

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicant(s): Scott and Victoria Zehner  
31 Cedar Street  
San Juan Island

Agent: John Thompson  
PO Box 16725  
Seattle, WA 98116

File No.: PCUP00-13-0016

Request: Conditional Use Permit (CUP)

Parcel No: 351454201

Location: 31 Cedar Street  
San Juan Island

S.J.C. COMMUNITY

FEB 28 2014

DEVELOPMENT & PLANNING

Summary of Proposal: An application for a conditional use permit to allow vacation rental of a single-family residence.

Land Use Designation: Rural Residential

Public Hearing: February 12, 2014

Application Policies and Regulations: SJCC 18.40.270 Vacation Rentals  
SJCC 18.80.100(D) CUP Criteria

Decision: The application is approved subject to conditions.

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

3                                   Phil Olbrechts, Hearing Examiner

4           RE: Scott and Victoria Zehner 5                                   Conditional Use Permit 6                                   (PCUP00-13-0016)	7 <b>FINDINGS OF FACT, CONCLUSIONS 8                                   OF LAW AND FINAL DECISION</b> 9                                   S.J.C. COMMUNITY 10                                   FEB 28 2014
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11                                   **INTRODUCTION**

DEVELOPMENT & PLANNING

12           The applicant has applied for approval of a conditional use permit for the vacation  
13           rental of a two bedroom residence. The application is approved with conditions.

14                                   **TESTIMONY**

15           Julie Thompson, senior planner, stated the application is for a two-bedroom rental at  
16           31 Cedar Street, near Friday Harbor. There is an accessory dwelling unit on the  
17           property, but it will not be used as part of the rental.

18           Public Testimony

19           Mr. Black testified that he lives on Cedar Street. He is not opposed to the proposal,  
20           but he is concerned with parking. Cedar Street is a dead-end street with 20-30  
21           people living on the street and two kayak businesses. People use the pavement along  
22           the street to park which causes problems for traffic as it is a narrow street. There is  
23           grassy area along the road for people to park, but people are reluctant to use these  
24           areas. More signage regarding parking would address the problem.

25           Staff Rebuttal

          Ms. Thompson noted that the applicant's site plan shows two parking places on the  
          property. Staff is not opposed to a condition requiring a rule against parking on the  
          street pavement.

**EXHIBITS**

- Ex. 1:       Staff report.
- Ex. 2:       Application materials.

**FINDINGS OF FACT**

**Procedural:**

Conditional Use Permit –  
Vacation Rental



1 **Vacation Rentals of Residences Criteria**

2 **SJCC 18.40.270(A):** *No more than three guests per bedroom shall be accommodated*  
3 *at any one time.*

4 4. The project is conditioned to limit the total number of guests for the two  
5 rooms to 6.

6 **SJCC 18.40.270(B):** *The vacation rental of a principal residence or accessory*  
7 *dwelling unit shall be operated in a way that will prevent unreasonable disturbances*  
*to area residents.*

8 5. The conditions of approval of the permit have been imposed to prevent  
9 any unreasonable disturbances. These conditions limit the number of occupants to  
10 three per guest room; require posting of rules of conduct which specifically mention  
11 prohibition of trespassing and identify property lines; require provision of a 24-hour  
contact phone number to neighbors in case problems may arise; and require  
maintenance of a written log of complaints.

12 **SJCC 18.40.270(C):** *At least one additional off-street parking space shall be*  
13 *provided for the vacation rental use in addition to the parking required for the*  
*residence or accessory dwelling unit.*

14 6. Table 6.4 of SJCC 18.60.120 requires one parking space for single-family  
15 homes under 550 square feet and two spaces for homes 550 square feet and greater,  
16 which translates into 2 and 3 parking spaces respectively under the criterion quoted  
17 above. The staff report notes that there at least three parking spaces are available on-  
site, which meets the parking requirements for the home.

18 **SJCC 18.40.270(D):** *If any food service is to be provided the requirements for a bed*  
*and breakfast residence must be met.*

19 7. No food service is proposed in the application.

20 **SJCC 18.40.270(E):** *No outdoor advertising signs are allowed.*

21 8. No outdoor advertising is proposed.

22 **SJCC 18.40.270(F):** *The owner or a long-term lessee may rent either the principal*  
23 *residence or the accessory dwelling unit on a short-term basis (vacation rental), but*  
24 *not both.*

25 9. Only the principal residence is proposed for rental.

**SJCC 18.40.270(G):** *Where there are both a principal residence and an accessory*

1 *dwelling unit, the owner or long-term lessee must reside on the premises, or one of the*  
2 *living units must remain unrented.*

3 10. As proposed.

4 **SJCC 18.40.270(H):** *In all activity center land use districts, rural residential, and*  
5 *conservancy land use districts, the vacation rental of a residence or accessory*  
6 *dwelling unit may be allowed by provisional ("Prov") permit only if the owner or*  
7 *lessee demonstrates that the residence or accessory dwelling unit in question was*  
8 *used for vacation rental on or before June 1, 1997. When internal land use district*  
9 *boundaries are adopted for an activity center, this provision will apply to VR and HR*  
10 *districts but not to the activity center in general.*

11 11. The property has not been used for vacation rental in the past so a  
12 conditional use permit is required.

13 **SJCC 18.40.270(I):** *Vacation rental accommodations must meet all local and state*  
14 *regulations, including those pertaining to business licenses and taxes.*

15 12. This will be required as a condition of approval.

16 **SJCC 18.40.270(J):** *Owners of vacation rentals must file with the administrator a 24-*  
17 *hour contact phone number.*

18 13. This will be required as a condition of approval.

19 **SJCC 18.40.270(K):** *The owner or lessee of the vacation rental shall provide notice*  
20 *to the tenants regarding rules of conduct and their responsibility not to trespass on*  
21 *private property or to create disturbances. If there is an easement that provides*  
22 *access to the shoreline, this shall be indicated on a map or the easement shall be*  
23 *marked; if there is no access, this shall be indicated together with a warning not to*  
24 *trespass.*

25 14. This will be required as a condition of approval.

**SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC*  
*18.40.240 cannot be separately leased or rented for less than 30 days.*

15. No rental of the accessory dwelling unit is proposed or approved by this  
16 decision.

#### 17 **Conditional Use Permits – Criteria for Approval**

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

16. This proposal is consistent with the SJCC for the reasons stated above. The vacation rental is consistent with the San Juan County Comprehensive Plan, which allows for tourism-related businesses and activities within the context of maintaining a diverse and balanced economy while minimizing the related negative impacts.

**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;*

17. The proposal will not alter the exterior appearance of the home, which is a single family home and is thus compatible and appropriate in design, character and appearance with the surrounding single family homes and applicable goals and policies thereto. The criterion is satisfied.

**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;*

18. Mitigation measures for vacation rental impacts, such as noise and trespassing, have been added as conditions of approval. Therefore, the use, as conditioned, should not cause significant or unreasonable adverse impacts on neighbors or surrounding environment.

**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;*

19. The property will continue to appear and function in a manner similar to the existing use with no significant adverse impacts, and further similar requests will not produce significant adverse impacts to the environment.

**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;*

20. The proposal is in an existing development and according to staff has been shown to meet these requirements.

**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;*

21. There will be no alteration to location, size, or any other “outside” feature of the existing property, so no new interference should occur as a result.

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

4 22. According to the staff report, the pedestrian and vehicular traffic  
5 associated with the use will not be hazardous to the neighborhood and there is nothing  
6 in the record to suggest anything to the contrary. The criterion is satisfied.

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

9 23. As conditioned, and discussed above, the proposal will be in compliance  
10 with SJCC 18.40.270.

11 **SJCC 18.80.100(D)(9):** *The proposal does not include any use or activity that would*  
12 *result in the siting of an incompatible use adjacent to an airport or airfield (RCW*  
13 *36.70.547); and*

14 24. The proposal is for an existing residence and involves no exterior  
15 alterations, so the proposal does not include any use or activity that would create any  
16 incompatibilities with an airport or airfield.

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

19 25. As an existing development site, the proposal is consistent with Chapter  
20 18.60 SJCC.

## 21 DECISION

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

- 24 1. The two bedroom vacation rental shall be operated as described in the application  
25 materials except as modified by these conditions.
2. A maximum of six guests shall occupy the unit at any one time for rentals of 30  
days or less.
3. No food service is to be provided. No outdoor advertising signs are allowed.
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.

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

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

7 7. Prior to any rental, a proposed written Rules of Conduct will be submitted to and  
8 approved by CDPD. The Rules of Conduct shall specifically deal with trespass,  
9 property boundaries, noise disturbances and any special items specific to the rental  
10 unit or adjoining properties. **The rules shall specifically provide that all parking  
11 for guests and others visiting the vacation rental shall be off-street and on-site to  
12 the extent that on-site parking is available.** Upon approval by CDPD a copy of the  
13 Rules of Conduct shall be posted in the residence, given to all adult tenants and given  
14 to all property owners within 300 feet of the residence.

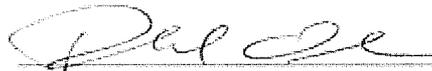
15 8. Authorization under this permit shall be void if the use is discontinued for 24  
16 consecutive months.

17 9. Upon determination by the Director of CDPD that any condition listed above has  
18 been violated, following issuance of a Notice of Violation, the Director may, in  
19 addition to other code enforcement remedies, revoke the conditional use permit.

20 10. The proposal shall meet all applicable standards of SJCC 16.55.240 and  
21 16.55.300.

22 11. Upon the determination by the Director of CDPD that any conditions listed above  
23 have been violated, following issuance of a Notice of Violation, the Director of  
24 CDPD may, in addition to its other code enforcement remedies, revoke the  
25 conditional use permit.

Dated this 27th day of February, 2014.



Phil A. Olbrechts

County of San Juan Hearing Examiner

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

1 Hearing examiner decisions become effective when mailed or such later date in  
2 accordance with the laws and ordinance requirements governing the matter under  
3 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be

4 This land use decision is final and in accordance with Section 3.70 of the San Juan  
5 County Charter. Such decisions are not subject to administrative appeal to the San  
6 Juan County Council. See also, SJCC 2.22.100.

7 Depending on the subject matter, this decision may be appealable to the San Juan  
8 County Superior Court or to the Washington State Shorelines Hearings Board. State  
9 law provides short deadlines and strict procedures for appeals, and failure to timely  
10 comply with filing and service requirement may result in dismissal of the appeal. See  
11 RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to  
12 promptly review appeal deadlines and procedural requirements and consult with a  
13 private attorney.

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