

SAN JUAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT

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

S.J.C. DEPARTMENT OF

NOV 19 2020

COMMUNITY DEVELOPMENT

**FINDINGS, DECISION AND CONDITIONS OF APPROVAL FOR A
CONDITIONAL USE PERMIT
FOR PUBLIC WORKS FLEET AND ROAD OPERATIONS FACILITY**

FILE NUMBER: LANDUSE-20-0112

OWNER/APPLICANT: SAN JUAN COUNTY PUBLIC WORKS DEPARTMENT

APPLICATION: CONDITIONAL USE PERMIT FOR A 12,800 SQ.FT. FLEET AND ROAD OPERATIONS BUILDING AND ASSOCIATED IMPROVEMENTS, INCLUDING WITHOUT LIMITATION VEHICLE WORKSHOPS, ADMINISTRATIVE OFFICES, PARKING SPACES, FUEL TANK, GENERATOR, AND 225,700 SQ.FT. OF NEW COMPACTED GRAVEL AND DRIVEWAYS ON THE PROJECT SITE.

LOCATION: 1609 BEAVERTON VALLEY ROAD
ON SAN JUAN ISLAND

TAX PARCEL NUMBER: 351044001000

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

SUMMARY OF DECISION: *APPROVED – SUBJECT TO CONDITIONS*

DATE OF DECISION: NOVEMBER 19, 2020

I. SUMMARY

The San Juan County Public Works Department seeks Conditional Use Permit (CUP) approval to expand use of its current Beaverton Valley Road property, generally located west of the Town of Friday Harbor in an unincorporated Rural General Use (RGU) area in the west/central portion of San Juan Island. The existing uses on the 27+acre site already include aggregate storage, a salt shed, a Facilities Department Shop, storage containers, and a well pump house, among other things. (*Ex. 1c, project information, list of current on-site activities on page 2*). The requested CUP would authorize all Fleet and Road Operations to be located on the site, including without limitation: County Road Operations, County Fleet Operations, Administrative Offices associated with such operations, workshops, storage, and other ancillary activities necessary to support road and fleet operations. (*Ex. 1c, on page 2*). The proposal includes a 12,800 sq.ft. Fleet and Road Operations building, parking spaces, fuel tank, generator, and 225,700 sq.ft. of new compacted gravel and driveways on the project site. (*Staff Report, page 2*).

Reviewing staff in the Community Development Department determined that the proposed use and development is consistent with the definition of “construction contractor yard and offices” found in SJCC 18.20.030, which reads as follows: “ ‘Construction contractor yards and offices’ means service establishments primarily engaged in general contracting or subcontracting in the building construction trades. These include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles.” (*Staff Report, page 5*).

A Conditional Use Permit is required for a Construction Yard, based on the Table found at SJCC 18.30.040, identifying allowable uses and type of approval needed for various uses in the Rural General Use (RGU) land use district.

All public notice requirements and comment periods were satisfied. A SEPA Mitigated Determination of Non-Significance was issued for this proposal on September 9th, with a comment period that expired on September 30th. (*Staff Report, page 5; Ex. 1d*). No comments were received, and no one appealed (or even had standing to appeal) the SEPA MDNS. (*id.*). Staff reviewed the application materials and determined that the proposal 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

HEARING TESTIMONY:

Given the Covid-19 health proclamations issued by the Governor and local authorities, the hearing occurred on October 28, 2020, using teleconference equipment operated by county staff. All witnesses who spoke during the public hearing provided testimony under oath.

Colin Maycock, the County’s planner assigned to review the pending application, briefly summarized his review, proposed conditions, and recommendation of approval. He noted that no one submitted any public comments regarding this application.

Christine Coray, Project Engineer, represented the applicant Public Works Department. Ms. Coray summarized her outreach to adjacent property owners and people with questions, noting that no one submitted any written comments. She noted that the Department has planned this project for a long time. Her project summary explains that the County’s current Fleet and Operations location on Guard Street is limited by its urban location, next to the County Library, and the buildings are in need of serious repair or replacement; that the County purchased the 27+acre Beaverton Valley Road site in 2005, to relocate Fleet and Road Operations; that the property has a large, flat cleared area previously used as an airport landing strip; that an onsite pond serves as a fire-suppression water source for the adjacent Beaverton Industrial Park and will be used for fire suppression water supply for the Public Works facility as well; and that there is a water well on site certified as a Class B Water system. (*Ex. 1c, page 1*).

No neighboring property owners, residents, or members of the general public appeared during 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, with 35 pages, included 10 Exhibits, as described and numbered on page 34 of the Staff Report, and listed below. Again, no one submitted any written comments or questions challenging or opposing this application.

Exhibit No.	Description of Item	Submitted by	Date
1	PREAPP-18-0039	Adam Zack	November 20, 2018
1a	Application for Essential Public Facility	Christine Coray	June 11, 2020
1b	Construction yard determination	Adam Zack	August 3, 2020
1c	Revised project narrative	Christine Coray	August 7, 2020
1d	SEPA Determination	Colin Maycock	September 9, 2020
1e	Notice Affidavit	Christine Coray	September 14, 2020
2	Fire Marshall approval of fire suppression	RJ Meyer	September 24, 2020
3	Waiver of required Geotechnical report	Colin Maycock	September 24, 2020
4	Spill Prevention and Emergency Clean Up Plan	Christine Coray	August 7, 2020
5	Wetland Study	Christine Coray	May 26, 2016
6	Approved Onsite sewage treatment design	Christine Coray	June 11, 2020
7	Approved Class B water system certificate	Christine Coray	June 11, 2020
8	Stormwater Management plan	Christine Coray	May 4, 2020
9	DCD Policy re Lot Coverage and stormwater plans	Erika Shook	October 13, 2020
10	Parking Plans	C. Coray	Sept. 28, 2020

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 projects of this type.

As noted above, the applicant’s proposed use and development is consistent with the definition of “construction contractor yard and offices” found in SJCC 18.20.030. A Conditional Use Permit is required for a Construction Yard, based on the Table found at SJCC 18.30.040, identifying allowable uses and type of approval needed for various uses in the Rural General Use (RGU) land use district.

Criteria for CUP approval.

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. Following a pre-application meeting in November of 2018, San Juan County Public Works Department and Department of Community Development staff worked cooperatively to fully review and analyze requirements associated with developing new Public Works facilities on its Beaverton Valley Road site. In August of 2020, the Public Works Department submitted a project narrative seeking Conditional Use Permit approval of its proposed facilities, which fall within the San Juan County Code's definition of "construction contractor yard and offices." Staff reviewed the SEPA Environmental checklist submitted by the applicant and other relevant information before issuing a Mitigated Determination of Non-Significance for this proposal on September 9, 2020. Notices were mailed to owners of properties within 300 feet of the project site, posted on site, and published in the Journal & Sounder on or about the same date. No one submitted any comments regarding and no one appealed the MDNS by the applicable deadline, which expired on September 30th. (*Staff Report, page 5; Exhibit 1, all subparts*).
4. The requested Conditional Use Permit (CUP) would authorize the Public Works Department to expand use of its current property at 1609 Beaverton Valley Road, just west of the Town of Friday Harbor in an unincorporated Rural General Use (RGU) area in the west/central portion of San Juan Island. The existing uses on the 27+acre site already include aggregate storage, a salt shed, a Facilities Department Shop, storage containers, and a well pump house, among other things. (*Ex. 1c, project information, list of current on-site activities on page 2*). If approved, the applicant would move forward with its plans to relocate all Fleet and Road Operations onto the site, including without limitation: County Road Operations, County Fleet Operations, Administrative Offices associated with such operations, workshops, storage, and other ancillary activities necessary to support road and fleet operations. (*Ex. 1c, on page 2*). The proposal includes a 12,800 sq.ft. Fleet and Road Operations building, parking spaces, fuel tank, generator, and 225,700 sq.ft. of new compacted gravel and driveways on the project site. (*Staff Report, page 2*).
5. Reviewing staff in the Community Development Department determined that the proposed use and development is consistent with the definition of "construction contractor yard and offices" found in SJCC 18.20.030, which reads as follows: " 'Construction contractor yards and offices' means service establishments primarily engaged in general contracting or subcontracting in the building construction trades. These include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles." (*Staff Report, page 5*).

6. There is no dispute that a Conditional Use Permit is required for a Construction Yard, such as the use proposed in this application, based on the Table found at SJCC 18.30.040 that identifies allowable uses and the type of approval needed for various uses in the Rural General Use (RGU) land use district. Based on nationally recognized Construction Sector industry categories discussed in several findings below, the Hearing Examiner finds and concludes that this application is clearly for a use that is properly deemed a ‘Construction Yard’ – and that Staff correctly determined that the proposed development is consistent with the definition of ‘construction contractor yard and offices.’

7. San Juan County Public Works road maintenance and fleet operation activities described in the application materials fall squarely within the “Construction Sector” of industries, as used by the U.S. Bureau of Labor Statistics and described in the North American Industry Classification System (NAICS). The “Construction Sector” is assigned NAICS No. 23, and is described in relevant part as follows:

The construction sector comprises establishments primarily engaged in the construction of buildings or engineering projects (e.g., highways and utility systems). [...] Construction work done may include new work, additions, alterations, or maintenance and repairs. Activities of these establishments generally are managed at a fixed place of business, but they usually perform construction activities at multiple project sites. [...] (NAICS 23, U.S. Bureau of Labor Statistics official website, re: Industries at a Glance, definition for ‘Construction Sector’; emphasis added).

8. Most, if not all, of the Public Works fleet and operations activities described in the application materials fall within the Construction Sector’s subcategory for “Heavy and Civil Engineering Construction” work, assigned NAICS No. 237, and described in relevant part as follows:

The heavy and civil engineering construction subsector is part of the construction sector. *The Heavy and Civil Engineering Construction subsector comprises establishments whose primary activity is the construction of entire engineering projects (e.g., highways and dams), and specialty trade contractors, whose primary activity is the production of a specific component for such projects. Specialty trade contractors in Heavy and Civil Engineering Construction generally are performing activities that are specific to heavy and civil engineering construction projects and are not normally performed on buildings. The work performed may include new work, additions, alterations, or maintenance and repairs. (NAICS 237, U.S. Bureau of Labor Statistics official website, re: Industries at a Glance, definition for ‘Heavy and Civil Engineering Construction’ work; emphasis added).*

9. Some of the Public Works fleet and operations activities may also be considered “Specialty Trade Contractor” work, another subcategory of the Construction industry, which is assigned NAICS No. 238, and is described in relevant part as follows:

The “Specialty Trade Contractors” subsector comprises establishments whose primary activity is performing specific activities (e.g., pouring concrete, site preparation, plumbing, painting, and electrical work) involved in building construction *or other activities that are similar for all types of construction*, but that are not responsible for the entire project. *The work performed may include new work, additions, alterations, maintenance, and repairs.* The production work performed by establishments in this subsector is usually subcontracted from establishments of the general contractor type or operative builders, but especially in remodeling and repair construction, work also may be done directly for the owner of the property. *Specialty trade contractors usually perform most of their*

work at the construction site, although they may have shops where they perform prefabrication and other work. Establishments primarily engaged in preparing sites for new construction are also included in this subsector. (NAICS 238, U.S. Bureau of Labor Statistics official website, re: Industries at a Glance, definition for “Specialty Trade Contractors”; emphasis added.)

10. Throughout the public comment period and the public hearing itself, no one submitted any comments or questions challenging or opposing this application.

11. The unchallenged and un rebutted Staff Report and all exhibits included in the record constitute far more than a preponderance of evidence establishing how the proposal conforms to applicable codes and policies, and merits approval, subject to conditions.

12. This Conditional Use Permit does not and should not be read or construed to relieve the applicant’s obligation to comply with all applicable development, environmental, health, and safety regulations, or the need for additional permits or approvals, associated with any aspect of this new facility, including without limitation its operations, or materials placed on site.

13. 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 use. 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.

14. 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, analysis of relevant code provisions on pages 6-30; explanation of how application satisfies approval criteria, on pages 30-31).

15. Based on the Record, the undersigned Examiner finds that the applicant’s proposed new facility has been designed or can be conditioned to conform with all applicable county development regulations and policies. Accordingly, it merits approval, with conditions to ensure that the approved use will not have adverse impacts on surrounding properties. If the facility is to be expanded beyond the types of uses and project elements described in the application materials or is modified to include additional uses 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 the Public Works Department’s new Fleet Service and Road Maintenance Facility, as described in the application materials and Staff Report, can be designed, constructed, conditioned, 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

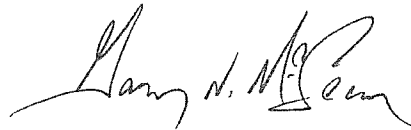
reasonable, supported by the evidence, and capable of accomplishment. Each and every condition is adopted and incorporated herein by reference, except as modified below.

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 Public Works Department's new Fleet Services and Road Maintenance Facility, subject to the attached Conditions of Approval.

ISSUED this 19th Day of November, 2020

A handwritten signature in black ink, appearing to read "Gary N. McLean". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

Gary N. McLean
Hearing Examiner

CONDITIONS OF APPROVAL

*San Juan County Public Works Department
Conditional Use Permit for*

*Fleet Services and Road Maintenance Facility
on San Juan Island*

*Location: 1609 Beaverton Valley Road
(Tax parcel number 351044001000)*

File No. LANDUSE-20-0112

A1. This Conditional Use Permit authorizes the construction and operation of a ‘construction yard’ use on the above-referenced property, specifically including a new Fleet Services and Road Maintenance Facility for the San Juan County Public Works Department, which shall be designed, developed, and operated in substantial conformance with the analysis, elements, features, and mitigation measures addressed in the Staff Report, the MDNS issued for the project, and the application materials.

A2. The approved project elements include:

- A 12,800 sq.ft. Fleet and Road Operations building;
- Off-street parking spaces for 25 vehicles;
- An onsite waste disposal system;
- A Group B water system;
- A fuel tank;
- A generator; and
- 225,700 sq.ft. of new compacted gravel and driveways on the project site.

A3. The uses and activities authorized by this permit include: County Road Operations, County Fleet Operations, Administrative Offices associated with such operations, workshops, storage, and other ancillary activities necessary to support road and fleet operations.

1. Prior to construction of the approved facility, proof of an adequate sewage disposal facility shall be obtained from the San Juan County Health and Community Services Department. Upon receipt, a copy of such proof shall be submitted to DCD.
2. Prior to use of the approved facility, proof shall be obtained from the San Juan County Fire Marshal that fire protection is adequate for the approved use and all onsite activities. Upon receipt, a copy of such proof shall be submitted to DCD.
3. Proof shall be obtained from San Juan County Public Works that the private driveway is consistent with County standards.

4. The applicant shall submit a landscaping plan demonstrating the project's consistency with SJCC 18.60.160 as part of the building permit application.
5. No more than one sign is allowed.
6. No sign may be internally illuminated or constructed of reflective materials or be larger than two square feet.
7. Approval of a building permit is contingent on compliance with the standards and BMPs identified in the approved Stormwater Management Plan, included in the record as part of *Exhibit 8*, on pages 8-20.
8. The parking areas shall contain a minimum of twenty-five, 9 feet by 18 feet parking spaces. The parking area shall be constructed consistent with the approved conceptual site plan, included in the record as *Exhibit 10*.
9. Two ADA accessible parking spaces shall be provided as shown in *Exhibit 10*.
10. The applicant shall show compliance with the construction standard consistent with the International Fire Code, Appendix D, for driveway access prior to construction and operation of this facility.
11. Compliance with the lighting standards in SJCC 18.60.170 is required.
12. Applicant shall demonstrate that the existing vegetation meets the minimum landscaping requirements of 'Type C' screening per SJCC 18.60.160(D). If the existing screening is not sufficient, then the provision of 'Type C' screening per SJCC 18.60.160(D) shall be a condition of building permit approval.
13. Failure to comply with conditions of approval is grounds for revocation of this permit.
14. 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 the conditional use permit.
15. The Public Works Department must obtain approvals from and comply with applicable regulations imposed by other entities or authorities with jurisdiction over any aspect of the approved use of the site, including without limitation compliance with all environmental, health, and safety standards.

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.

