**SAN JUAN COUNTY**
**HEARING EXAMINER**

# FINDINGS, CONCLUSIONS, AND DECISION

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| Applicant(s): | Linda Hume, San Juan Vacation Ventures Inc.<br>PO Box 488<br>Friday Harbor, WA 98250<br><br>on behalf of<br>Stephen Warren and George Haradody |
| File No.: | PCUP00-15-0010 |
| Request: | Conditional Use Permit (CUP) |
| Parcel No: | 46141001 |
| Location: | 131 Garrison Drive, San Juan Island |
| Summary of Proposal: | An application for a conditional use permit to allow vacation rental of a single-family home |
| Land Use Designation: | Rural Residential |
| Public Hearing: | May 28, 2015 |
| Application Policies and Regulations: | SJCC 18.40.270 Vacation Rentals<br>SJCC 18.80.100(D) CUP Criteria |
| Decision: | Approved subject to conditions |

S.J.C. COMMUNITY

JUN 11 2015

DEVELOPMENT & PLANNING

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

In the Matter of the Application of

**Stephen Warren and George Harandody**

for approval of a conditional use permit to allow vacation rental of the three-bedroom residence at 969 Afterglow Drive, San Juan Island

NO. PCUP-15-0010

S.J.C. COMMUNITY
JUN 11 2015
DEVELOPMENT & PLANNING

## SUMMARY OF DECISION

The request for conditional use permit to authorize the use of the three-bedroom residence at 969 Afterglow Drive, San Juan Island as a vacation rental is **APPROVED**, subject to conditions.

## SUMMARY OF RECORD

**Request:**
Linda Hume, on behalf of Stephen Warren and George Harandody (Applicants), requested a conditional use permit to authorize vacation rental use of the three bedroom single-family residence located at 969 Afterglow Drive, San Juan Island.

**Hearing Date:**
The San Juan County Hearing Examiner held an open record public hearing on the request on May 28, 2015.

**Testimony:**
At the open record public hearing, no representative for the Applicants attended. The following individual presented testimony under oath:

Julie Thompson, Planner

**Exhibits:**
The following exhibits were admitted in the record:

1. Department of Community Development Staff Report to the Examiner, dated May 14, 2015
2. Land Use Permit Application, received April 7, 2015
3. Memorandum from Linda Hume received April 7, 2015
4. San Juan County GIS parcel map
5. First and Second Floor interior plans

Upon consideration of the testimony and exhibits submitted at the open record public hearing, the Hearing Examiner enters the following findings and conclusions:

## FINDINGS

1. The Applicants requested approval of a conditional use permit to authorize the use of the three-bedroom residence at 969 Afterglow Drive, San Juan Island, as a vacation rental.[1] The parcel is developed with a three bedroom single-family residence. There is no accessory dwelling unit. An existing detached studio would not be available for guest use. *Exhibits 1, 2, 3, 4, and 5; Thompson Testimony.*

2. The subject property has a Rural Residential land use designation. It abuts Speiden Channel to the west, single-family development to the south and east, and a greenbelt to the north. *Exhibits 1 and 4.*

3. The existing residence is served by Roche Harbor water and an approved on-site septic system. As an existing developed site, the proposal is consistent with San Juan County Code (SJCC) Chapter 18.60. *Thompson Testimony; Exhibit 1.*

4. The proposal would allow up to nine persons at a time to rent the three bedroom house. The parcel has off-street parking for five vehicles. No outdoor advertising signs or food service are proposed. *Exhibits 1 and 3.*

5. Planning Staff submitted that noise and trespassing impacts could be expected to mimic those associated with traditional residential use of the site. Staff noted that potential disturbance to surrounding properties that could result from temporary occupants could be mitigated by the following measures: restricting the number of occupants to nine; requiring rules of conduct to be posted that specifically prohibit trespass; identification of property lines; providing neighbors with a 24-hour contact phone number; and requiring the contact to keep a written log of complaints. Staff recommended conditions that would require the above measures. *Exhibit 1; Thompson Testimony.*

6. If approved, the Applicants would be required to obtain a business license or work through a property management company. *Exhibit 1.*

7. The application was submitted April 7, 2015 and determined to be complete on the same date. Notice of the application was mailed to surrounding property owners on April 17th and posted on-site April 20th. Notice was published on April 22, 2015. The County did not receive comments on the proposal. *Exhibits 1 and 2; Thompson Testimony.*

8. Upon review of the complete application materials, Planning Staff determined that the proposal can comply with all applicable criteria and recommended approval with conditions. *Thompson Testimony; Exhibit 1.* In not sending a representative to the hearing, the Applicants waived objection to the recommended conditions.

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[1] The legal description of the subject property is Lot 1 of the Chita Miller Short Subdivision; also known as Assessor Parcel number 46141001. *Exhibit 1.*

## CONCLUSIONS

**Jurisdiction**

The Hearing Examiner is granted jurisdiction to hear and decide applications for conditional use permit pursuant to Chapter 36.70.970 of the Revised Code of Washington and Chapters 2.22 and 18.80 of the San Juan County Code.

**Criteria for Review**

*Conditional Use Permit*

Pursuant to SJCC 18.80.100.D, a conditional use permit shall be granted by the County only if the following criteria are met:

1. The proposed use will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;
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;
3. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;
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;
5. The proposal will be served by adequate facilities including access, fire protection, water, stormwater control, and sewage disposal facilities;
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;
7. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood;
8. The proposal complies with the performance standards set forth in Chapter 18.40 SJCC;
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
10. The proposal conforms to the development standards in Chapter 18.60 SJCC.

*Vacation Rentals*

Pursuant to SJCC 18.40.270, the following standards apply to all vacation rentals of single-family residential units and accessory dwelling units or portions thereof:

A. No more than three guests per bedroom shall be accommodated at any one time.

B. The vacation rental of a principal residence or accessory dwelling unit shall be operated in a way that will prevent unreasonable disturbances to area residents.

C. At least one additional off-street parking space shall be provided for the vacation rental use in addition to the parking required for the residence or accessory dwelling unit.

D. If any food service is to be provided the requirements for a bed and breakfast residence must be met.

E. No outdoor advertising signs are allowed.

F. The owner or a long-term lessee may rent either the principal residence or the accessory dwelling unit on a short-term basis (vacation rental), but not both.

G. Where there are both a principal residence and an accessory dwelling unit, the owner or long-term lessee must reside on the premises, or one of the living units must remain unrented.

H. In all activity center land use districts, rural residential, and conservancy land use districts, the vacation rental of a residence or accessory dwelling unit may be allowed by provisional ("Prov") permit only if the owner or lessee demonstrates that the residence or accessory dwelling unit in question was used for vacation rental on or before June 1, 1997. When internal land use district boundaries are adopted for an activity center, this provision will apply to VR and HR districts but not to the activity center in general.

I. Vacation rental accommodations must meet all local and state regulations, including those pertaining to business licenses and taxes.

J. Owners of vacation rentals must file with the administrator a 24-hour contact phone number.

K. The owner or lessee of the vacation rental shall provide notice to the tenants regarding rules of conduct and their responsibility not to trespass on private property or to create disturbances. If there is an easement that provides access to the shoreline, this shall be indicated on a map or the easement shall be marked; if there is no access, this shall be indicated together with a warning not to trespass.

L. Detached accessory dwelling units established under SJCC 18.40.240 cannot be separately leased or rented for less than 30 days.

**Conclusions Based on Findings**

1. As conditioned, the proposed vacation rental would be consistent with applicable provisions of the SJCC and the Comprehensive Plan. The use would occupy an existing residence without altering the appearance of the structure. Conditions would ensure that even when rented it continues to function like a residence; the residential character of the neighborhood would be maintained. There is no evidence in the record of adverse cumulative environmental impacts in the event of additional vacation rental request approvals. The proposal meets or can be conditioned to meet the applicable standards of sections 18.40 and 18.60 of the SJCC, ensuring there are adequate public services and facilities to serve the proposal. Potential adverse impacts from the vacation rental on neighboring properties would be mitigated by conditions requiring rules of conduct prohibiting trespass, clear presentation of property boundaries to renters, and a 24-hour contact for neighbor complaints (among others). Pedestrian and vehicular traffic would be consistent with that expected of a typical residence. The proposed use would not result in conflicts with any nearby airfield. *Findings 1, 2, 3, 4, 5, and 8.*

2. Regarding the use-specific requirements of SJCC 18.40.270, conditions of approval would limit rental occupancy to nine people. Potential noise, trespass, and parking impacts to surrounding parcels would be mitigated through conditions requiring posted rules of conduct, identification of property boundaries, provision of a 24-hour contact phone number, and the requirement for the contact to maintain a log of complaints. The rules of conduct would specifically be required to prohibit trespass. The site has off-street parking for five vehicles. No outdoor advertising, food service, or accessory dwelling unit are proposed. Conditions would ensure that the Applicants obtain a business license or work through a property management company. *Findings 3, 4, 5, 6, and 8.*

## DECISION

Based on the preceding findings and conclusions, the request for conditional use permit to authorize the use of the three-bedroom residence at 969 Afterglow Drive, San Juan Island, as a vacation rental is **APPROVED,** subject to the following conditions:

1. The three-bedroom vacation rental shall be operated as described in the application materials except as modified by these conditions.

2. The residence may be rented as a single unit on a short term basis for periods less than 30 days. A maximum of nine total guests shall occupy the residence at any one time.

3. Prior to operation, evidence shall be presented to the Department of Community Development that the driveway has been approved for emergency vehicle access.

4. The vacation residence shall be operated in a way that prevents unreasonable disturbances to area residents. To this end, the Applicants or agent shall:

   A. Provide copies of this decision to property owners within 300 feet of the subject property, along with a 24-hour local contact phone number, so that complaints can be dealt with in a timely manner. A log of complaints shall be kept by the contact.

   B. Prominently mark the boundaries of the subject property so that it is clearly evident to guests where those boundaries are.

   C. Provide notice to the tenants regarding rules of conduct and their responsibility not to trespass on private property or create disturbances. If there is an easement that provides access to the shoreline, this shall be indicated on a map or the easement shall be marked; if there is no access, this shall be indicated together with the warning not to trespass.

   D. Provide copies to the Department of Community Development of the rules of conduct and the 24-hour local contact phone number.

5. No food service is to be provided. No outdoor advertising signs are allowed. A minimum of three off-street parking spaces shall be maintained on-site for the life of the use.

6. The rental must meet all local and state regulations, including those pertaining to business licenses and taxes.

7. No use of the property shall be made that produces unreasonable vibration, noise, dust, smoke, odor, or electrical interference to the detriment of adjoining properties.

8. Written rules of conduct shall be submitted to Department of Community Development before rentals commence. Said rules shall also be sent to all property owners within 300 feet of the property boundaries.

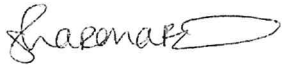
9. Since the County is not a party to private covenants, it is not in a position to enforce private covenants between property owners that may prohibit use of a residence as a vacation rental. However, issuance of a permit for a vacation rental does not license the owner to violate private restrictions.

10. If the conditions of approval are not complied with, the resulting impacts may change a typical residential area to one with frequent incidents of trespass, noise, and traffic from strangers who have no investment in maintaining civil relations with neighbors. For this reason, it is emphasized that failure to comply with conditions of approval is grounds for revocation of this permit.

11. Upon determination by the Director of the Department of Community Development that any condition listed above has been violated, following issuance of a Notice of Violation, the Director may, in addition to his other code enforcement remedies, revoke the conditional use permit.

Decided June 10, 2015.

By:



Sharon A. Rice
San Juan County Hearing Examiner