

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

In the Matter of a Shoreline Conditional )  
Use Permit Application filed by )

**FRIENDS OF THE OLGA STORE,** )  
 )  
Applicant, )

**File No. LANDUSE-20-0074**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION APPROVING SHORELINE  
CONDITIONAL USE PERMIT**

PROJECT: *To change the use of an existing  
commercial structure commonly known as "The  
Olga Store" from Retail to Mixed Use  
Commercial. The project is located at 7034 Olga  
Road, in the Olga Hamlet area on Orcas Island, on  
tax parcel no. 160852101000.* )  
\_\_\_\_\_ )

SJC DEPARTMENT OF  
SEP 03 2020  
COMMUNITY DEVELOPMENT

**I. SUMMARY OF DECISION.**

The Shoreline Conditional Use Permit to change the use of the existing Olga Store building from Retail to Mixed Use Commercial is approved, subject to appropriate Conditions of Approval that are supported by the record.

**II. RELEVANT CODE PROVISIONS.**

**Shoreline Regulations:** The County's Shoreline Master Plan/Program (SMP) is comprised of Chapter 18.50 of the San Juan County Unified Development Code (UDC), together with Element 3 of the County's Comprehensive Plan, the official maps and common descriptions of shoreline designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section 2(B) Figures 130-6, 130-7 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound Waterfront Access Plan, and SJCC 18.80.110. (*See SJCC 18.50.020(A)*). The County's current SMP and shoreline regulations took effect on October

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DECISION – APPROVING SHORELINE  
CONDITIONAL USE PERMIT TO CHANGE USE OF  
THE OLGA STORE – FILE NO. LANDUSE-20-0074**

**GARY N. MCLEAN  
HEARING EXAMINER  
FOR SAN JUAN COUNTY**  
  
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1 30, 2017, and apply for purposes of this application, which was filed in April of 2020 and  
2 deemed complete for purposes of vesting and review at some point before issuing public  
3 notice of this application in June of 2020. (*Staff Report, page 2; Exhibits 1a and 1b,*  
*application materials submitted on or about April 15, 2020; Exhibit 5, Notice of application,*  
*including confirmation of publication and posting of such notice on or about June 10, 2020).*

4 ***Circumstances that trigger requirement to obtain a Shoreline Conditional Use***  
5 ***Permit:*** The Olga Store has been in its current location since 1937, and the building was  
6 formerly used for “Retail” commercial purposes, including a grocery store, as the name  
7 generally implies. The applicant proposes changes to the internal layout and uses of the  
8 existing Olga Store building, without any additions or alterations to its current footprint or  
9 external features. The applicant’s proposal would change the use of the Olga Store from  
10 Retail to Mixed Use Commercial. This project is located in the County’s “Rural” shoreline  
11 designation. Given the building’s location within the County’s regulated shoreline  
12 jurisdiction, any change of use must comply with applicable Shoreline codes, which mandate  
13 that mixed-use developments in a Rural shoreline area require a shoreline conditional use  
14 permit. *See SJCC 18.50.600.* There is no dispute that the applicant’s project requires a  
15 Shoreline Conditional Use Permit.

16 ***Approval Criteria for Shoreline Conditional Use Permits:*** The procedures for  
17 review of shoreline permit applications are contained in Chapter 18.80.110 of the county’s  
18 code, with the Criteria for Approval of Shoreline Conditional Use Permits found in SJCC  
19 18.80.110(J), which reads in relevant part as follows:

- 14 1. [...] Activities classified as shoreline conditional uses will be allowed only when the applicant  
15 demonstrates that the proposed use will be compatible with allowed uses within the same area.
- 16 2. Uses that are specifically prohibited by the SMP may not be authorized through a conditional use  
17 permit or variance.
- 18 3. Conditional use permits granted under other sections of this code are not to be construed to constitute  
19 approval of a shoreline conditional use.
- 20 4. Uses that are classified in the SMP as conditional uses may be authorized by the County if the  
21 applicant can demonstrate all of the following:
  - 22 a. The proposed use is consistent with the policies of RCW 90.58.020 and the SMP;
  - 23 b. The proposed use will not interfere with the normal public use of public shorelines;
  - 24 c. The proposed use of the site and project design are compatible with other allowed uses within  
25 the area;
  - 26 d. The proposed use will result in no net loss of shoreline ecological functions;
  - e. The cumulative impacts of additional requests for like actions in the area, or for other locations  
where similar circumstances exist, will result in no net loss of shoreline ecological functions (e.g.,  
the total of conditional uses shall remain consistent with RCW 90.58.020 and the SMP); and
  - f. The public interest will suffer no substantial detrimental effect.

1           **Jurisdiction:** Under SJCC 18.80.110(E)(1), the Hearing Examiner is given the  
2 authority to hear and approve, approve with conditions, or deny shoreline conditional use  
3 permits following receipt of the recommendations of the director, based upon the criteria  
4 found in SJCC 18.80.110(J), as set forth above.

4           **Burden of Proof:** Under SJCC 18.80.010(A), “Shoreline Permits” are specifically  
5 listed as “Project Permits” covered by the provisions of SJCC Chapter 18.80 re: application,  
6 notice, review and appeal requirements for the County’s Unified Development Code, which  
7 is found in Title 18 of the SJCC and includes Chapter 18.50, the County’s Shoreline Master  
8 Program. SJCC 18.80.040(B) reads as follows:

8           *“[t]he burden of proof is on the project permit applicant. The project permit  
9 application must be supported by evidence that it is consistent with the  
10 applicable state law, County development regulations, the Comprehensive  
11 Plan, and the applicant meets his burden of proving that any significant  
12 adverse environmental impacts have been adequately analyzed and  
13 addressed.”*

11           **Standard of Review:** SJCC 2.22.210(H) explains that “for an application to be  
12 approved, a preponderance of the evidence presented at the hearing must support the  
13 conclusion that the application meets the legal decision criteria that apply.”

14           **Review Criteria for the Department of Ecology:** Finally, if the Examiner approves  
15 or denies the Shoreline Permit, such decision must be forwarded to the Department of  
16 Ecology and the Attorney General, for state review and any appeals of the Shoreline Permit,  
17 in accord with Washington Shoreline Management regulations found in WAC 173-27-130.  
18 Ecology’s review criteria for Shoreline Conditional Use Permits are found at WAC 173-27-  
19 160. Because the County’s current Shoreline Master Program was reviewed and approved  
20 by the State of Washington before its implementation and effective date, the San Juan County  
21 review criteria for the requested shoreline permit is consistent with and substantially similar  
22 to those that will be used by the Department of Ecology.

### 20           **III. CONTENTS OF RECORD; SUMMARY OF PUBLIC HEARING.**

21           Copies of all materials in the record and a digital audio recording of the open-record  
22 hearing conducted for this application are maintained by the County and may be requested or  
23 reviewed by contacting the Community Development Department during regular business  
24 hours. Given the Covid-19 health proclamations issued by the Governor and local authorities,  
25 the hearing occurred on July 22, 2020, using teleconference equipment operated by county  
26 staff. In response to a question from the Hearing Examiner, Staff confirmed that no members

1 of the general public other than hearing participants mentioned herein contacted staff  
2 beforehand, by phone or email, to express an interest in providing testimony or participating  
3 in the public hearing. Colin Maycock, the designated County Planner assigned to review the  
4 pending application, and Julie Thompson, appeared and provided testimony under oath  
5 during the hearing. Again, they each confirmed that they were not contacted by any members  
6 of the public who expressed their intent to participate in the hearing but were not online when  
7 the hearing commenced.

8 Mr. Maycock summarized the Staff Report, noting that the Olga Store building has  
9 been at its current location since 1937, and that applicable County codes, the Comprehensive  
10 Plan, and the Olga Hamlet Plan applicable to the project location all allow for the types of  
11 uses proposed in this application. The applicant's agent and hearing representative, Cory  
12 Harrington, provided sworn testimony explaining background information and the  
13 applicant's intent to operate the Olga store for the benefit of the surrounding community.  
14 Gay Paresky, Vice President of Friends of the Olga Store, the applicant, spoke at the hearing,  
15 describing large community meetings and over 344 donations received to fund the purchase  
16 of the Olga Store; she noted that the applicant has a signed lease with the Post Office to  
17 operate at the building, and that a co-op will be the entity operating a small store in another  
18 portion of the building. Like Mr. Harrington, Ms. Paresky clarified that the application is  
19 meant to apply to the entire structure, not just portions of the space. Mr. Maycock accepted  
20 the applicant's clarification on this topic. Thus, there is no dispute that this application seeks  
21 a permit for a change of use that will apply to the entire interior space of the Olga Store  
22 building, not just portions of the interior space.

23 The Staff Report, prepared by Colin Maycock, AICP, Planner IV for the San Juan  
24 County Department of Community Development, dated July 6, 2020, for the pending  
25 application (25 pages), and all Exhibits, numbered 1 through 5 and identified on page 24 of  
26 the Staff Report, are listed below and included as part of the Record for this matter:

- 17 1a. Application for Shoreline Conditional Use Permit, submitted by the  
18 applicant's designated agent, Cory Harrington, dated April 15, 2020;
- 19 1b. Olga Store proposed floor plan – NOTE: as clarified during the public  
20 hearing, the pending application applies to the entire floor plan, the entire  
21 building envelope, not just portions thereof.
- 22 1c. Agent authorization document from property owners, signed and notarized on  
23 January 29, 2020;
- 24 1d. Receipt for payment of Shoreline Permit fees, dated April 16, 2020;
- 25 2. Olga Hamlet Plan, approved by County Council in October of 2006;



1 point around 2009. *(Comment letter from Olga community resident, John Phillips, included*  
2 *as part of Exhibit 4, referenced on page 14 of the Staff Report).* The building is not currently  
3 occupied, but has been used as a store, post office, deli, and restaurant over the years. *(Pre-*  
4 *Application Meeting Memorandum dated Nov. 19, 2019, from County Planner, Julie*  
5 *Thompson re: Applicant's plans to purchase and revitalize Olga Store, included as part of*  
6 *Ex. 1, application materials).*

7 4. Olga is an historic, established community on the east side of Orcas Island. The Olga  
8 Store is specifically mentioned among other community amenities in the Olga Hamlet Plan,  
9 approved by the San Juan County Council in 2006. *(Ex. 2, Olga Hamlet Plan, at page 3).*

10 5. The Olga Hamlet Plan explains that Olga has two distinctly different commercial  
11 areas, one is the Olga Hamlet Commercial designation, and the other is the Olga Community  
12 Center designation, which is applied to four specific buildings, including the Olga Store. *(Ex.*  
13 *2, page 12; Staff Report, discussion on page 16).* The Olga Hamlet Plan expressly provides  
14 that in the Olga Community Center land use designation, which applies to the applicant's  
15 property:

16 *"Nonresidential uses consistent with the current use of these buildings are*  
17 *considered compatible with the rural residential character of Olga Hamlet. The*  
18 *intent of permitting nonresidential use of these buildings is to provide an*  
19 *economic use of the structure that will result in its preservation. The ability to*  
20 *use the structure for nonresidential use is predicated on maintaining the*  
21 *structure in its present configuration. Limited improvements that do not change*  
22 *the floor area or use but are intended to provide for the protection of the structure*  
23 *and the continued economic use of the structure are permitted. Increases in floor*  
24 *area from that currently existing in these structures are not permitted."* *(Ex. 2,*  
25 *Olga Hamlet Plan, at page 12).*

26 6. In recent years, a number of community members came together and pooled their  
resources to explore options for the Olga Store property. In November of 2019, applicant  
representatives held a pre-application meeting with County staff to discuss their proposal to  
purchase and revitalize the Olga Store so as to maintain the historic building for community  
use, leasing to tenants that will provide the highest value to the Orcas community. *(Staff*  
*Report, page 2; Pre-application Meeting Memorandum dated Nov. 19, 2019, included as part*  
*of Ex. 1, application materials).* During the public hearing, Ms. Paresky, Vice President of  
the Friends of the Olga Store Building (a non-profit organization), testified that over 344  
donations were received to fund the purchase. The Hearing Examiner takes official notice of  
San Juan County Assessor online records for the property, which show the site sold to Friends  
of the Olga Store Building on or about January 2, 2020, though the Deed for the property  
included as part of the application materials *(Ex. 1a, item 2)* shows a recording date of January  
21, 2020.

1 7. On or about April 15<sup>th</sup> of this year, the new owners, Friends of the Olga Store  
2 Building, through their agent, Cory Harrington, submitted the pending application for a  
3 Shoreline Conditional Use Permit, to allow for a change of use of the Olga Store Building,  
4 from “Retail” to “Mixed-Use Commercial” – without any changes to the exterior  
5 configuration or expansion of the existing building footprint. (*Staff Report, page 2; Exhibits  
6 1a and 1b, application materials; Testimony of Mr. Maycock*). As clarified during the public  
7 hearing, this permit applies to the entire building envelope, not just portions of the interior  
8 space. (*Testimony of Mr. Harrington, Ms. Paresky, and Mr. Maycock*).

9 8. As part of the application materials, the applicant included a short summary of  
10 proposed uses for the Olga Store building, including 1) a small grocery or market, possibly  
11 the Orcas Food Coop; 2) a café or espresso bar, with public indoor seating space; and 3)  
12 retail/professional office space. (*Ex. 1a, 1b*). During the public hearing, Ms. Paresky testified  
13 that the U.S. Post Office has signed a lease to operate in a portion of the building, returning  
14 this important public service to the Olga community.

15 9. Given the building’s location within the County’s regulated shoreline jurisdiction, i.e.  
16 130 feet landward from the OHWM and on the landward side of Olga Park Lane (*See Staff  
17 Report, page 20*), any change of use must comply with applicable Shoreline codes, which  
18 mandate that mixed-use developments in a Rural shoreline designation require a shoreline  
19 conditional use permit. (*See SJCC 18.50.600*). This project is located in the County’s  
20 “Rural” shoreline designation. There is no dispute that the applicant’s project requires a  
21 Shoreline Conditional Use Permit.

22 10. As explained in the Staff Report analysis, most of the review criteria for a Shoreline  
23 permit are not applicable or factually relevant to this project, because it does not involve new  
24 development or land disturbance of any kind<sup>1</sup>, like expansion or modifications to the exterior  
25 configuration of the building among other things, meaning that it is not expected to have any  
26 adverse impacts on shoreline ecological functions or values. (*See for example, discussion of  
SJCC 18.50.060 and .120 on pages 16-21 of the Staff Report*).

11. The Examiner concurs, and finds that, because the project is limited to a change of  
use regarding the interior space of the Olga Store Building, from what is commonly  
recognized as a relatively heavy commercial use, i.e. “Retail”, to a mixed-use commercial  
designation that will include several additional but smaller uses like office space, the  
applicant’s proposal should not and is not expected to result in any adverse impacts on  
shoreline functions and values. To assure this is the case, a condition of approval for this  
permit prohibits alterations of the external walls or footprint of the structure, which would

<sup>1</sup> See Applicant-Agent’s letter dated April 8, 2020, included as part of Ex. 1, detailing how application complies with applicable shoreline codes, at page 3, item D.

1 require an additional development permit, perhaps a shoreline substantial development  
2 permit if thresholds for such approval were triggered by any plans to change the exterior of,  
or expand the structure.

3 12. The Staff Report and application materials explain that the existing parking lot on the  
4 site will be sufficient to provide on-site parking for 8 vehicles, including one accessible  
5 parking space; and, while not completely clear, the Staff Report implies that 7 on-site parking  
6 spaces would be sufficient for this proposal. (*Staff Report, page 16; Ex. 3, parking plan for  
the site*). The parking plan indicates that there are already 6 parking spaces available on  
surrounding streets.

7 13. Again, this application does not propose new development or land disturbance of any  
8 kind the shoreline area. The project does not involve any additional structural development  
9 on the parcel, though the project may entail the reconfiguration of the internal layout of the  
10 store's interior floor space. The project will not alter the existing footprint. Given these  
11 understandings and representations by the applicant, adverse impacts on shoreline ecological  
12 functions are not expected as a result of this project. (*Staff Report, analysis and discussion  
on page 17*).

***The proposal complies with or can be conditioned to comply with applicable critical area  
regulations.***

13 14. The Olga Store is approximately 130 feet landward from the OHWM and on the landward  
14 side of Olga Park Lane. (*Staff Report, page 20*). County Critical Area codes expressly  
15 provide that otherwise applicable “[b]uffers and tree protection zones do not extend across  
16 public roads.” (*SJCC 18.35.100(B); and SJCC 18.35.130(A)(Step 6)*). Relevant Critical Area  
17 regulations apply to the Olga Store because it is a commercial use within the shoreline  
18 jurisdiction, including the provisions of SJCC 18.35.080, which mandate the proper storage  
19 and disposal of potentially harmful chemicals, with possible review and inspection of certain  
20 commercial facilities to ensure compliance with groundwater protection requirements.  
21 Accordingly, this requirement is included as a condition of approval for this permit. (*See  
22 Staff Report, analysis of Critical Area regulations that may apply to the proposal*).

***Merits of the project.***

21 15. The Staff Report and the application materials included as part of the Record include  
22 facts and analysis that comprise far more than a preponderance of evidence to establish that  
23 the pending Shoreline application satisfies, and in many respects, promotes or implements,  
24 relevant provisions of the Shoreline Master Program, including without limitation those  
25 found in the County's Comprehensive Plan and the Olga Hamlet Plan.

1 16. While no permit decision is or should be based on the popularity of the proposal in  
2 question, in this matter, the record includes dozens of detailed letters and emails from Olga  
3 community residents who fully support the pending application. No one presented any  
4 testimony or evidence that would justify denial of the pending shoreline application.

5 17. As explained in the Staff Report, and as summarized below, the Record includes  
6 substantial evidence (far more than just a preponderance of evidence) showing that the  
7 application meets requirements to approve the requested Shoreline Conditional Use Permit,  
8 particularly those found in SJCC 18.80.110(J)(1-5) \*[additional findings are provided in  
9 *italics* below]:

10 1. [...] Activities classified as shoreline conditional uses will be allowed only when the applicant  
11 demonstrates that the proposed use will be compatible with allowed uses within the same area. *The*  
12 *uses authorized by this permit are expressly permitted in applicable county shoreline codes as well*  
13 *as the Olga Hamlet Plan.*

14 2. Uses that are specifically prohibited by the SMP may not be authorized through a conditional use  
15 permit or variance. *This application only seeks to authorize Mixed Use Commercial uses on the*  
16 *subject property, which are expressly permitted in County Shoreline codes via the requested*  
17 *Shoreline Conditional Use Permit addressed herein. See SJCC 18.50.600.*

18 3. Conditional use permits granted under other sections of this code are not to be construed to  
19 constitute approval of a shoreline conditional use. *This application is for a shoreline conditional use*  
20 *permit, so this provision is of no relevance in this instance.*

21 4. Uses that are classified in the SMP as conditional uses may be authorized by the County if the  
22 applicant can demonstrate all of the following – items (a) through (f):

23 a. The proposed use is consistent with the policies of RCW 90.58.020 and the SMP;

24 *Finding: As explained in the un rebutted Staff Report, RCW 90.58.020 states that local SMPs shall*  
25 *give preference to uses which, among other things, (2) Preserve the natural character of the*  
26 *shoreline; and (4) Protect the resources and ecology of the shoreline. In this matter, the proposed*  
*mixed-use development makes use of an existing commercial structure that predates adoption of*  
*the County's first SMP. The use of an existing structure eliminates the potential impacts normally*  
*associated with the construction of a new building on the same site and ensures that currently*  
*undisturbed shoreline areas are not modified to serve the same purpose. The proposed mixed-use*  
*development is consistent with the following goals and policies of the Comprehensive Plan Section*  
*B, Element 3 (the goals and policies of the County's shoreline master program):*

- *Comprehensive Plan Section B, Element 3, 3.2.A, (Shoreline Use) policies (2) and (10), which read in relevant part as follows:*

*(2) Allow only uses which would not adversely alter the shoreline, or conflict with or preempt water-dependent uses; and*

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(10) Encourage redevelopment and renewal of obsolete urban shoreline development or structures in order to make maximum use of the available shoreline resource and to accommodate future water-dependent uses.

*Finding: The project entails no new construction and makes use of an existing underused building. The proposed project will not adversely alter the shoreline or conflict with water dependent uses.*

- Comprehensive Plan Section B, Element 3,3.2.(B) Economic development;

*Goal 1. To acknowledge the critical importance of a balanced and diversified local economy for the long-range well-being of the island communities and to allow those economic activities that enhance the physical and social qualities of island life which result in the least possible adverse effects to the shoreline ecological functions and surrounding environment*

*Finding: The project will help reinvigorate an existing use and serve the local community by offering goods and services that otherwise would require a trip to Eastsound.*

- Comprehensive Plan Section B, Element 3,3.2 (B) Economic development policy;

*1. Locate commercial and industrial shoreline uses in and/or near already established commercial and industrial areas and prevent the random scattering of such uses and the premature location of such uses in undeveloped areas.*

*Finding: The project will use a long-established commercial location thereby reducing the demand to develop another parcel to serve the community needs.*

b. The proposed use will not interfere with the normal public use of public shorelines;

*Finding: The proposal is for a change of use within an existing building. No changes to the building's footprint or location are proposed as part of this project. The proposal will not interfere with the normal public use of nearby public shorelines.*

c. The proposed use of the site and project design are compatible with other allowed uses within the area;

*Finding: As explained in the Staff Report, the existing Olga Store building has functioned in its current location as Olga Hamlet's retail center since 1937. Until recently, the Olga Post office, established in the 1890s, was located on a parcel immediately opposite the store to the east. There are residences to the west, north and east of the store. The proposal does not include uses that will generate noise and light outside of normal business hours. The Olga Hamlet plan explicitly states that the designation of the Olga Store as Olga hamlet community center was designed specifically to "preserve the current [commercial] uses" of the store. The Olga Hamlet plan reflected a seven-year public planning process. The proposed mixed commercial use is not expected to generate off-site impacts that exceed the earlier incarnations of the Olga Store.*

1 d. The proposed use will result in no net loss of shoreline ecological functions;

2 *Finding: As explained in the Staff Report and findings provided above, the proposed mixed*  
3 *commercial use is consistent with San Juan County critical area regulations and no adverse*  
4 *impact to shoreline ecological functions are expected.*

5 e. The cumulative impacts of additional requests for like actions in the area, or for other locations  
6 where similar circumstances exist, will result in no net loss of shoreline ecological functions (e.g.,  
7 the total of conditional uses shall remain consistent with RCW 90.58.020 and the SMP).

8 *Finding: There have been no similar requests in Deer Harbor or Orcas Village, the only other*  
9 *Limited Areas with More Intense Rural Development (LAMIRDs) that have plans and shoreline*  
10 *in the County. Even if a substantially similar "like action" came forward in another location,*  
11 *there would be no net loss of ecological functions if the project similarly involved no new*  
12 *development or land disturbance of any kind. Again, it is expressly understood that this Shoreline*  
13 *Conditional Use Permit is issued and conditioned based on the applicant's representations that*  
14 *the project addressed herein does not involve new development or land disturbance of any kind;*  
15 *accordingly, this proposal will have no adverse impacts on shoreline ecological functions and*  
16 *should not result in any net loss of such functions. The proposal is consistent with RCW 90.58.020*

17 f. The public interest will suffer no substantial detrimental effect.

18 *Finding: One of the primary reasons that the Olga Hamlet Plan was generated and adopted by*  
19 *the County Council, following extensive input from Olga community members, was to avoid the*  
20 *negative off-site impacts from development and to preserve highly valued community*  
21 *characteristics, Exhibit 2, Olga Hamlet Plan, at pages 8 and 9. The Olga Store was identified as*  
22 *one of 4 structures that the plan sought to preserve. The public interest will suffer no detrimental*  
23 *effects as a result of this project, and will in fact, be enhanced, as part of the intent and purpose*  
24 *of the Olga Hamlet Plan is implemented and fulfilled – specifically the preservation and economic*  
25 *viability of the Olga Store. (See Ex. 2, at page 12, "The intent of permitting nonresidential use of*  
26 *these buildings is to provide an economic use of the structure that will result in its preservation.*  
*The ability to use the structure for nonresidential use is predicated on maintaining the structure*  
*in its present configuration. Limited improvements that do not change the floor area or use but*  
*are intended to provide for the protection of the structure and the continued economic use of the*  
*structure are permitted. Increases in floor area from that currently existing in these structures*  
*are not permitted.").*

5. Uses that are not classified in this SMP may be authorized by conditional use permit; provided,  
that the applicant demonstrates consistency with the criteria in WAC 173-27-160(1), and the SMP.

*While this provision is not readily applicable to this application, the pending application is fully*  
*consistent with this criterion because the proposed Mixed Use Commercial use authorized by this*  
*permit is expressly allowed in the County's SMP through issuance of a Shoreline Conditional Use*  
*Permit, and is allowed outright in the Olga Hamlet Plan.*

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2 18. All findings, statements of fact, and analysis provided in the Staff Report, are  
3 incorporated herein as findings of fact by the undersigned hearing examiner, except as  
4 modified herein.

5 **V. CONCLUSIONS OF LAW.**

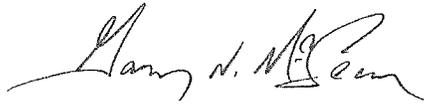
6 1. Based on all findings set forth above, which are supported by substantial, credible and  
7 un rebutted evidence included in the record, the Hearing Examiner concludes that the  
8 applicant has met its burden to demonstrate that the pending application satisfies the County's  
9 approval criteria for a Shoreline Conditional Use Permit. Accordingly, the requested permit  
10 merits approval, subject to appropriate conditions.

11 2. Any finding or other statement contained in a previous section of this Decision that is  
12 deemed to be a Conclusion of Law is hereby adopted as such and incorporated by reference.

13 **VI. DECISION, CONDITIONS OF APPROVAL.**

14 Based on the record, and for the reasons set forth above, the Shoreline Conditional  
15 Use Permit for the change of use for the Olga Store building from Retail to Mixed Use  
16 Commercial is approved, subject to the following Conditions of Approval, which are attached  
17 hereto, and incorporated herein by reference.

18 ISSUED this 2<sup>nd</sup> Day of September, 2020

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21 Gary N. McLean  
22 Hearing Examiner

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**CONDITIONS OF APPROVAL**

**Olga Store Building  
Change of Use from Retail to Mixed Use Commercial**

***Shoreline Conditional Use Permit  
LANDUSE-20-0074***

Based on the Record, and under authority of applicable county code provisions, including without limitation SJCC 18.80.110(E)(1), the Examiner imposes the following Conditions of Approval on the above-referenced permit.

1. The authorized use of the existing Olga Store building, located at 7034 Olga Road, in the Olga Hamlet area of Orcas Island, is hereby changed from "Retail" to "Mixed Use Commercial," thus allowing a mixed-use development in the building, including without limitation a food co-op, a café, retail, professional office space, and a local post office.

2. All of the proposed activities within the mixed-use commercial development must be in compliance with local, state, and federal laws that might apply to any aspect of such operations or uses. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a Shoreline Conditional Use Permit does not limit or waive the applicant's responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of other regulatory agency permits, licenses, or approvals, issued in connection with this proposal shall deemed conditions of approval for this permit and incorporated as such by this reference.

3. A. All activities and uses on the property covered by this permit shall ensure ongoing compliance with applicable groundwater protection requirements found in SJCC 18.35.080, including without limitation those that mandate the proper storage and disposal of potentially harmful chemicals, with possible review and inspection of certain commercial facilities.

B. Consistent with the County's Groundwater Protection Requirements found in SJCC 18.35.080(C), and in accordance with state and federal laws, any pesticides, petroleum products and other chemicals that could be a health hazard in drinking water shall:

- i. Be used in accordance with the manufacturer's directions;
- ii. Be stored, handled and disposed of in a manner that prevents them from coming in contact with the ground surface, or with ground or surface water; and

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iii. Not be disposed of in floor drains, injection or drywells, septic or sewage disposal systems.

iv. Use of a product in accordance with the manufacturer's directions and treatment in accordance with a practice approved by the department does not constitute disposal. Guidance on acceptable management practices can be found in the Washington Department of Ecology most current Stormwater Management Manual for Western Washington, re: Source Control BMPs.

4. The external walls and footprint of the existing Olga Store building shall not be altered; any alteration to the external configuration shall require an additional development permit.

5. It is expressly understood that this Shoreline Conditional Use Permit is issued and conditioned based on the applicant's representations that the project addressed herein does not involve new development or land disturbance of any kind.

6. Failure to comply with these Conditions of Approval shall be grounds for rescission of the Shoreline Conditional Use Permit. As provided in SJCC 18.80.110(L), captioned "Rescission of Shoreline Permits," any shoreline permit may be rescinded by the hearing examiner pursuant to RCW 90.58.140(8), upon the finding that the permittee has failed to comply with the terms and conditions thereof.

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**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.