

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Helen Chapman King
PO Box 135
Friday Harbor, WA 98250

Agent: Francine Shaw
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PO Box 2112
Friday Harbor, WA 98250

File No.: PCUP000-12-0008

Request: Conditional Use Permit (CUP)

Parcel No: 452514002

Location: 439 Hannah Road
San Juan Island

Summary of Proposal: An application for a conditional use permit to allow modifications to a nonconforming bed and breakfast

Land Use Designation: Rural Residential

Public Hearing: Held 12/12/12

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

Decision: Approved as a vacation rental.

S.J.C. COMMUNITY

JAN 04 2013

DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

4 RE: Helen Chapman King

5 Conditional Use Permit
6 (PCUP00-12-0008)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND FINAL DECISION**

7
8 **INTRODUCTION**

9 The Applicant has applied for approval of a conditional use permit for the purpose of
10 modifying an existing nonconforming use. The nonconforming use at issue is a bed
11 and breakfast in a Rural Residential 10 zoning district. Bed and breakfasts are
12 currently prohibited in the Rural Residential 10 zoning district. The proposed
13 modification is the removal of an expiration condition volunteered by the Applicant
14 to acquire approval of a conditional use permit for the bed and breakfast in 1998
15 when bed and breakfasts were authorized in the Rural Residential zone. The
16 application is approved with conditions that require it to be operated as a vacation
rental. Vacation rentals are currently authorized in the Rural Residential zone. The
primary difference between a bed and breakfast and a vacation rental is the provision
of food service that is authorized for bed and breakfasts but not vacation rentals.
Food service will no longer be authorized for the bed and breakfast upon the
expiration of the current use.

17 The reason for limiting the proposed use to a vacation rental is because of SJCC
18 18.40.310(F), which only authorizes the "expansion, modification, or intensification"
19 of a nonresidential nonconforming use if the change in use does not create or increase
20 nonconformance with applicable standards. Given the judicial policy to phase out
21 nonconforming uses, the authorization of a bed and breakfast at the subject property
22 once that authorized use has expired must necessarily be construed as creating or
23 increasing nonconformance with the prohibition of nonconforming uses in the Rural
24 Residential 10 zoning district. Prohibiting food service would convert the proposal
25 from a bed and breakfast to a vacation rental, which is authorized in the Rural
Residential zoning district and would not create any nonconforming issue.

24 **TESTIMONY**

25 Julie Thompson, senior San Juan County planner, stated that the application is to
modify an existing non-conforming, commercial use of property. The house is owned
by Ms. King and has three bedrooms. Two of the bedrooms are used as a Bed and
Breakfast. Additionally, the property has a detached garage. The B&B has been

1 running for a number of years and was originally approved as an allowed use. The
2 property is now zoned rural-residential, but was zoned rural during the original
3 approval process. The original permit conditioned that once Ms. King sold her
4 property, the new owner could not use the home as a B&B. The application is to
5 remove this condition so the property can remain a B&B once Ms. King sells it. Staff
6 does not believe this change increases the non-conformity of the property. There is
7 no precedent on whether the application would qualify as an increase in
8 nonconformity.

9 Stephanie Johnson O'Day, representing Helen King, testified that, in 1996, Helen
10 King began the process of converting her property into a high-end Bed and Breakfast.
11 The process was a long one as many neighbors opposed the plan. After several
12 appeals from both Ms. King and neighbors, a trial was held and judgment was found
13 in favor of Ms. King. Over the years, Ms. King has used a traffic counter and
14 reported, on a yearly basis the number of trips generated by her establishment. The
15 average number of trips is 3.44 which falls in the single-family residential standard of
16 less than 10 trips which Ms. King is held to under her commercial use permit. Ms.
17 King is allowed to operate in non-summer months, despite what other neighbors
18 claim. Ms. King was responsible for adding the condition that once she sold the
19 property it would no longer be a B&B. The county and courts did not even address
20 the issue. If Ms. King does not receive approval for this application, she would be
21 able to operate it as a vacation rental. Stephanie Johnson O'Day added that non-
22 conformity deals with scope and not ownership so this application does not increase
23 the non-conformity of the establishment.

24 Ms. King stated that she has attempted to sell her property as a residence for several
25 years but has not been successful. She lowered the price of the property over 700,000
dollars over the past years. Finally, she has found buyers for the property, but only if
it remains a Bed and Breakfast. She would like to retire, but cannot unless she sells
the property. She has made many concessions to her neighbors in the past. In
rebuttal, Ms. King added that she put in three-turnout vehicles on Hannah Road for
emergency vehicles as part of the original permit. She worked very hard to appease
the neighbors in 1996. She has a light fixture on the side of the garage to light the
visitor parking area, and it is possibly visible from the hilltop on Hannah Road. She
will remove the fixture if it remains an issue.

21 Kyle Loring, Friends of the San Juans, stated that the primary concern for Friends is
22 that the current San Juan County Code would not allow this type of business in a rural
23 residential zone. This application is for a permit under the non-conforming rules;
24 however, this proposal is not actually a non-conformity. The condition to not allow
25 the property to transfer as a B&B puts an expiration date on the permit, and this limit
should be followed. If this application is approved, it would suggest that any use
with an expiration date can be extended without following proper new code
regulations.

1 In regard to a question about the staff report, Julie Thompson noted that the nearest
2 arterial road must be a county road, and Bull Frog Road is the nearest county road to
3 Ms. King's property.

4 Mary Kingland testified that the planning department should not have listed Bull Frog
5 Road as a county road. The road leading to Ms. King's property, Hannah Road, is a
6 one-lane road. There is concern for the safety of children on the road due to
7 increased traffic from Ms. King's B&B. The original permit stated that all exterior
8 lighting must be low intensity and should not be visible off-site. However, lighting
9 from Ms. King's property is visible at the top of Baylor Hill Road.

10 Carla Wright stated that she has lived in San Juan since 1995. She lives on Hannah
11 Road and spends a large amount of time outside working with her property. On the
12 road, many construction trucks travel back and forth, but Ms. King's B&B creates
13 little traffic. Ms. King works very hard to create a high-end establishment.
14 According to Ms. Wright, Ms. King has attempted to auction off her property but had
15 no bidders. Ms. Wright was a volunteer board member on the San Juan County
16 Community Foundation and understands how non-profits work. She believes the
17 Friends of San Juans mission does not apply to this application.

12 EXHIBITS

13 Exhibit 1	Staff Report
14 Exhibit 2	Application materials
15 Exhibit 3	11/29/12 email string from O'Day to Thompson
16 Exhibit 4	Comment letters (McDowell; Wright; Kingland)
17 Exhibit 5	Comment Letters (Pickett; Bodenstab)
18 Exhibit 6	12/6/12 comment letter from Friends of San Juans
19 Exhibit 7	12/12/12 Helen King Statement
20 Exhibit 8	12/12/12 memo from Stephanie Johnson O'Day
21 Exhibit 9	11/13/97 Johnson O'Day briefing
22 Exhibit 10	Vicinity map showing those in support of the B&B

25 FINDINGS OF FACT

Procedural:

1. Applicant. The Applicant is Helen King.

1 2. Hearing. The Hearing Examiner conducted a hearing on the subject
2 application on December 12, 2012 on or about 10:00 am.

3 **Substantive:**

4 3. Site and Proposal Description. The Applicant has applied for approval of
5 a conditional use permit for the purpose of modifying an existing nonconforming use.
6 The nonconforming use at issue is a bed and breakfast in a Rural Residential 10
7 zoning district. Bed and breakfasts are currently prohibited in the Rural Residential
8 10 zoning district. The proposed modification is the removal of an expiration
condition volunteered by the Applicant to acquire approval of a conditional use
permit for the bed and breakfast in 1998 when bed and breakfasts were authorized in
the Rural Residential zone.

9 The project site currently accommodates a three bedroom single-family residence that
10 operates as a two-bedroom bed and breakfast with a detached garage and an
accessory dwelling unit.

11 After judicial appeals from the Applicant and project opponents and a resulting
12 judicial remand, the San Juan County Board of Adjustment approved a conditional
13 use permit for the bed and breakfast by decision dated March 27, 1998. During the
14 review process Ms. King volunteered a condition that would terminate the bed and
15 breakfast use upon a change in ownership of the residence. The expiration condition
was adopted by the Board of Adjustment in its decision, but no express finding was
made that the condition was necessary to mitigate impacts.

16 Ms. King requests approval of the conditional use permit for a bed and breakfast as
17 opposed to a vacation rental because there are persons willing to purchase her home if
they can operate it as a bed and breakfast.

18 4. Characteristics of the Area. The surrounding neighborhood is rural and
19 residential in nature. The lots of the area, including the project site, are well screened
20 from each other by ample vegetation. There is no airport in the vicinity.

21 5. Adverse Impacts of Proposed Use. There are no adverse impacts caused
22 as a result of the proposed use. Although community support is usually not probative
23 of project impacts, in this case it is noteworthy that the owners of six surrounding
24 properties expressed support for the proposal and the owners of only one other
25 property opposed the project. This is significant because the bed and breakfast has
operated for more than 14 years and in that time has not generated any impacts
sufficient to generate opposition to the project. The sole property owners in
opposition, the Kinglands, could not cite any impacts other than persons speaking
loudly on their cell phones on the deck of the bed and breakfast. As this type of
impact could just as easily result from residential use of the residence, it is not an
impact that could be reasonably attributable to bed and breakfast use.

1 Beyond the circumstantial evidence of impacts associated with the many letters of
2 support, there is no other evidence that could lead to the reasonable inference that any
3 significant adverse impacts are associated with the proposal. As proposed, the
4 proposal is limited to a maximum of two guests for each of the two bedrooms, which
5 is less than would be allowed for a vacation rental and would not result in a greater
6 occupancy than that typically associated with single-family use. As discussed in a
7 January 10, 2002 letter from Ms. King, traffic counts taken over a three year period
8 from 1998 to 2001 revealed an average daily trip count of 3.5, which was well below
9 the ten trips per day authorized and implicitly found to be reasonable in the 1998
10 board of adjustment decision. The conditions of approval thoroughly minimize any
11 other impacts that could be associated with the proposal, including noise, road use
12 and trespass.

13 CONCLUSIONS OF LAW

14 **Procedural:**

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

18 **Substantive:**

19 2. Zoning Designations. Rural Residential 10.

20 3. Permit Review Criteria. The proposed conditional use permit can only be
21 considered for a vacation rental. Its continuation as a bed and breakfast would
22 constitute a prohibited modification of a nonconforming use under SJCC
23 18.40.310(F).

24 SJCC 18.40.310(F) authorizes the “[e]xpansion, modification or intensification” of a
25 nonresidential nonconforming use provided that “[a] nonconformance with the
standards of this code shall not be created or increased.” At the outset it is
recognized that a certain amount of flexibility is required in construing what qualifies
as an increase in nonconformity. Under normal circumstances, any expansion or
intensification of a nonconforming use could be reasonably construed as an increase
in nonconformity. However, SJCC 18.40.310(F) precludes this interpretation by
providing that expansions and intensifications can be allowed if they don’t result in
any increase in nonconformity. This necessarily implies that some types of
expansions and intensifications do not qualify as increases in nonconformity.

Navigating the contradictory language of SJCC 18.40.310(F) is not quite as difficult
in addressing modifications (as opposed to expansions and intensifications) to
conditional uses. Modifications that involve reductions in the scope of use and
changes in use that make a use more conforming can easily be found to not create or
increase nonconformity. Unfortunately, that is not the situation presented in this
application. The proposed elimination of the expiration condition will both increase

1 and create a nonconformance. As currently authorized, the bed and breakfast is
2 required to expire upon a change in ownership. Consequently, the nonconformity of
3 the bed and breakfast will be increased in a temporal sense if the condition is
4 removed, i.e. the time of nonconformance will be increased from the term of
5 ownership of Ms. King to perpetuity. Further, the proposed modification can also be
6 construed as creating a nonconformance. As currently authorized, there will be no
7 nonconforming use of the property once Ms. King transfers ownership. If the
8 proposed elimination of the expiration condition is approved, this will create a
9 nonconforming use (the bed and breakfast) where none would otherwise have existed.

10 Particularly compelling on this legal issue is the policy underlying nonconforming
11 uses. Nonconforming uses are disfavored under the law and the policy of zoning
12 legislation is to phase them out. *McMilian v. King County*, 161 Wn. App. 581
13 (2011). The most direct and efficient way to “phase out” a nonconforming use would
14 be to require the use to expire when it was expressly scheduled to expire.
15 Authorizing a bed and breakfast to continue in perpetuity beyond its expiration date
16 would directly contravene the phasing policy repeatedly cited by the courts in their
17 treatment of nonconforming uses. Ms. King has clearly operated a magnificent and
18 high quality establishment that does not create any compatibility problems with her
19 neighbors. However, under different ownership her neighbors and others may very
20 well be left wondering in another 14 or more years why a bed and breakfast continues
21 to operate in a single-family neighborhood. As testified by Ms. King, bed and
22 breakfasts are rare on San Juan Island. The oddity of a bed and breakfast in the
23 middle of a single-family neighborhood will be difficult to justify decades from now
24 if new owners are not as adept as Ms. King at minimizing impacts and providing for
25 high quality accommodations.

16 Although bed and breakfasts are not authorized in the RR 10 zone, vacation rentals
17 are permitted¹. Consequently, if the bed and breakfast can be conditioned to qualify
18 as a vacation rental, it will operate as an authorized use and will thereby not create or
19 increase nonconformity as prohibited by SJCC 18.40.310(F). As fairly clear from
20 applicable definitions and regulatory provisions, a condition prohibiting food service
21 would convert the use from a bed and breakfast to a vacation rental². SJCC 18.20.220
22 defines a vacation rental as “*a single-family residential unit or an accessory dwelling
23 unit that is rented (for periods less than 30 days).*” In contrast, the distinguishing
24 feature of the SJCC 18.20.020 definition for a “bed and breakfast residence” is the
25 express authorization for the provision of “breakfast meals”. Further, SJCC
18.40.270(D) provides that if a vacation rental includes food service, “*the
requirements for a bed and breakfast must be met*”.

¹ Table 3.2, SJCC 18.30.040 authorizes vacation rentals in the rural residential district as a conditional use.

² Another potential issue of concern could be whether a vacation rental can involve the rental of portions of a residence as opposed to the entire residence itself. However, this issue is directly addressed by the introductory provision to SJCC 18.40.270, which allows vacations rentals involving the rental of a “portion” of a single-family residential unit.

1 The relatively minor difference between a bed and breakfast and vacation rental
2 should remove any problems associated with the advertising of the proposal as a bed
3 and breakfast as opposed to a vacation rental. A vacation rental is simply a bed and
4 breakfast without the breakfast; from a land use standpoint it is heavily conditioned
5 bed and breakfast. The review criteria are the same, with some added specific criteria
6 for vacation rentals that are not seriously subject to dispute. The public has had full
7 opportunity to comment on the use of the property for a bed and breakfast or a
8 vacation rental. The staff report also found compliance with vacation rental criteria.
9 For these reasons it is unnecessary to compel Ms. King to go through a duplicative
10 application and hearing for a separate vacation rental application.

11 Conditional use criteria are governed by SJCC 18.80.100(D). The conditional use
12 criteria require compliance with the performance standards of Chapter 18.40 SJCC,
13 which includes criteria specifically applicable to vacation rentals under SJCC
14 18.40.270. Those criteria are also addressed below. The criteria are quoted in italics
15 and applied through corresponding conclusions of law.

16 Vacation Rentals of Residences Criteria

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

19 4. The project is proposed³ to be limited to two guests for each of the two
20 bedrooms proposed for lease.

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

24 5. As determined in Finding of Fact No. 5, there are no significant adverse
25 impacts associated with the proposal. Further, the conditions of approval of the
26 permit have been imposed to prevent any unreasonable disturbances. These
27 conditions include limitation of occupants to four guests, required posting of rules of
28 conduct which specifically mention prohibition of trespassing and identify property
29 lines, provision of a 24-hour contact phone number to neighbors in case problems may
30 arise, and maintenance of a written log of complaints.

31 **SJCC 18.40.270(C):** *At least one additional off-street parking space shall be*

32 ³ The modifications requested via the conditional use permit only proposed to change the expiration
33 condition. Consequently the proposed bed and breakfast is construed as including all of the other
34 conditions and limitations approved in the 1998 Board of Adjustment decision. This is how the
35 proposal would have been reasonably construed by the public the way the application was processed
36 and advertised. There would be legitimate notice issues if this decision authorized a use that was more
37 intense in use than proposed by the Applicant. The Applicant or any successor in interest is always
38 free to reapply for a vacation rental of greater scope at any time.

1 *provided for the vacation rental use in addition to the parking required for the*
2 *residence or accessory dwelling unit.*

3 6. Table 6.4 of SJCC 18.60.120 requires two off-street parking spaces per
4 single-family residence in rural residential zones. The proposal will be conditioned
5 for three off-street parking spaces.

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

8 7. The conditions of approval will prohibit food service. Bed and breakfasts
9 are not authorized in the RR 10 zoning district.

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

11 8. No outdoor advertising is proposed.

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

15 9. The Applicant proposes to lease portions of the principal residence.

16 **SJCC 18.40.270(G):** *Where there are both a principal residence and an accessory*
17 *dwelling unit, the owner or long-term lessee must reside on the premises, or one of the*
18 *living units must remain unrented.*

19 10. As conditioned.

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

11. Not applicable.

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

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

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

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

1
2 **SJCC 18.40.270(K):** *The owner or lessee of the vacation rental shall provide notice*
3 *to the tenants regarding rules of conduct and their responsibility not to trespass on*
4 *private property or to create disturbances. If there is an easement that provides*
5 *access to the shoreline, this shall be indicated on a map or the easement shall be*
6 *marked; if there is no access, this shall be indicated together with a warning not to*
7 *trespass.*

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

8
9 **SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC*
10 *18.40.240 cannot be separately leased or rented for less than 30 days.*

15. The Applicant does not propose to lease the ADU.

11 **Conditional Use Permits – Criteria for Approval**

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

14
15 16. This proposal is consistent with the SJCC for the reasons stated above.
16 The vacation rental is consistent with the San Juan County Comprehensive Plan,
17 which allows for tourism-related businesses and activities within the context of
18 maintaining a diverse and balanced economy while minimizing the related negative
19 impacts.

20 **SJCC 18.80.100(D)(2):** *The proposal is appropriate in design, character and*
21 *appearance with the goals and policies for the land use designation in which the*
22 *proposed use is located;*

23
24 17. The proposal will not alter the exterior appearance of the home, which is
25 indistinguishable from a single family home on the exterior 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. As determined in Finding of Fact No. 5, no significant adverse impacts are
associated with the proposal. Further, 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.

1 **SJCC 18.80.100(D)(4):** *The cumulative impact of additional requests for like actions*
2 *(the total of the conditional uses over time or space) will not produce significant*
3 *adverse effects to the environment that cannot be mitigated by conditions of approval;*

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

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

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

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

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

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

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

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

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

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

23 24. There is no airport or airfield adjacent to this property.

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

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

DECISION

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

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

5 2. A maximum of four guests shall occupy the unit at any one time for rentals of 30
6 days or less.

7 3. No food service is to be provided. No outdoor advertising signs are allowed.

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

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

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

17 7. Prior to any rental, a proposed written Rules of Conduct will be submitted to and
18 approved by CDPD. The Rules of Conduct shall specifically deal with trespass,
19 property boundaries, noise disturbances and any special items specific to the rental
20 unit or adjoining properties. Upon approval by CDPD a copy of the Rules of Conduct
21 shall be posted in the residence, given to all adult tenants and given to all property
22 owners within 300 feet of the residence.

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

25 9. Upon determination by the Director of CDPD 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.

10. Only necessary outdoor storage shall be allowed, and it shall be screened from
view from the road and neighboring properties.

11. All existing vegetation that screens the parking area from view from the road and
the adjoining properties shall be retained and maintained in a healthy condition.

12. Any exterior lighting shall be of low intensity, hooded so that it is directed
downward, and shall not be visible off-site.

1 13. When guests are present there shall be a maximum of ten daily one-way trips,
2 including the applicant and all service vehicles.

3 14. The applicant shall inform guests that the private road is used by the residential
4 neighborhood for walking, bicycling and other activities and ask them to drive
5 carefully. No smoking is allowed on the property. Guests shall also be asked to
6 refrain from making outdoor noise and shall respect the privacy to the neighborhood.

7 15. If a road maintenance agreement with the other users of Hannah Highlands Road
8 is in place, it shall continue for this permit. In the event the applicant was unable to
9 secure a road maintenance agreement, the applicant shall pay 10% of the cost of
10 maintenance of the first 900' of the road.

11 16. The subject property shall accommodate at least three off-street parking spaces.

12 17. The owner or long-term lessee must reside on the premises, or one of the living
13 units must remain unrented.

14 Dated this 31st day of December, 2012.

15 

16 Phil Olbrechts
17 County of San Juan Hearing Examiner

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

19
20 Hearing examiner decisions become effective when mailed or such later date in
21 accordance with the laws and ordinance requirements governing the matter under
22 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be
23 subject to review and approval by the Washington Department of Ecology pursuant to
24 RCW 90.58.140, WAC 173-27-130, and SJCC 18.80.110.

25 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
Conditional Use Permit p. 12 Findings, Conclusions and Decision

1 comply with filing and service requirement may result in dismissal of the appeal. See
2 RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to
3 promptly review appeal deadlines and procedural requirements and consult with a
4 private attorney.

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