies of the land use element. Policy 5 refers to tourism-related businesses:

“Allow for tourism-related businesses and activities within the context of maintaining a diverse and balanced economy while minimizing the related negative impacts.”

The proposed use is considered an “Unnamed use”, and not an expressly-prohibited use as shown on the table discussed above, found at SJCC Table 18.30.040, which lists various types of uses that can be permitted or are prohibited in the Rural Farm Forest land use designation. As originally proposed, the application should be denied – 8 or even 4 events per month at the site would be too much, and would very likely generate impacts that run contrary to Comprehensive Plan Goals for Rural Lands, including Goal 2.3.C, which explains that Rural Lands are “To maintain and enhance the rural character of the County. Rural lands are intended to retain the agricultural, pastoral, forested, and natural landscape qualities of the islands while providing people with choices of living environments at lower densities or use intensities than those in Activity Centers.” (Emphasis added). As conditioned and modified in this decision, the proposed use can be operated in a manner and on limited occasions (no more than one event per month) that satisfies this criterion. Going forward, if the property owner establishes a record of compliance with all conditions and brings forward facts and evidence to support additional events per month in a manner that ensures the events venue can and will operate in a manner that is not contrary to the intent or purposes and regulations found in the County code or the Comprehensive Plan, a new Conditional Use Permit authorizing additional events per month may warrant approval. Based on this record, including problems with code compliance demonstrated by the property owner, and conditions in the surrounding neighborhood, the Examiner finds and concludes that the event venue use must be limited to low intensity as detailed in the Conditions of Approval.

- 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;

As limited in time, numbers of events, type of events, and size of events, with additional conditions for larger events, this criterion can be satisfied. The proposed use will be mostly outdoors in a rural setting that is not readily visible from adjacent homes, though it may be seen from the access road. Natural vegetation generally surrounding the event venue site tends to provide a natural vegetative screening. As conditioned, the approved use should ensure that the property retains the agricultural, pastoral, forested, and natural landscape qualities of the San Juan Islands.

- 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 Staff Report and evidence in the record establishes that no adverse impacts to the human or natural environment are anticipated, if the requested use is operated in a manner consistent with Conditions of Approval imposed by this Decision.

- 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;

The Conditions of Approval included in this Decision are intended to prevent any cumulative impacts, and limitations on the number of events, the term of this permit and the like are all intended to ensure that this criterion will be satisfied. Any future applications for additional uses not specifically authorized by this permit will require additional permit reviews and approvals, for this and any other applicant in the area.

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

Compliance with the requirements from Public Works and the Fire Marshal ensure that access and fire protection will be adequate. Throughout the term of this permit, the property owner must ensure compliance with all applicable county regulations addressed in this criterion. Access should be adequate, noting that where more than 50 (fifty) guests are anticipated, carpooling and vanpooling shall be required as a means to transport guests to and from the event, reducing potential access/traffic problems in the surrounding neighborhood and road network. The onsite desalination system is more than adequate to serve the needs of event attendees. No new development is proposed under this permit, and existing stormwater controls must be properly maintained on the site. As described in the application materials, portable toilets will be used and maintained for sewage disposal purposes associated with the events venue.

- 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;

The Staff Report explains that nothing about the proposal should interfere with allowable development or use on neighboring properties. The Examiner concurs, so long as the approved use is operated in a manner consistent with all Conditions of Approval.

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

The extra vehicular traffic associated with the proposed use is unlikely to be hazardous to existing and anticipated traffic in the neighborhood. The limited number of events and additional conditions for larger events should ensure that this criterion is satisfied. See Staff Report, re: comments from Asst. County Engineer on page 17; Conditions of Approval.

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

The Staff Report, on pages 5 through 7, credibly explains that, as conditioned, the proposal will be in compliance with SJCC 18.40.110.

- 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

There is no airport or airfield adjacent to this property.

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

As an existing developed site, and as conditioned herein, the proposal is consistent with Chapter 18.60 SJCC.

20. The Examiner has reviewed and considered the entire record, including post-hearing submittals from the applicant, Staff and project opponents. Conditions of approval have been revised to ensure compliance with applicable codes and policies. All of the conditions of approval included as part of this Decision are reasonable and capable of accomplishment.

21. By this Decision, all parties of record are fully advised that compliance with all Conditions of Approval must occur, or this permit is subject to revocation.

VI. CONCLUSIONS of LAW

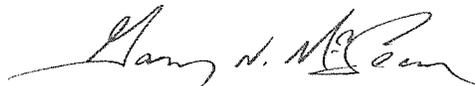
1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed Conditional Use Permit for an infrequent event venue use, as conditioned below, conforms to all applicable land use requirements and appropriately mitigates potential adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the requested CUP application meets the standards necessary to obtain approval by the County.

2. 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, and all materials contained in the record, the undersigned Examiner APPROVES the Conditional Use Permit for the ABC Trust / Bumstead special events venue, expressly limited to wedding events, celebration of life/memorial events, and family reunion events, and subject to all other limitations and/or Conditions of Approval set forth below.

ISSUED this 26th day of February, 2020



Gary N. McLean
Hearing Examiner

CONDITIONS OF APPROVAL

*ABC Trust / Bumstead Event Venue CUP
63 Small Island Land, Lopez Island
Tax Parcel Nos. 252544002000 and 252544003000
File No. LANDUSE-19-0108*

1. This Permit authorizes the applicant to use portions of the above-referenced property for an unnamed commercial use in the Rural Farm Forest land use designation, expressly limited to wedding events, celebration of life/memorial events, and family reunion events, and subject to all other limitations and/or conditions set forth below. This permit shall not be construed or interpreted to authorize any activity or use that is expressly prohibited in the Rural Farm Forest land use designation, including without limitation: Camping facilities; Drinking establishments; Eating establishments; a Hotel/Motel; Indoor entertainment facility; New resort; or Retail sales and services. See “Allowable and Prohibited Uses in Rural, Resource, and Special Land Use Designations Table”, at SJCC 18.30.040. The Director shall have discretion to determine if the use or any event occurring or scheduled to occur at the applicant’s venue is in violation of such provisions. Occasional events, where drinks or food might be served, do not constitute prohibited activities; whereas, making use of the venue as a restaurant or bar, or using the venue as a music concert venue, would not be permitted by this permit.
2. No more than one permitted event shall be authorized to occur on the property each month, and all events shall be limited to twelve hours from start to finish, provided overnight guests spending the night in the Guest House in accord with this permit shall not be included in calculating this 12-hour time limit for the event itself.
3. No more than 125 guests shall be allowed at any event. Where more than 50 (fifty) guests are anticipated, carpooling and vanpooling shall be required as a means to transport guests to the event.
4. On the day before or after any event, and the day of the event itself, the residence identified on the site plan as the Guest House may be used for overnight accommodation by no more than 3 (three) event attendees and for no more than two-nights per stay. The Guest House shall not be available for separate use as a vacation rental, for periods less than 30-days.
5. This permit is granted with the express limitation that no commercial activities of any sort are authorized to occur in portions of the property that are located in the County’s shoreline jurisdiction. Accordingly, no activities associated with any permitted event may take place in any portion of the 200-foot shoreline jurisdiction portion of the applicant’s property, including without limitation wedding party photos, grilling, bonfires, casual strolling by guests, and use by persons staying overnight in the Guest House. The boundary of the shoreline jurisdiction shall be clearly marked during events to prevent violations.
6. All catered food service for any event shall be provided by a certified food handler.
7. The property owner shall:

A. Prior to operation, submit and maintain an up-to-date property management plan on file with the administrator and property owners within three hundred (300) feet of the applicants' events venue. The property management plan must include the following:

1. Rules of conduct approved by the County;
2. The Unified Business Identifier number for the approved commercial/events venue use of the property and the names and addresses of the property owner and agents authorized to act on the property owner's behalf;
3. A designated local property owner representative will be on site during each and every event, for the duration of such event, and will be authorized by the property owner to enforce compliance with all permit conditions, and to respond to complaints and emergencies; and
4. A valid telephone number where the local property owner representative can be reached twenty-four (24) hours per day.

B. Prominently display at every event the approved rules of conduct and a map clearly depicting the property boundaries of the property, clearly depicting areas where event activities are permitted, and where access is prohibited, i.e. anywhere within the 200-foot shoreline jurisdiction. The map or rules posted at the event shall include language explaining that access onto the shoreline or anywhere in the 200-foot shoreline jurisdiction is prohibited, together with a warning not to trespass on surrounding properties.

8. All types of firearms are expressly prohibited at any event authorized by this permit, including without limitation guns, rifles, shotguns, air guns, BB guns, slingshots, and paint guns.
9. A list of the quantities and types of chemicals that will be used and a plan for disposal of waste materials for events authorized by this permit shall be submitted to the administrator for review and approval.
10. For all events where alcoholic beverages will be served, and/or when more than 50 (fifty) guests are anticipated, the property owner must engage the services of an off-duty Law Enforcement Officer to be present on the property where the event occurs, for the purpose of enforcing applicable laws and conditions of approval for this permit. *(The term Law Enforcement Officer is defined by RCW 10.108.020(4) to include police officers, the attorney general and the attorney general's deputies, sheriffs and their regular deputies, corrections officers, tribal law enforcement officers, park rangers, state fire marshals, municipal fire marshals, sworn members of the city fire departments, county and district firefighters, agents of the department of fish and wildlife, and any employee of a federal governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and who has statutory powers of arrest).* The Director shall have discretion to approve a written request from the property owner to provide an off-duty officer for some time period less than 12 hours for a particular event, for example – some reasonable period

beginning before most guests begin to arrive and through the event itself, ending after guests depart the venue.

11. All events must be operated in compliance with the Noise Control Plan detailed in Exhibit 3, the Environmental Noise Impact Analysis prepared by applicant's engineer.
12. The property owner shall engage a qualified professional to monitor noise levels during the first four events held on the property and a monitoring report shall be filed with the Director within 21 days after the fourth event concludes. If noise levels/impacts are higher than projected in the Noise Impact Analysis, Ex. 3, i.e. 40dBA at the north property line and 43 dBA at the south property line, the Director shall have discretion to terminate this permit or to require the property owner to submit modifications to event operations that ensure the noise limits can be satisfied at future events, which could include a prohibition on use of speakers or other sound amplifying equipment. If the permit is continued with modifications or additional mitigation requirements intended to reduce noise levels to those projected the Noise Impact Analysis, Ex. 3, the property owner must continue professional noise monitoring at all future events until the Director is satisfied that such monitoring is no longer needed to ensure compliance with applicable noise limits, or deems repeated noise limit violations as a basis to revoke this permit. NOTE: Compliance with this condition does not excuse the property owner's obligation to ensure that 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.
13. The applicant shall obtain any associated permit, license, or approval required by any state, federal, or other regulatory body with jurisdiction over aspects of the event venue use authorized by this permit; any conditions of regulatory agency permits, licenses, or approvals shall be considered conditions of approval for this permit.
14. The property owner must meet all local and state regulations, including those pertaining to business licenses, taxes, and health regulations applicable to aspects of any event. Approval of this permit does not authorize the owner to violate private covenants and restrictions.
15. The property owner shall comply with all professional report conclusions and recommendations submitted in connection with this conditional use permit and any associated approvals issued by San Juan County for this proposed use, as approved, referenced, relied upon, and/or modified by the County.
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. Prior to operation, the applicant shall call the SJC Fire Marshal to have the driveway inspected for emergency vehicle access. Evidence of the Fire Marshal's inspection must be submitted to the San Juan County Department of Community Development, which must include the file number for this permit, LANDUSE-19-0108.
18. Outdoor burning of anything other than charcoal in a grill, or seasoned wood provided for use in a designated fire pit, is expressly prohibited, provided further that all forms of outdoor burning

are prohibited during events that may occur during any applicable burn ban imposed by appropriate authorities, and that compliance with this condition does not excuse the property owner's obligation to ensure that 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.

19. A record/log of event venue use, including the type of event and the number of guests and vehicles per event, shall be maintained by the property owner for the duration of this permit. This record shall be submitted to the Department of Community Development annually by the end of January. If the Department decides the actual use of the property owner's event venue is causing any high impacts like those described in SJCC 18.80.090 Table 8.2, despite compliance with these conditions of approval, then this permit may be subject to revocation at the Director's discretion, or the Director may impose additional limitations on the approved use or conditions of approval for this permit.
20. Upon determination by the Director of DCD that any condition listed above has been violated and following issuance of a Notice of Violation, the Director may, in addition to other code enforcement remedies, revoke this conditional use permit.
21. This permit shall expire on December 31, 2021, unless extended by issuance of a new Conditional Use Permit approved by the Hearing Examiner after a public hearing, processed and conditioned as provided in SJCC 18.80.090(C) and 18.80.100, as currently written or as may subsequently be amended.

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.