

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): San Juan Fire District No. 2
c/o Kevin O'Brien
PO Box 217
Eastsound, WA 98245

File No.: PCUP00-14-0012

Request: Conditional Use Permit (CUP)

Parcel No: 260724006

Location: 59 Channel Road, Deer Harbor
Orcas Island

Summary of Proposal: An application for a conditional use permit to allow
the use of a fire station meeting room for community
meetings

Land Use Designation: Hamlet Residential

Public Hearing: August 13, 2014

Application Policies and Regulations: SJCC 18.80.100(D) CUP Criteria

Decision: The application is approved subject to conditions.

S.J.C. COMMUNITY

SEP 02 2014

DEVELOPMENT & PLANNING

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

Phil Olbrechts, Hearing Examiner

RE: Deer Harbor Fire Station Conditional Use Permit (PCUP00-14-0012)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION S.J.C. COMMUNITY SEP 02 2014
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INTRODUCTION

DEVELOPMENT & PLANNING

The applicant has applied for approval of a conditional use permit for a change in use of the meeting room of the Deer Harbor Fire Station to a community meeting room. The meeting room was originally only authorized for fire department use by the conditional use permit authorizing construction of the fire station in 2009. The application is approved with conditions, including a staff recommended condition requiring the addition of five parking spaces. No parking signs will also be required to be posted along adjoining roads to prevent on-street parking.

TESTIMONY

Julie Thompson stated that the application is to convert what is labeled as an office to a public meeting space in the Deer Harbor Fire Station on Orcas Island. Parking is an issue at this location because some of the neighbors believe the existing parking is insufficient for a meeting space with a capacity of 23 people. There are only 5 or 6 parking spaces which will be dedicated to the meeting room. There is no on-street parking. Staff recommends approval with several conditions. One of these conditions is that the applicant provide 14 parking spaces. The fire station originally had 9 spaces, and the Fire Chief does not believe the station needs these 9 spaces for daily operation. The Fire Station is exempt from the parking space regulation of the Code, and the Administrator made the original decision regarding number of spaces. The new public meeting space requires a minimum of five spaces. Ms. Thompson is unaware if the applicant can accommodate 14 new parking spaces on the site. The applicant will have to get a change of use permit from the Building Department because the occupancy changes from "B" to "A." She submitted an updated operations letter from the Fire Chief which mentions that there will be 6 spaces, instead of 5, dedicated for public use (Exhibit 8).

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Applicant Testimony

Teri Williams, Permit Resources, testified that the applicant is aware that a change of use permit is necessary. The original building permit was revised in 2012. The original conditional use permit called the subject space a training/meeting room for the Fire Department's use only. The landscaping plan has been approved, revised, and installed. The Fire Chief has addressed the limitation on cars in his operations policy. The community wants this space because the available community gathering place is very old and cumbersome to heat. The community members will not violate any parking regulations; instead, people will walk or car pool to the station. The change of use permit will set the maximum occupancy for the space.

Randy Harrington, Permit Resources, stated that the public parking spaces will not need to be used by the Fire Department. He submitted the current and future parking configurations (Exhibit 9). A stormwater engineer has reviewed the new parking space plan and found no modifications would be necessary to accommodate the spaces.

Kevin O'Brien, Orcas Fire Chief, testified that the station is a great facility and is funded by the taxpayers of Orcas. The station was originally built in 2010 and completed in 2012. It is wasteful not to use the meeting room for the public. The citizens have worked to beautify the facility so it should be used by them.

Ms. Williams noted that the conditional use permit called for 9 parking spaces. There is no record of how the number 9 was reached. There is space on-site to increase the number of parking spaces to 14, but the applicant believes that is too many spaces. The site complies with the UDC 5-space minimum. The parking complies with the stormwater and landscaping plans.

Public Testimony

Barbara Bedell, Chairman of Board of Fire Commissioners for San Juan Dist #2, stated that on September 5, 2013, she and other citizens began a fundraising campaign to decorate and furnish the Deer Harbor Fire Station. By March, 2014, the 30,000 dollar goal was surpassed. At this time, the number has reached nearly 35,000 dollars. This fundraising is a testimony to the public's desire to have a well-functioning fire station and a public area for small groups to meet. The CUP should be reversed to allow for such meetings. Orcas Island Fire and Rescue, via standard operating procedures, will control who can use the space and when the space will be

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available to the public. The Board of Fire Commissioners is in full support of the application.

Blake Shore said she is a resident of Deer Harbor and an adjacent property owner to the station. She is in support of using the space for small meetings; however, she is very concerned about the parking. She believes the permit should be conditioned to restrict the number of occupants to 10 people. Five parking spaces for public use is not enough to accommodate a 20-person gathering place. It is unrealistic to offer a public space and provide limited parking. There is no overflow capability in the hamlet of Deer Harbor. The neighbors do not want cars on the shoulder of the road or infringing on private property. The Fire Department should not be responsible for policing the meeting space. The station was approved by the community as a special use, but the Deer Harbor Hamlet Plan only allows a gathering place in the Deer Harbor Hamlet Activity Center which the subject location is not. Overspill of parking on the road is not consistent with the rural-residential area. If the station adds additional parking, the Building Department needs to ensure the open space requirement is still met and the stormwater plan is adequate. Currently, there is an issue with the stormwater flow to the west which is impacting a neighboring property. She does not believe the station property could accommodate 14 spaces because of the storage tanks on the backside of the station. The existing parking needs to be designated, and the Fire Department must ensure it is not blocking neighboring driveways. Ms. Shore supports the station, but just wants to ensure the meeting space is limited to a 10-person use.

Staff Rebuttal

Ms. Thompson had no comments

Applicant Rebuttal

Teri Williams stated that the planned number of parking spots meets the required number under the East Sound Sub-Area Plan. This Plan does not specify the number of people per space. The UDC requires only a minimum of 5 spaces and does not limit the number of people in the building. The Fire Chief has created clear rules for using the space. If the maximum number of people allowed in the space is 20, the applicant is in hopes that some people will walk and others will car pool so that parking is not an issue even at maximum room capacity. If there is an emergency or need by the Fire Department, the meeting space will not be open to the public at that time.

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Chief O'Brien testified that there are typically 4 or 5 emergency responders assigned to the Deer Harbor Station. In the event that there is a large scale Department gathering or emergency, the meeting room will be closed. The call volume in the facility is relatively low. It is only 15 percent of the overall call volume. The Fire Department does not use the meeting space often. He will not allow public use of the space to impact the Department's overall mission of protecting the Orcas Island citizens and their property.

Randy Harrington said that the parking area was originally designed for 14 spaces, but reduced to 9 spaces to alleviate neighboring concerns about too much traffic. The volunteer spaces will be in the back at the south-end of the lot. There will be clear signage to show the distinction between public parking and fire staff parking. The back area where the storage tanks are will not be used for parking.

Teri Williams noted that there is an entrance and exit onto Channel Road. There is no room for on-street parking on Channel Road. The community is aware that there is no on-street parking on this road, and, if people begin parking on the road, the meeting space will be closed to the public. There are no "No Parking" signs on the county road, but there is no space to park on the road. There is an office space for the Fire Department's use upstairs. The potential public meeting space is downstairs with an ADA-bathroom, small kitchenette, and table with 12 chairs. Adjacent to the space is the truck base. The truck base is not open to the public. Upstairs there is also a bunk room for volunteer sleeping. The 9 space requirement was based on all the uses of the space, not just the meeting area. When the building was constructed, the basement was not included. The square footage on the cover letter for the CUP was incorrect because of the changes. The Administrator made decisions because this type of use was not listed in the regulations.

Chief O'Brien does not believe that members of the public exiting the building at the same time an emergency call occurs will be a problem due to the low volume of emergency calls and low frequency of meetings. If it becomes a problem, the Fire Department will change the plan.

Ms. Thompson noted that the parking regulations of the UDC have not changed since the 2009 building permit.

EXHIBITS

The following documents were admitted into the record during the hearing:

Conditional Use Permit

- Exhibits 1-6 Listed on exhibit list attached to July 30, 2014 staff report.
- Exhibit 7 building plans for the 2009 building permit
- Exhibit 8 standard operating guidelines
- Exhibit 9 Current and future parking configurations

FINDINGS OF FACT

Procedural:

1. Applicant. The applicant is San Juan Fire District No. 2.
2. Hearing. A hearing was conducted on the subject application on August 13, 2014 at 10:00 am at the Islander Bank Annex, 225 Blair Ave, Friday Harbor.

Substantive:

3. Site and Proposal Description. The applicants request that small public meetings be allowed in the existing space that was permitted by 08CU017/HE 03-09. The earlier application permitted a fire station, but the use of this particular room was limited to fire department activities. The room is equipped with a table, chairs, ADA bathroom and a kitchenette. The thought is that most people attending meetings here would walk as the Deer Harbor Hamlet is a fairly small area. There are 9 parking spaces available on site as required by the earlier permit and no increase in parking is anticipated in the application.

The Orcas Island Fire Chief has developed Standard Operating Guidelines for meeting room usage. It covers policy; meeting room reservations; procedures for meeting room use; parking; and penalties for non-compliance.

The site is located on the south side of the County road, adjacent to a site that has been used for emergency vehicle parking.

4. Characteristics of the Area. The neighborhood is mixed residential and commercial. Deer Harbor Boatworks is located west of the site, a phone company office is east of the site, a bed and breakfast is to the north and other residential uses surround it.

5. Adverse Impacts of Proposed Use. As conditioned, the proposal will not create any significant adverse impacts. The primary point of concern for area

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residents is parking. As discussed in the conclusions of law, staff's recommendation for five additional parking spaces meets legislative standards of parking adequacy, which are determinative on the issue of how much parking is necessary for the facility. No parking signs will also be required along adjoining road(s). Concerns were also raised about the community meetings obstructing emergency response operations, but the fire chief has designed the proposed parking and adopted guidelines (Ex. 4) to ensure that emergency operations are not impeded. Noise impacts were also raised by some neighbors. Compliance with the County's noise ordinance, Chapter 9.06 SJCC, will be made a condition of approval so that the conditional use permit approved by this decision may be revoked if use of the community meeting room generates an unreasonable amount of noise as regulated by Chapter 9.06 SJCC.

CONCLUSIONS OF LAW

Procedural:

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 Designations. Hamlet Residential.

3. Permit Review Criteria. A conditional use permit is required for the project because Table 3.8, SJCC 18.30.310 requires a conditional use permit for a community club or community organization assembly facility. SJCC 18.80.100(D) governs conditional use criteria. Applicable conditional use criteria are quoted below and applied through 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 analysis and findings and conclusions of which are adopted by this reference as they pertain to regulatory consistency, the proposal is consistent with all applicable development regulations. There is also nothing about the proposal that suggests any inconsistency with the Comprehensive Plan.

The most difficult regulatory issue pertaining to the proposal was required parking. After considerable review it is concluded that the staff's approach was the most logical. The nine parking spaces required in the 2009 conditional use

permit were based on the fire department use of the fire station. That number cannot be revisited at this time. The proposed community use of the meeting room will not in any way reduce the parking demand created by the fire department use of the fire station. Consequently, any parking demand created by the proposed community meetings must be considered entirely separately from the demand created by the fire department. It can be argued that fire department use may reduce the parking demand usually generated by community meeting use, but there is nothing in the record to suggest that fire department use of the meeting room will significantly reduce public use of the facility. For these reasons, the staff reliance upon the parking standard for a community organization facility is well justified. As noted in the staff report, SJCC 18.60.120, Table 6.4, provides that a community club or community organization facility requires 1 space per 300 square feet, but not fewer than 5 spaces. The meeting room is 650 square feet, which includes the area considered nonpublic, so 5 spaces are required to be dedicated to the meeting facility in addition to the 9 spaces required for the fire station.

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. No exterior alterations to the fire station are proposed. Some parking spaces may be added, but the addition of five parking spaces should not create any aesthetic issues with the surrounding residential neighborhood given the fire station that is already in place.

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, which includes impacts to the human and nature environments.

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. Cumulative impacts aren't anticipated as there do not appear to be any other buildings within the vicinity that could be converted to community use.

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

8. As an existing building recently constructed, the building is served by all necessary public services and facilities. The County's stormwater regulations will address any stormwater impacts created by the addition of any additional parking spaces.

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

9. The only exterior structural changes associated with the proposal may be the addition of five parking spaces. Parking development is regulated in detail by the SJCC and these additional stalls should not interfere with allowable development or use of neighboring properties.

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

10. The fire chief will ensure that all community parking does not interfere with emergency operations. It is anticipated that many of the users of the proposed meeting room will walk to it, but given the residential setting of the fire station it is not anticipated that walking to the facility will create any hazardous pedestrian conditions.

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

11. There are no performance standards for the proposed use in Chapter 18.40 SJCC.

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*

12. Since the only exterior alteration is the potential addition of parking spaces, 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.

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

13. As outlined in the staff report, the findings and conclusions of which are adopted by reference as they relate to Chapter 18.60 SJCC standards, the proposal is consistent with Chapter 18.60 SJCC.

DECISION

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

1. No parking signs shall be placed along adjoining road(s) as found necessary by staff to prevent on-street parking during community events. No on-street parking shall be allowed for public use of the meeting room. The applicant shall be ultimately responsible for ensuring that no on-street parking occurs, and any on-street parking that does occur will be considered a violation of this condition of approval.
2. All activities authorized by this decision shall conform to the noise standards of Chapter 8.06 SJCC.
3. Five additional parking spaces will be provided. If the spaces are located off-site, written lease(s), license(s), or fee arrangement(s) shall be submitted to the administrator for review for compliance with the applicable standards.
4. A parking plan, including required landscaping, shall be submitted to the administrator for review for compliance with the applicable standards.
5. The meeting room as identified on the site plan shall be the only room allowed for public meetings. The fire truck bays are not to be used for meetings or events. The total number of people in the meeting room shall be twenty at any one time.
6. Upon determination by the Director of CDPD that any condition 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.

Dated this 28th day of August, 2014.


Phil A. Olbrechts

San Juan County Hearing Examiner

Effective Date, Appeal Right, and 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 SJCC 18.80.110.

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.