



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 A  
CONDITIONAL USE PERMIT  
AUTHORIZING AN EXTERIOR SIGN ON THE ORCAS ISLAND MARKET BUILDING**

**FILE NUMBER:** LANDUSE-19-0237

**OWNER/APPLICANT:** DALE LINNES

**AGENT:** COREY HARRINGTON, PERMIT RESOURCES  
PO Box 1255  
EASTSOUND, WA. 98245

**APPLICATION:** CONDITIONAL Use PERMIT FOR AN EXTERIOR SIGN WITH  
APPROXIMATELY 156 SQ. FT. TOTAL AREA, AS REQUIRED BY SJCC  
18.30.660(B)(8)(C) FOR SIGNS LARGER THAN 32 SQUARE FEET

**LOCATION:** ORCAS ISLAND MARKET BUILDING,  
127 MADRONA STREET ON ORCAS ISLAND

**TAX PARCEL NUMBER:** 271441004000

**STAFF RECOMMENDATION:** APPROVAL WITH CONDITIONS

**SUMMARY OF DECISION:** *APPROVED – SUBJECT TO CONDITIONS*

**DATE OF DECISION:** MARCH 17, 2020

SJC DEPARTMENT OF  
MAR 18 2020  
COMMUNITY DEVELOPMENT

## **I. SUMMARY**

The applicant/property owner, Dale Linnes, through his designated agent, Cory Harrington, seeks Conditional Use Permit approval to install an exterior sign on the Orcas Island Market building, located at 127 Madrona Street on Orcas Island. The sign features two segments: an upper portion that will be a steel sheet cut into the profile of Orcas Island; and a lower portion with steel lettering that will read "Island Market." (*Ex. 3*). The total area for the proposed sign will be approximately 156 sq. ft. A Conditional Use Permit is required by SJCC 18.30.660(B)(8)(c) for signs larger than 32 square feet. Staff determined that the application is exempt from SEPA review, citing SJCC 18.80.050. All public notice requirements and comment periods were satisfied. Staff reviewed the application, considered the comments provided by the Eastsound Planning Review Committee, and determined that it conforms to applicable codes and policies, and merits approval, subject to conditions. Based on the record, the Examiner finds and concludes that the pending application satisfies applicable 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 26, 2020 provided testimony under oath. Julie Thompson, the County's planner assigned to review the pending application, was the only person to speak at the public hearing for this matter. Ms. Thompson briefly summarized her review, proposed conditions, and recommendation of approval. The applicant's agent did not appear at the public hearing. No neighbors or members of the general public appeared at the public hearing or submitted any written comments opposing the requested permit. 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:**

Staff Report, 7 pages, with attached Exhibits 1-8, as described and numbered on pages 6 and 7 of the Staff Report. The complete list of exhibits described in the Staff Report is reprinted below:

1. Application materials, dated December 2, 2019;
2. Legal description;
3. Sign illustration, showing dimensions and size;
4. Email communications between staff, applicant's agent, re: sign lighting issues;
5. Legal ad, dated December 16, 2019;
6. Verification of notice;
7. Permit receipt dated December 2, 2019; and
8. Plan set for proposed exterior sign.

### 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 signs larger than 32 square feet aggregate area.*

SJCC 18.30.660(B)(8)(c) explains that a Conditional Use Permit is required for signs larger than 32 square feet aggregate area.

#### *Standards for signs; Criteria for CUP approval.*

San Juan County’s Unified Development Code includes specific standards that apply to signs like the proposal identified and described in the application materials, found in SJCC 18.3.660. 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 December 2, 2020. (*See Exhibits 1 and 7, application materials and permit fee receipt*).
4. The applicant/property owner, Dale Linnes, through his designated agent, Cory Harrington, seeks Conditional Use Permit approval to install an exterior sign on the Orcas Island Market grocery store building, located at 127 Madrona Street on Orcas Island, as part of a proposed remodel project for the existing store. (*Staff Report, page 1*).
5. The proposed sign features two segments: an upper portion that will be a steel sheet cut into the profile of Orcas Island; and a lower portion with steel lettering that will read "Island Market." (*Ex. 3*). The sign would be placed on the building's exterior façade, facing into the grocery store parking lot abutting Prune Alley. (*Ex. 8, Plan Set for proposed sign, on sheet A101S*).
6. The total area for the proposed sign will be approximately 156 sq. ft. (*Ex. 8, Plan Set for proposed sign, on sheet A001S; Staff Report, page 1; Ex. 1, application materials, application cover letter from Mr. Harrington*). The building frontage where the sign would be placed is 198 square feet in size, and the total Island Market building area is about 22,000 square feet. (*Ex. 8, sheet A001S*).
7. There is no dispute that a Conditional Use Permit is required by SJCC 18.30.660(B)(8)(c) for signs larger than 32 square feet.
8. Staff determined that the application is exempt from SEPA review, citing SJCC 18.80.050. (*Staff Report, page 6*).
9. All public notice requirements and comment periods were satisfied. (*Staff Report, page 6; Exhibits 5 and 6*).
10. Staff reviewed the application, considered the comments attributed to the Eastsound Planning Review Committee, and determined that it conforms to applicable codes and policies, and merits approval, subject to conditions. (*Staff Report, pages 3 and 6; and Ex. 4*).
11. The only written comment regarding the proposed sign came from Charles Toxey, presumably relaying questions about lighting used for the sign from the Eastsound Planning Review Committee, though there is no written confirmation that he was authorized to speak on behalf of the EPRC. In

any event, Mr. Toxey's comment sought to ensure that lighting used on the sign would not be visible outside the property and that it would not be directed upward into the sky. (Ex. 4).

12. Responding to a written question from Ms. Thompson seeking an explanation as to how the proposed sign and its lighting is compliant with exterior lighting standards found in SJCC 18.30.690, the applicant's agent directed attention to the proposed sign plan set, included in the record as *Exhibit 8*, on Detail 1, Sheet A501S, and provided a brief narrative from the applicant's design team which reads in relevant part as follows: "*Lighting is shown [on the plan set noted above] and is meant to illuminate the signage only. There will be no glare or reflections, and the gable end wall behind the lettering will capture any light that goes past the lettering. The lighting will be the minimum required to adequately light the sign.*" (Ex. 4, email dated Jan. 9, 2020, from C. Harrington to Ms. Thompson). In a subsequent email, specifically addressing Mr. Toxey's concerns about lighting for the lettering portion of the sign, the applicant's agent suggested a condition of approval that would read as follows: "*Any light source shall be aimed at the store and will not be aimed over the top of the eave of the store. The light source will not be visible from anywhere on the ground on the property or from the neighboring properties.*" (Ex. 4, email from Mr. Harrington to Ms. Thompson, dated January 21, 2020).

13. The above-referenced portion of the sign plan set depicts a lighting element for the "Island Market" lettering (lower) portion of the sign, with an angled shield covering over the lighting strip, described as follows: "*Continuous LED strip light (LX-2) inside steel shield, powder coated black, continuous length of lettering.*" The light shield covering appears to be angled so that the light beam angle (shown on the plan set) will not throw light above the top of the steel lettering that will spell "Island Market." (*Exhibit 8, on Detail 1, Sheet A501S*).

14. The proposed sign plans also show lighting that will be placed behind the upper portion of the sign, which will be the profile in the shape of Orcas Island, described as follows: "*Continuous LED strip light (LX-2) behind shown dashed, run parallel, 3" behind edge of sign.*" (Ex. 8, Sheet A201S). Mr. Toxey's emailed comment noted that he had no concerns with this Orcas Island-profile part of the proposed sign. (Ex. 4, email dated Jan. 9, 2020 from Mr. Toxey to County staff (Colin Maycock)).

15. This Conditional Use Permit does not and should not be read or construed to relieve the applicant's obligation to comply with development regulations or the need for additional permits or approvals associated with any aspect of this proposed sign project.

16. The Staff Report credibly explains how the proposal has been designed, or can be conditioned, to satisfy all applicable policies or performance standards for the proposed exterior sign. 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.

17. Credible and un rebutted evidence in 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 4-6*).

18. The Examiner expressly finds and concludes that the applicant's proposed exterior sign satisfies applicable standards for such uses, found in SJCC 18.30.690, if designed, installed, and operated in substantial conformance with the plan set and design details included in the record as *Exhibit 8*.

19. Based on the Record, the undersigned Examiner finds that the applicant's proposed sign has been designed or can be conditioned to conform with all applicable county development regulations for exterior signs. Accordingly, it merits approval, with conditions to ensure that the new sign will not result in adverse impacts on surrounding properties. If the sign is to be expanded beyond the general size and scale of the project described in the application materials, or is modified to include additional words, lettering, or images that are not substantially similar to those 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 exterior sign as described in the application materials and Staff Report can be designed, conditioned, installed 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.

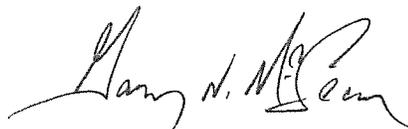
2. The Department's recommended conditions of approval as set forth in the Staff Report are reasonable, supported by the evidence, and capable of accomplishment. Each and every condition is adopted and incorporated herein by reference, except as modified below.

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, and all materials contained in the record, the undersigned Examiner APPROVES the requested Conditional Use Permit for the new Orcas Island Market exterior sign, subject to the attached Conditions of Approval.

ISSUED this 17<sup>th</sup> Day of March, 2020



Gary N. McLean  
Hearing Examiner

**CONDITIONS OF APPROVAL**

***Orcas Island Market/Linnes  
Conditional Use Permit***

***for a new Exterior Sign  
on the Orcas Island Market grocery store  
Location: 127 Madrona Street  
(Tax parcel number 271441004000)***

***File No. LANDUSE-19-0237***

1. This Conditional Use Permit authorizes installation of a new exterior sign, with approximately 156 square feet aggregate area, which shall be designed, installed, and operated in substantial conformance with the analysis, elements, features, and mitigation measures addressed in the Staff Report, the application materials, and *Exhibit 8* (the design plans for the proposed sign).
2. All lighting elements associated with the new exterior sign shall be designed, installed, and operated in compliance with Exterior Lighting requirements found in SJCC 18.30.690, particularly provisions that are intended to minimize illumination onto abutting properties and adjacent streets. It is expressly understood that the exterior sign approved by this permit satisfies standards found in SJCC 18.30.690, if designed, installed, and operated in substantial conformance with the plan set and design details included in the record as *Exhibit 8*.
3. Any light source associated with the sign shall be aimed at the store and will not be aimed over the top of the eave of the store. The light source shall not be visible from anywhere on the ground on the property or from neighboring properties.
4. 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 other code enforcement remedies, revoke this conditional use permit.

### 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.