

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Orcas Mansions LLC
1159 North Beach Rd.
Orcas Island

Agent: Jeff Otis
393 Bobbyann Rd.
Eastsound, WA 98245

File No.: PCUP00-12-0005

Request: Conditional Use Permit

Parcel No: 271143005

Location: 1159 North Beach Rd.
Orcas Island

Summary of Proposal: Bed and Breakfast

Land Use Designation: Eastsound Residential 4/acre

Hearing Date: July 11, 2012

Application Policies and Regulations: SJCC 18.80.100

Decision: Approved with conditions.

S.J.C. COMMUNITY

JUL 30 2012

DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

4 RE: Orcas Mansion LLC

5 Conditional Use Permit
6 (PCUP00-12-0005)

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

7
8 **INTRODUCTION**

9 The Applicant has applied for a conditional use permit to operate a bed and breakfast
10 with five guest bedrooms and one bedroom for the owner in the Eastsound Planning
11 Area on Orcas Island. The proposal is approved with conditions.

11 **TESTIMONY**

12 Lee McEnergy, planner, stated there was nothing to add to the staff report. One parking
13 stall per guest room and two stalls for the owner will be required (7 spaces total). The
14 parking is located on the loop-entry drive at the north-end of the property. Staff is not
15 concerned with traffic generated by the project.

16 The Applicant testified that the interior layout would be kept exactly the same, and the
17 property would continue to look like a home. The attic space will be converted to a
18 master-suite. No meals will be cooked for the guests.

18 **EXHIBITS**

19 Ex. 1: June 20, 2012 staff report.

20 Ex. 2: Permit application form along with May 21, 2012 compliance narrative
written by Jeff Otis.

21 Ex. 3: SEPA checklist

22 Ex. 4: Aerial photograph

23 Ex. 5: Exterior and interior site plans

24 Ex. 6: Sewer confirmation

25 Ex. 7: UGA review checklist

Ex. 8: 5/24/12 email from Roy Light

Ex. 9: 6/12/12 letter from Christoph Enderlein

Ex. 10: 6/5/12 letter from Bea von Tobel

Ex. 11: 6/1/12 letter from Fire Marshal

S.J.C. COMMUNITY

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DEVELOPMENT & PLANNING

1 **FINDINGS OF FACT**

2 **Procedural:**

- 3 1. Applicant. The Applicant is Orcas Mansion LLC.
- 4 2. Hearing. The Hearing Examiner conducted a hearing on the subject
- 5 application on July 11, 2012.

6 **Substantive:**

7 3. Site and Proposal Description. The applicant requests a conditional use
 8 permit to convert an older 4-bedroom home to a bed and breakfast with 5 guest
 9 bedrooms and one bedroom for the owner. An existing storage shed would be
 10 converted to a bath house. The residence is currently being remodeled, a stairway is
 11 being added to the barn, a porch added to the storage shed (that will become a bath
 12 house) and an ADA parking space is being added to the parking area. No other
 13 exterior changes to the residence are proposed. Access would be off of North Beach
 14 Rd., which is a paved County Road. The proposed B&B will have one kitchen
 15 located on the lower floor; no kitchens will be located in the guest rooms. Guest
 16 occupancies shall be limited to no more than 30 days. Seven on-site parking spaces
 17 will serve the proposal.

18 4. Characteristics of the Area. The proposal is surrounded by residential
 19 development to the north, south and east and the Port of Orcas airport to the west.

20 5. Adverse Impacts. No adverse impacts are anticipated from the proposal.
 21 No exterior modifications are proposed except for the addition of a porch to the
 22 accessory building that will be converted to a bath house, the addition of an ADA
 23 parking space, the addition of a covered stairway to an existing barn and apparently
 24 one sign that complies with SJCC 18.40.250. Fencing and screening is proposed
 25 along the three property lines that are adjoined by residential development. Staff
 testified they had no concerns over traffic and the application provides that discounts
 will be provided to persons who bicycle or walk to the bed and breakfast instead of
 driving. Seven parking spaces will be available on-site as required by County
 parking standards. Letters establishing water and sewer availability have been
 submitted into the record. 633 square feet of impervious surface will be added to the
 site by the proposed exterior additions and the Applicant wrote in its application that
 this impervious surface would comply with the County's stormwater standards. An
 adjoining residential property owner has written a letter of support for the proposal.

CONCLUSIONS OF LAW

Procedural:

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

Substantive:

2. Zoning Designations. The subject property is designated as Eastsound Residential 4.

3. Permit Review Criteria. SJCC 16.55.240(B) provides that uses not identified as permitted or prohibited in its subsection may be allowed subject to a conditional use permit. SJCC 16.55.240(B) does not identify bed and breakfasts with more than two guest rooms, so it is allowed if it meets the criteria for conditional use permit approval. Those criteria are quoted in italics below and applied with corresponding conclusions of law.

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

4. The Applicant’s compliance narrative, Ex. 2, contains an excellent assessment of compliance with SJCC 16.55.240(E)(5)(open space/lot coverage); SJCC 16.55.240(E)(6)(landscaping) and SJCC 18.40.240 (bed and breakfasts). This analysis is adopted and incorporated by this reference as if set forth in full, except that “guest occupancies would be limited to more than 30 consecutive days” is replaced with “guest occupancies will be limited to **no** more than 30 consecutive days. Compliance with applicable building code requirements for the proposed improvements will be addressed through building permit review. Fire code compliance is being handled through conditions of approval. No other code requirements are implicated by the development.

The proposal furthers one of the four primary goals of the Eastsound Subarea Plan, which is to ensure that land uses which adjoin residential uses are compatible with them. There do not appear to be any specifically applicable comprehensive plan policies that are not already implemented through the use regulations addressed above.

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;*

5. There are no specific goals and policies applicable to the Eastsound Residential 4 designation. As previously identified, a primary goal of the Eastsound Plan in general is to assure compatibility of nonresidential with residential use, which is accomplished here. As determined in Finding of Fact No. 5, there are no adverse impacts associated with the proposal, which includes compatibility issues. No

1 significant exterior changes to the home are proposed and the home will be screened
2 on three sides.

3 **SJCC 18.80.100(D)(3):** *The proposed use will not cause significant adverse impacts*
4 *on the human or natural environments that cannot be mitigated by conditions of*
5 *approval;*

6 6. As determined in Finding of Fact No. 5, there are no significant adverse
7 impacts associated with the proposal as conditioned.

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

11 7. According to the Applicant there are adequate urban services available in
12 the vicinity to handle additional similar requests for bed and breakfasts. The impacts
13 of the proposal are also so minimal that even at a cumulative level they would not be
14 significant.

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

17 8. As determined in Finding of Fact No. 5, the proposal is adequately served
18 by the urban services identified in the above-quoted criterion.

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

22 9. The proposed screening is designed to benefit adjoining properties.
23 Exterior modifications are otherwise nominal and will have no impact on other uses
24 in the vicinity.

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

10. Staff testified that they see no problems with the traffic anticipated from
the proposal.

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

1 11. As previously determined, the proposal complies with all applicable
2 zoning code standards, including all of those of Chapter 18.40 SJCC and specifically
3 SJCC 18.40.250, which addresses bed and breakfasts.

4 **SJCC 18.80.100(D)(9):** *The proposal does not include any use or activity that would
5 result in the siting of an incompatible use adjacent to an airport or airfield (RCW
6 36.70.547); and*

7 12. The proposal is near an airfield. The staff report notes that there are no
8 restrictions resulting from this proximity. A comment letter from the airport suggests
9 noise insulation but otherwise does not raise any issues of compatibility and the
10 proposal is not in an area subject to further restriction due its proximity to the airfield.

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

13 13. As previously determined, the proposal complies with all applicable
14 zoning code standards, including Chapter 18.60 SJCC.

15 DECISION

16 The proposal complies with all conditional use criteria and is approved, subject to
17 the following conditions:

- 18 1. This permit allows establishment of a 5 guest room bed and breakfast, as
19 discussed in the application materials. Additional bedrooms for the
20 owner/manager are also allowed.
- 21 2. Prior to operation, provide written evidence that the Fire Marshal's requirement
22 has been met and that the septic tank has been updated.
- 23 3. The proposal shall meet all standards of SJCC 16.55.240 Eastsound Residential
24 and 16.55.300 General Standards.
- 25 4. Obtain and finalize building permits prior to operation.
5. Install the proposed fencing and landscaping and maintain the landscaping
according to SJCC 16.55.300F, prior to operation.
6. The bed and breakfast shall be operated in compliance with state liquor laws.

Dated this 26th day of July, 2012.



Phil Olbrechts
County of San Juan Hearing Examiner

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

2 Hearing examiner decisions become effective when mailed or such later date in
3 accordance with the laws and ordinance requirements governing the matter under
4 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be
5 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.

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

8 Depending on the subject matter, this decision may be appealable to the San Juan
9 County Superior Court or to the Washington State shorelines hearings board. State
10 law provides short deadlines and strict procedures for appeals and failure to timely
11 comply with filing and service requirement may result in dismissal of the appeal. See
12 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.

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