

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Patrick Melvin
PO Box 103
Olga, WA 98279

File No.: PCUP00-12-0006

Request: Conditional Use Permit (CUP)

Parcel No: 160853004

Location: 61 Olga Park Lane
Olga, WA

Summary of Proposal: An application for a conditional use permit to allow
vacation rental of a residential dwelling unit

Land Use Designation: Olga Hamlet Residential

Public Hearing: September 12, 2012

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.

S.J.C. COMMUNITY
SEP 28 2012
DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

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RE: Patrick Melvin 5 6 Conditional Use Permit (PCUP00-12-0006)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
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8 **INTRODUCTION**

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

11 **TESTIMONY**

12 Julie Thompson, senior County planner, summarized the staff report. She noted there
13 was some community concern over parking so the Applicant has upgraded the parking
14 area to address the issue. Ms. Thompson submitted six photographs, admitted as
Exhibit 5, showing a new parking space along the adjoining road. Exhibit 6 was
admitted as a rebuttal letter from the Applicant.

15 Terri Williams, Applicant's agent, noted that prior parking required cars to back out
16 from an angle onto the road, which some considered a hazard. She noted that public
works had approved the new parking.

17 Patrick Melvin noted he has lived for 60 years in the community and that he wants to
18 keep his neighbors happy. In order to do so he has spent a couple thousand dollars on
19 a new parking area.

20 **EXHIBITS**

- 21 Ex. 1: Staff Report
22 Ex. 2: Application materials.
23 Ex. 3: 8/14/12 letter from Janeen Harbert
24 Ex. 4: 8/22/12 Access Permit
25 Ex. 5: Six photographs of new parking area
Ex.6: Rebuttal letter from Patrick Melvin

FINDINGS OF FACT

Procedural:

Conditional Use Permit –
Vacation Rental

3. Permit Review Criteria. Table 3.1, SJCC 18.30.030 authorizes vacation rentals in the hamlet residential district as a conditional¹ use. SJCC 18.80.100(D) governs conditional use criteria. SJCC 18.80.100(D)(8) requires compliance with the performance standards of Chapter 18.40 SJCC. SJCC 18.40.270 contains detailed 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.

Vacation Rentals of Residences Criteria

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

4. The project is conditioned to limit the total number of guests for the 2 rooms to 6 guests. The Applicant has voluntarily limited his number of guests to four, but since this is not required by the County's vacation rental standards this limitation will not be made a condition of approval (of course, the Applicant is free to limit his number of guests to four or any number less than six if he chooses).

SJCC 18.40.270(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.*

5. The conditions of approval of the permit have been imposed to prevent any unreasonable disturbances. These conditions include limiting the number of guests, required posting of rules of conduct which specifically mention prohibition of trespassing and identifying property lines, provision of a 24-hour contact phone number to neighbors in case problems may arise, and required maintenance of a written log of complaints.

SJCC 18.40.270(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.*

6. Table 6.4 of SJCC 18.60.120 requires one parking space for single-family homes under 550 square feet or less and two spaces for homes over 550 square feet in activity centers, which translates into two and three parking spaces respectively under the criterion quoted above. The area of the subject home is not clear from the record. The conditions of approval will require parking as required by Table 6.4.

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

¹ Table 3.1 allows vacation rentals as a provisional use, but footnote 9 to the table provides that the use is conditional if it wasn't established prior to June 1, 1997 in activity centers.

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

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

3 8. No outdoor advertising is proposed.

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

7 9. There is no accessory dwelling unit.

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

11 10. There is no accessory dwelling unit.

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

19 11. Not applicable because the Applicant did not use his premises for a
20 vacation rental prior to June 1, 1997.

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

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

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

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

SJCC 18.40.270(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.

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

2 **SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC*
3 *18.40.240 cannot be separately leased or rented for less than 30 days.*

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

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

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

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

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

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

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

23 18. Mitigation measures for vacation rental impacts, such as noise and
24 trespassing, have been added as conditions of approval. Therefore, the use, as
25 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.

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

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

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

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

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

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

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

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

20 **SJCC 18.80.100(D)(9):** *The proposal does not include any use or activity that would*
21 *result in the siting of an incompatible use adjacent to an airport or airfield (RCW*
22 *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.*

26 25. As an existing development site, the proposal is consistent with Chapter
27 18.60 SJCC.

28 DECISION

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

31 1. The 2-bedroom vacation rental shall be operated as described in the application
32 materials except as modified by these conditions.

- 1 2. A maximum of six guests shall occupy the unit at any one time for rentals of 30
2 days or less.
- 3 3. No food service is to be provided. No outdoor advertising signs are allowed.
- 4 4. The rentals must meet all local and state regulations, including those pertaining to
5 business licenses and taxes. Approval of this permit does not authorize the owner to
6 violate private covenants and restrictions.
- 7 5. No use of the property shall be made that produces unreasonable vibration, noise,
8 dust, smoke, odor or electrical interference to the detriment of adjoining properties.
- 9 6. A 24-hour non-message, non-recording contact number shall be provided to
10 Community Development and Planning Department (CDPD) and to all neighbors
11 within 300 feet of the property. A log of complaints shall be kept and a copy
12 provided to CDPD upon request.
- 13 7. Prior to any rental, a proposed written Rules of Conduct will be submitted to and
14 approved by CDPD. The Rules of Conduct shall specifically deal with trespass,
15 property boundaries, noise disturbances and any special items specific to the rental
16 unit or adjoining properties. Upon approval by CDPD a copy of the Rules of Conduct
17 shall be posted in the residence, given to all adult tenants and given to all property
18 owners within 300 feet of the residence.
- 19 8. Authorization under this permit shall be void if the use is discontinued for 24
20 consecutive months.
- 21 9. Upon determination by the Director of CDPD that any condition listed above has
22 been violated, following issuance of a Notice of Violation, the Director may, in
23 addition to other code enforcement remedies, revoke the conditional use permit.
- 24 10. If the subject home is smaller than 550 square feet the Applicant shall provide for
25 two parking spaces as required by Conclusion of Law No. 6. If the home is 550
square feet or more the Applicant shall provide for three parking spaces as required
by Conclusion of Law No. 6.

Dated this 27th day of September, 2012.



Phil Olbrechts
County of San Juan Hearing Examiner

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

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

9 Depending on the subject matter, this decision may be appealable to the San Juan
10 County Superior Court or to the Washington State Shorelines Hearings Board. State
11 law provides short deadlines and strict procedures for appeals, and failure to timely
12 comply with filing and service requirement may result in dismissal of the appeal. See
13 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.

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