

SAN JUAN COUNTY
HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Welch Investments LLC
520 Point Lawrence Road
Olga, WA 98279

Agent: R. L. Waunch
470 Shooting Star Lane
Eastsound, WA 98245

File No.: PCUP00-13-0011

S.J.C. COMMUNITY

Request: Conditional Use Permit

SEP 26 2013

Parcel No: 271462004

DEVELOPMENT & PLANNING

Location: 48 Hope Lane
Eastsound, Orcas Island

Summary of Proposal: Conditional Use Permit for wholesale distribution business

Land Use Designation: Eastsound Service and Light Industrial

Hearing Date: September 11, 2013

Application Policies and Regulations: SJCC 18.80.100(D) et. seq.

Decision: Approved with conditions.

1 **BEFORE THE HEARING EXAMINER FOR THE COUNTY**
2 **OF SAN JUAN**

3 Phil Olbrechts, Hearing Examiner

4 RE: Welch Investments LLC 5 Conditional Use Permit 6 (PCUP00-13-0011)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
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S.J.C. COMMUNITY

SEP 26 2013

8 **INTRODUCTION**

DEVELOPMENT & PLANNING

9 The applicant requests approval of a conditional use permit for the construction of a
10 two story building to house a wholesale distribution business at 48 Hope Lane in
11 Eastsound, Orcas Island. The application is approved subject to conditions.

11 **TESTIMONY**

12 Julie Thompson, senior County planner, stated the applicant is requesting to operate a
13 wholesale distribution business. The conditional use permit is required because the
14 business will utilize more than 10,000sqft of use area. Previously, staff issued a
15 provisional permit because staff was unaware the use area exceeded 10,000sqft. The
16 site is located in the service and light industrial district, and staff has reviewed the
17 application under the development standards for this district. Staff recommends
18 approval of the application based on the findings during review. The application is
19 compliant with current stormwater standards. There is not a lot of noise associated
20 with the business. The main noise will come from trucks entering and leaving. The
21 project is already served by Eastbound sewer and water.

19 Applicant Testimony

20 The applicant noted that there would not be much truck noise as UPS would only be
21 picking up packages once a day.

22 **EXHIBITS**

23 The staff report and its attachments (application materials, stormwater management
24 plan and pollution prevention plan) are admitted into the record as the only exhibits
25 for the application.

FINDINGS OF FACT

Procedural:

Conditional Use Permit

1 1. Applicant. Welch Investments LLC.

2 2. Hearing. The Hearing Examiner conducted a hearing on the subject
3 application on September 11, 2013 at 10:00 am at the Islander Bank Annex, 225
4 Blair Ave, Friday Harbor.

5 **Substantive:**

6 3. Site and Proposal Description. The applicant requests approval of a
7 conditional use permit for a wholesale distribution business in a two-story metal
8 building that includes an office, marketing, packing, work, and storage areas, a break
9 room and a warehouse. The building and parking area exceed 10,000 square feet and
10 the parcel size is 1.2 acres.

11 4. Characteristics of the Area. The surrounding area is developed with
12 commercial use and is not located adjacent to any airport.

13 5. Adverse Impacts of Proposed Use. There are no significant adverse
14 impacts reasonably discernible from the record. A stormwater plan has already been
15 submitted and found to be consistent with current stormwater regulations. The
16 proposal includes six parking spaces, which is consistent with County parking
17 standards. The parking will be screened from the adjoining road by a five foot wide
18 landscaping strip composed of evergreen trees. The proposed use will not involve
19 any significant amount of truck traffic, heavy equipment or any machinery that will
20 produce any noticeable noise, vibration, dust, smoke, electrical interference or odor.
21 The only truck traffic will be composed of one UPS delivery per day. The conditions
22 of approval will require that public works review the proposal for adequacy of access
23 and traffic infrastructure, since there is no indication in the record that these issues
24 have been reviewed by staff. No lighting or signage is proposed. Water and sewer
25 will be provided by Eastsound Water User's Association and Eastsound Sewer
District respectively, each of which have issued certificates of availability. There is
an installed fire hydrant near the southeast property line that was installed for the
subdivision. The fire marshal approved the location and that just one hydrant is
needed. Surrounding uses are already commercial or industrial. This proposal is of a
similar scale and should not interfere with those uses. There are no critical areas on
site except for a critical aquifer area, which applies to all of San Juan County. County
regulations require commercial and industrial uses within critical aquifer areas to
provide a list of the quantities and types of chemicals that will be used, proposed spill
containment plans, and a plan for disposal of waste materials. This information has
been reviewed and approved by County staff.

CONCLUSIONS OF LAW

Procedural:

Conditional Use Permit

1. Authority of Hearing Examiner. The hearing examiner is authorized to conduct hearings and issue final decisions on conditional use permit applications. San Juan County Code (“SJCC”) 18.80.020 Table 8.1; 18.80.100(C).

Substantive:

2. Zoning Designation. Eastsound Service and Light Industrial

3. Permit Review Criteria. SJCC 16.55.230(D)(1) requires a conditional use permit for the site plans of buildings and associated parking that exceed 10,000 square feet. The proposed building and parking exceed 10,000 square feet. The criteria for conditional use permits are governed by SJCC 18.80.100(D), which are quoted below in italics and applied via corresponding conclusions of law.

SJCC 18.80.100(D)(1): *The proposed use will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;*

4. As outlined in the staff report, the proposal is consistent with all applicable requirements of the Uniform Development Code. The Comprehensive Plan calls for new urban-level residential, general commercial and general industrial uses to be located in UGAs and the project area is located within the Eastsound Urban Growth Area.

SJCC 18.80.100(D)(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;*

5. The Service and Light Industrial District in Eastsound was created to accommodate commercial services and light industrial or construction related activities. SJCC 16.55.230(A)(1).

SJCC 18.80.100(D)(3): *The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;*

6. As determined in Finding of Fact No. 5, the proposal will not create any significant adverse impacts.

SJCC 18.80.100(D)(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;*

7. According to the staff report, there are few available lands within San Juan County that are zoned for the type of use proposed by the applicant such that cumulative impacts would not be significant. Further, the impacts of the proposal are

1 very benign due to limited traffic and no other significant impacts as outlined in FOF
2 No. 5.

3 **SJCC 18.80.100(D)(5):** *The proposal will be served by adequate facilities including
4 access, fire protection, water, stormwater control, and sewage disposal facilities;*

5 10. As determined in FOF No. 5, the proposal will be served by adequate fire
6 protection, water, stormwater and sewage. The conditions of approval will require
7 that public works review the proposal for adequacy of access and traffic
8 infrastructure, since there is no indication in the record that these issues have been
9 reviewed by staff.

10 **SJCC 18.80.100(D)(6):** *The location, size, and height of buildings, structures, walls
11 and fences, and screening vegetation associated with the proposed use shall not
12 unreasonably interfere with allowable development or use of neighboring properties;*

13 11. Surrounding uses are already commercial or industrial. This proposal is of
14 a similar scale and should not interfere with those uses.

15 **SJCC 18.80.100(D)(7):** *The pedestrian and vehicular traffic associated with the
16 conditional use will not be hazardous to existing and anticipated traffic in the
17 neighborhood;*

18 12. According to the staff report, there will be increased traffic with this
19 proposal as deliveries will be received, but it is not expected to increase to a level
20 deemed hazardous.

21 **SJCC 18.80.100(D)(8):** *The proposal complies with the performance standards set
22 forth in Chapter 18.40 SJCC;*

23 13. The proposal is consistent with Chapter 18.40 SJCC performance
24 standards as outlined in paragraphs 20 and 21 of the staff report, incorporated by this
25 reference as if set forth in full.

SJCC 18.80.100(D)(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*

14. There is no airport or airfield adjacent to this property.

SJCC 18.80.100(D)(10): *The proposal conforms to the development standards in
Chapter 18.60 SJCC.*

15. The proposal is consistent with Chapter 18.60 SJCC performance
standards as outlined in paragraphs 22 and 26 of the staff report, incorporated by this
reference as if set forth in full.

1 **DECISION**

2 The application is approved as conditioned below. As conditioned below, the
3 proposal is consistent with all the criteria for a conditional use permit:

- 4 1) The landscaping plan shall be followed as amended to include only evergreen trees.
- 5 2) No approved use shall generate ground vibration perceptible without instruments
- 6 at any point along or outside of the property line of the site of the use, except for
- 7 motor vehicle operations.
- 8 3) No approved use shall generate or cause any visible smoke, gasses, dust, steam,
- 9 heat or odor to be emitted into the atmosphere, except as necessary for the
- 10 heating or cooling of buildings, and the operation of motor vehicles on the site.
- 11 4) Development authorized by this permit shall be completed within five years
- 12 from the date of approval or such permit shall be null and void.
- 13 5) Any proposed signage or exterior lighting shall be subject to the approval of staff
- 14 prior to installation.
- 15 6) Prior to occupancy, the applicants shall schedule a site inspection if found
- 16 necessary by staff to assure compliance with this decision.
- 17 7) Failure to comply with the conditions of this permit may result in revocation.
- 18 8) Traffic generation, access and circulation shall be reviewed by County public
- 19 works or other qualified County staff and mitigated as necessary to ensure
- 20 consistency with County regulations and to ensure there are no resulting
- 21 significant adverse impacts.

22 Dated this 26th day of September, 2013.

23 
24 Phil A. Olbrechts

25 County of San Juan Hearing Examiner

26 **Effective Date, Appeal Right, and Valuation Notices**

27 Hearing examiner decisions become effective when mailed or such later date in
28 accordance with the laws and ordinance requirements governing the matter under
29 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be
30 subject to review and approval by the Washington Department of Ecology pursuant to
31 RCW 90.58.140, WAC 173-27-130, and SJCC 18.80.110.

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This land use decision is final and in accordance with Section 3.70 of the San Juan County Charter. Such decisions are not subject to administrative appeal to the San Juan County Council. See also, 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 requirement may result in dismissal of the 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 consult with a private attorney.

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