SAN JUAN COUNTY
HEARING EXAMINER

FINDINGS, CONCLUSIONS, AND DECISION

Applicant(s):	Christine Bush 3695 Bailer Hill Road Friday Harbor, WA 98250
File No.:	PCUP00-15-~~0015~~ 0005
Request:	Conditional Use Permit (CUP)
Parcel No:	353032010
Location:	3696 Bailer Hill Road, Friday Harbor, 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 5
Public Hearing:	June 18, 2015
Application Policies and Regulations:	SJCC 18.40.270 Vacation Rentals SJCC 18.80.100(D) CUP Criteria
Decision:	Approved subject to conditions

S.J.C. DEPARTMENT OF
JUN 26 2015
COMMUNITY DEVELOPMENT

BEFORE THE HEARING EXAMINER
FOR SAN JUAN COUNTY

In the Matter of the Application of	)	NO. PCUP-15-~~0015~~ 0005
Christine Bush	)	
	)	
	)	
for approval of a conditional use permit	)	
to allow vacation rental of the three-	)	
bedroom residence at 3695 Bailer Hill Rd.,	)	
San Juan Island	)	

S.J.C. DEPARTMENT OF
JUN 26 2015
COMMUNITY DEVELOPMENT

SUMMARY OF DECISION

The request for conditional use permit to authorize the use of the three-bedroom residence at 3695 Bailer Hill Road, San Juan Island, as a vacation rental is APPROVED, subject to conditions.

SUMMARY OF RECORD

Request:
Christine Bush (Applicant) requested a conditional use permit to authorize vacation rental use of the two bedroom single-family residence located at 3695 Bailer Hill Road, San Juan Island.

Hearing Date:
The San Juan County Hearing Examiner held an open record public hearing on the request on June 18, 2015.

Testimony:
At the open record public hearing, the following individuals presented testimony under oath:

Lee McEnery, Planner, San Juan County Department of Community Development
Christine Bush, Applicant

Exhibits:
The following exhibits were admitted in the record:

1. Department of Community Development Staff Report to the Examiner, dated June 2, 2015
2. Land Use Permit Application, received March 27, 2015
3. San Juan County Assessor & Treasurer Map of Property ID 16971
4. Parking Plan
5. Interior Floor Plan

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 Applicant requested approval of a conditional use permit to authorize the use of the three-bedroom residence at 3695 Bailer Hill Road, San Juan Island, as a vacation rental.[1] The parcel is developed with a two bedroom single-family residence on the west side of San Juan Island. The parcel has no shoreline access and there is no accessory dwelling unit. *Exhibits 1, 2, and 3; Bush Testimony.*

2. The subject property has a Rural Residential 5 land use designation. It is surrounded on all sides by rural residential development. It is not located near an airfield or airport. *Exhibit 1.*

3. The existing residence is served by an approved on-site septic system approved for two bedrooms. The Applicant's proposal originally requested approval of a three bedroom vacation rental, but due to the septic system design, only a two bedroom rental may be allowed. Planning Staff recommended that if at some future date the septic system is redesigned to serve three bedrooms, the Applicant should be allowed to upgrade the vacation rental to three bedrooms without further public hearing process. Staff also submitted that because the subject property is an existing developed site, the proposal is consistent with San Juan County Code (SJCC) Chapter 18.60. *McEnery Testimony; Exhibits 1 and 3.*

4. The proposal would allow up to six persons at a time to rent the two bedroom house. The parcel has off-street parking for at least three vehicles, one in the carport and two in the driveway. No outdoor advertising signs or food service are proposed. *Exhibits 1 and 4.*

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; McEnery Testimony.*

6. No food service and no signage are proposed. *Exhibits 1 and 2.*

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

8. The application was submitted March 27, 2015 and determined to be complete on May 11, 2015. Notice of the application was posted on-site and mailed to surrounding property owners on May 12, 2015. Notice was published on May 20, 2015. The County did not receive comments on the proposal. *Exhibits 1 and 2; McEnery Testimony.*

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[1] The subject property is known as Assessor Parcel number 353032010. *Exhibit 1.*

9. Upon review of the complete application materials, Planning Staff determined that the proposal can comply with all applicable criteria and recommended approval with conditions. *McEnery Testimony; Exhibit 1.* The Applicant waived objection to the recommended conditions. *Bush Testimony.*

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 unaffected. No adverse cumulative environmental impacts are suggested by the record 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. There is no airfield adjacent to this property. *Findings 1, 2, 3, 4, 5, and 9.*

2. Regarding the use-specific requirements of SJCC 18.40.270, conditions of approval would limit rental occupancy to six people. Should the septic system on-site be upgraded to serve three bedrooms in the future, a condition of approval would allow the vacation rental to serve up to nine persons at once without further public hearing process. 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 three vehicles. No outdoor advertising, food service, or accessory dwelling unit are proposed. Conditions would ensure that the Applicant obtains a business license or works through a property management company. *Findings 3, 4, 5, 6, 7, and 9.*

DECISION

Based on the preceding findings and conclusions, the request for conditional use permit to authorize the use of the three-bedroom residence at 3695 Bailer Hill Road, San Juan Island, as a vacation rental is **APPROVED,** subject to the following conditions:

1. The two-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 three people per bedroom and six total guests shall occupy the residence at any one time.

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

4. The rentals must meet all local and state regulations, including those pertaining to business licenses and taxes. Approval of this permit does not authorize the owner to violate private covenants and restrictions.

5. 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.

6. A 24-hour non-message, non-recording contact number shall be provided to Department of Community Development and to all neighbors within 300 feet of the property. A log of complaints shall be kept and a copy provided to DCD upon request.

7. Written rules of conduct shall be submitted to DCD prior to the first rental. The rules of conduct shall identify the property boundaries, clearly prohibit trespass, be posted in the house, and given to all the neighbors within 300 feet of the property boundary.

8. Should the on-site septic system be upgraded in the future to serve three bedrooms, the Applicant may notify the DCD by letter of their intent to have a three bedroom vacation rental, and shall submit to the Department, post in the house, and circulate to the neighbors a new set of rules of conduct addressing a total of nine guests at one time.

9. Failure to comply with the conditions of this permit may result in revocation.

10. 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.

Decided June 26, 2015.

By:

Sharon A. Rice
San Juan County Hearing Examiner