

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

3 Phil Olbrechts, Hearing Examiner

4 RE: Paul and Janet Neutz	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.
5 Conditional Use Permit (PCUP00-10-0003)	

6 TPN#
7 173123003 000

8 **INTRODUCTION**

9 The applicant has applied for approval of a Conditional Use Permit to allow for
vacation rental of a 3-bedroom residential dwelling. The Examiner approves the
permit subject to conditions.

10 **TESTIMONY**

11 Julie Thompson Thompson - Community and Development Planning

12 Staff began by giving a brief overview of the application. She mentioned that
13 there have been no comments received on the permit, and that Staff recommends
14 approval. The property is 4 acres, and as such there are no concerns over proximity
to other homes.

15 **EXHIBITS**

16 See Attachments to the staff report dated March 3, 2010.

S.J.C. COMMUNITY

APR 20 2010

DEVELOPMENT & PLANNING

17 **FINDINGS OF FACT**

18 **Procedural:**

- 19 1. Applicant. The applicants are Paul and Janet Neutz.
- 20 2. Hearing. The Hearing Examiner conducted a hearing on the subject
21 application on April 1, 2010.

22 **Substantive:**

- 23 3. Site and Proposal Description. The applicant requests a conditional use
24 permit to allow short-term vacation rentals of their home. There are three bedrooms,
25 which could house a total of nine people. It is developed with a three-bedroom single-
family residence on 4.14 acres.

1 4. Characteristics of the Area. The property is located within a rural
2 residential area. There is residential development surrounding the property on all
sides.

3 5. Adverse Impacts of Proposed Use. The Examiner finds that the proposed
4 project will have no significant adverse impacts. The project does not include any
5 construction elements, and as such there will be no adverse impacts associated with
such.

6 CONCLUSIONS OF LAW

7 **Procedural:**

8 1. Authority of Hearing Examiner. Conditional Use permit applications are
9 reviewed and processed by Development Services Department staff, and The Hearing
10 Examiner, after conducting an open-record public hearing, renders a decision on the
permit. SJCC18.80.020 Table 8.1

11 **Substantive:**

12 2. Shoreline Designation. The subject property is not within the shoreline.

13 3. Comprehensive Plan and Zoning Designations. The subject property is
14 designated as Rural Residential, and the existing land use is Residential.

15 4. Compliance with Notice Requirements. City staff advertised the application in
16 accordance with RCW 90.58.140, WAC 173-27-110 and the San Juan County Code
17 Sections 18.80 and 18.50. Notice of the Public Hearing and SEPA Appeal for the
18 project was properly published on February 3, 2010, posted on-site on February 5,
2010, and noticed to parties of record and adjacent property owners on February 1,
2010.

19 5. Permit Review Criteria. The San Juan County Code ("SJCC") governs the
20 policies and criteria for conditional use permit review. SJCC 18.80.110 establishes
the criteria for approval.

21 The applicable policies, use regulations, and criteria are quoted (in italics) and
22 addressed below.

23 **Vacation Rentals of Residences Criteria**

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

25 6. There is a three-bedroom house, so no more than nine guests shall be allowed at
any given time. This shall be a condition of approval.

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

4 7. Noise and trespassing impacts should be normal in comparison the normal
5 residential use of the site. Conditions of approval of the permit have been included to
6 mitigate any such impacts. These conditions include limitation of occupants to 9,
7 required posting of rules of conduct which specifically mention prohibition of
8 trespassing, the identification of property lines, and providing neighbors with a 24
9 hour contact phone number for problems which may arise.

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

13 8. There are five parking spaces available, which is in excess of the number
14 required.

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

17 9. No food service is proposed in the application.

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

19 10. No outdoor advertising signs are proposed in the application.

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

23 11. There is no accessory dwelling unit on the property.

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

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

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.

1 13. This property is in the rural residential district, and has never been rented as a
2 vacation rental in the past, therefore a conditional use permit is being required and
3 requested.

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

6 14. Upon approval, the applicant will be required to obtain a business license or
7 obtain management by an approved management company.

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

10 15. This section has been included as a condition of approval of the permit.

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

17 16. This section has been included as a condition of approval of the permit.

18 **SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC
19 18.40.240 cannot be separately leased or rented for less than 30 days.*

20 17. There is no accessory dwelling unit on the property.

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

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

24 18. This proposal is conditioned to be consistent with the SJCC and the
25 Comprehensive Plan, as detailed 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;*

19. The proposed use does not alter the general use of the structure as a residence, and
the character of the site will be maintained. As such, the proposal site is already
consistent with this criteria.

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

4 20. Vacation rental impacts, such as noise, parking, and trespassing have been added
5 as conditions of approval. As such, the use will not cause significant adverse impacts
6 on neighbors or surrounding environment.

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

10 21. The property will continue to appear and function in a manner similar to the
11 existing single-family residential use, and further similar requests will not produce
12 significant adverse impacts.

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

15 22. The residence is in an existing development, and has been shown to meet these
16 requirements.

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

20 23. During its use as a single-family residence, the property has not interfered with
21 allowable development or use of neighboring properties. Nothing on the property
22 will be altered from the outside, so no new interference should occur as a result of the
23 rental of the property.

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

26 24. Although vacation rentals generate pedestrian and vehicular traffic that can be
27 described as inconsiderate, it is generally not deemed to be hazardous.

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

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

1 **SJCC 18.80.100(D)(9):** *The proposal does not include any use or activity that would*
2 *result in the siting of an incompatible use adjacent to an airport or airfield (RCW*
3 *36.70.547); and*

4 26. There is no airport or airfield adjacent to this property.

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

7 27. As an existing developed site, the proposal is consistent with SJCC 18.60.

8 **DECISION**

9 The proposed project is consistent with all the criteria for a shoreline substantial
10 development permit. The proposal is approved subject to the conditions listed in the
11 staff report.

12 Dated this 20th day of April, 2010.

13 
14 Phil Olbrechts
15 County of San Juan Hearing Examiner

16 **Change in Valuation**

17 Notice is given pursuant to RCW 36.70B.130 that property owners who are affected by this
18 decision may request a change in valuation for property tax purposes notwithstanding any
19 program of revaluation.
20
21
22
23
24
25