

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

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Applicant(s):	Mathew Basta 170 Black Road San Juan Island	
Agent:	Bob Querry The Permit Center 218 Ivan Road Friday Harbor, WA 98250	
File No.:	PCUP00-13-0007	
Request:	Conditional Use Permit (CUP)	S.J.C. COMMUNITY
Parcel No:	251832002	JUN 26 2013
Location:	170 Black Road San Juan Island	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:	June 12, 2013	
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: Mathew Basta 5                   Conditional Use Permit 6                   (PCUP00-13-0007)	7 <b>FINDINGS OF FACT, CONCLUSIONS 8                   OF LAW AND FINAL DECISION</b>
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9                                   **INTRODUCTION**

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

12                                  **TESTIMONY**

13                                  Julie Thompson, Community Development and Planning, stated that the applicant is  
14                                  requesting a conditional use permit for a two-bedroom, single family residence  
15                                  vacation rental. Staff recommends approval of the permit.

16                                  **EXHIBITS**

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

19                                  **FINDINGS OF FACT**

20                                  **Procedural:**

- 21                                  1.             Applicant. The applicant is Mathew Basta.  
22                                  2.             Hearing. The Hearing Examiner conducted a hearing on the subject  
23                                  application on June 12, 2013 at 10:00 am at the Islander Bank Annex, 225 Blair Ave,  
24                                  Friday Harbor.

25                                  **Substantive:**

3.             Site and Proposal Description. The applicant proposes the vacation rental  
                                  of a two bedroom single family home located at 170 Black Road, San Juan Island.  
                                  No accessory dwelling unit is on-site. On-site parking is available for at least two  
                                  automobiles. There is no guest house or accessory dwelling unit on site. No outdoor  
                                  advertising or food service is proposed.

1 4. Characteristics of the Area. The surrounding neighborhood is rural  
2 residential in nature. Jensens' Marina and Shipyard Cove are to the southwest. There  
is no airport in the vicinity.

3 5. Adverse Impacts of Proposed Use. There are no adverse impacts resulting  
4 from the proposed use. As conditioned, the proposed use should not interfere with  
5 the residential use of neighboring properties. Noise must be kept to a minimum and a  
24-hour phone number must be provided in case problems arise.

## 6 CONCLUSIONS OF LAW

### 7 **Procedural:**

8 1. Authority of Hearing Examiner. The hearing examiner is authorized to  
9 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).

### 10 **Substantive:**

11 2. Zoning Designations. Rural Residential

12 3. Permit Review Criteria. Table 3.2, SJCC 18.30.040 authorizes vacation  
13 rentals in the rural residential district as a conditional use. SJCC 18.80.100(D)  
14 governs conditional use criteria. SJCC 18.80.100(D)(8) requires compliance with the  
15 performance standards of Chapter 18.40 SJCC. SJCC 18.40.270 contains detailed  
16 standards for vacation rentals. The criteria for conditional use permits (SJCC  
18.80.100(D)) and vacation rentals (SJCC 18.40.270) are quoted below and applied  
through corresponding conclusions of law.

### 17 Vacation Rentals of Residences Criteria

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

20 4. The project is conditioned to limit the total number of guests to six for the  
two bedroom home.

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  
to area residents.*

23 5. The conditions of approval of the permit have been imposed to prevent  
24 any unreasonable disturbances. These conditions limit the number of guests; require  
25 posting of rules of conduct which specifically mention prohibition of trespassing and  
identifying 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.

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

4 6. Table 6.4 of SJCC 18.60.120 requires one parking space for single-  
5 family homes under 550 square feet and two spaces for homes 550 square feet and  
6 greater, which translates into 2 and 3 parking spaces respectively under the criterion  
7 quoted above. The staff report notes that there at least two parking spaces are  
8 available on-site. The size of the home is unknown. The conditions of approval will  
9 require compliance with these parking requirements.

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

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

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

14 8. No outdoor advertising is proposed.

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

18 9. There is no accessory dwelling unit.

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

22 10. There is no accessory dwelling unit.

23 **SJCC 18.40.270(H):** *In all activity center land use districts, rural residential, and*  
24 *conservancy land use districts, the vacation rental of a residence or accessory*  
25 *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.*

11. Not applicable because the proposal is the first vacation rental of the premises.

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

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

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

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

5 **SJCC 18.40.270(K):** *The owner or lessee of the vacation rental shall provide notice*  
6 *to the tenants regarding rules of conduct and their responsibility not to trespass on*  
7 *private property or to create disturbances. If there is an easement that provides*  
8 *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.*

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

10 **SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC*  
11 *18.40.240 cannot be separately leased or rented for less than 30 days.*

12 15. There is no accessory dwelling unit on the property.

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

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

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

21 **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;*

22 17. The proposal will not alter the exterior appearance of the home, which is a  
23 single family home and is thus compatible and appropriate in design, character and  
24 appearance with the surrounding single family homes and applicable goals and  
25 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;*

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

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

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

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

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

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

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

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

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

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

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

25 **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*

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

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

3 25. As an existing development site, the proposal is consistent with Chapter  
4 18.60 SJCC.

5 **DECISION**

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

8 1. The vacation rental shall be operated as described in the application materials  
9 except as modified by these conditions.

10 2. A maximum of six guests shall occupy the unit at any one time for rentals of 30  
11 days or less.

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

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

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

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

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

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

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. The proposal shall meet all standards of SJCC 16.55.240 and 16.55.300.

1 11. Authorization under this permit shall be void if the use is discontinued for 24  
2 consecutive months.

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

4 13. Upon the determination by the Director of CDPD that any conditions listed above  
5 have been violated, following issuance of a Notice of Violation, the Director of  
6 CDPD may, in addition to its other code enforcement remedies, revoke the  
conditional use permit.

7 14. The home site shall accommodate three off-street parking spaces if the home is  
8 550 square feet or over in area and two off-site spaces if less than 550 square feet in  
area.

9 Dated this 26th day of June, 2013.

10  
11   
12 Phil A. Olbrechts

13 County of San Juan Hearing Examiner

14  
15 **Effective Date, Appeal Right, and Valuation Notices**

16 Hearing examiner decisions become effective when mailed or such later date in  
17 accordance with the laws and ordinance requirements governing the matter under  
18 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be  
19 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.

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

22 Depending on the subject matter, this decision may be appealable to the San Juan  
23 County Superior Court or to the Washington State Shorelines Hearings Board. State  
24 law provides short deadlines and strict procedures for appeals, and failure to timely  
25 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.

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