

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Rex and Barbara Kelly
713 Golf Course Road
Friday Harbor, WA 98250

Agent: Bonnie Sliger
PO Box 1478
Friday Harbor, WA 98250

File No: HE11-09 (09CU001)

Request: Conditional Use Permit (CUP)

Parcel No: 352650014

Location: 713 Golf Course Road
San Juan Island

Summary of Proposal: An application for a conditional use permit to allow vacation rental (less than 30 days) of a three bedroom single family residence.

Land Use Designation: Rural Residential 5

Public Hearing: After reviewing the report of the Community Development and Planning Department a public hearing was held on April 1, 2009.

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

Decision: The application is denied.

SJCC COMMUNITY

APR 15 2009

DEVELOPMENT & PLANNING

Findings of Fact

1. This is a CUP request for short term vacation rental of a single family residence located at 713 Golf Course Road. The residence is located on the shoreline of San Juan Island.
2. There are at least twelve parking spaces available on the property. No food service is proposed. No outdoor signs are proposed. There is no guest house.
3. The standards of SJCC 18.40.270 allow up to three persons per bedroom for short term (less than 30 days) rental purposes.
4. The particular location of this residence within the shoreline would make it a very attractive rental property. Depending on the rental price requested by the owners, a high occupancy rate would be expected. Most, if not all of the renters would be responsible occupants of the premises.
5. There currently exists a county permit for a sewage disposal unit sufficient for a three bedroom single family residence. Whether that sewage disposal unit would be sufficient for a lengthy occupation of up to nine people is unknown.
6. The residences at 709 and 713 Golf Course Road are owned by part-time residents of San Juan County. Neither home is occupied for six months in a year. The two homes share a well.
7. By an undated report submitted as Ex. B to the March 11, 2009 submissions on behalf of Betti Deutsch, 709 Golf Course Road, Mr. Al Mauldin noted a pump test conducted on February 26, 2009. The beginning chloride rate of 135ppm increased in a period of 20 minutes to 147ppm. Mr. Mauldin terminated the test because of fear that a four-hour pump test (normal) could result in a chloride reading of 250ppm, which would exceed allowable amounts.
8. Mr. Mauldin's conclusion was that not only this well but other wells in the vicinity required "special care" and "special monitoring." Mr. Mauldin concluded that "any continuous of this well will cause increased saltwater intrusion."
9. At the April 1, 2009 hearing Mr. Denny Martel testified as to the results of a test he conducted on March 20, 2009. There were also February 11 and February 17, 2009 drinking water reports. Mr. Martel concluded that there was no risk of saltwater intrusion and that the chlorine levels for the tested water were within allowable limits. Mr. Martel and Mr. and Mrs. Sliger believe a "windblown salt condition" explain the high chloride levels.
10. Mr. and Mrs. Kelly submitted a letter which stated that during one weekend of high intense use there was no shortage of water.

11. Mr. and Mrs. John Hart live at 685 Golf Course Road. Mr. Hart submitted a letter and testified that there is concern with his well and in the neighborhood about saltwater intrusion. The neighborhood also has concerns about the amount of water use for each residence. Mr. Hart challenged the contention that the Kelly well was a high producer.
12. Mr. Mauldin disputed the windblown saltwater intrusion explanation.
13. Any conclusion herein which may be deemed a finding is hereby adopted as such.

Conclusions of Law

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding.
2. One of the criteria for a CUP is demonstration of adequate water. SJCC 18.80.100(D)(5). The burden is on the applicant.
3. In this case the applicants did not satisfy their burden of proof of showing adequate water. The weight of the evidence was that, particularly with a higher anticipated usage of up to nine occupants, there would be an unacceptable risk of saltwater intrusion and/or risk of depleting the available water supply for this well and for neighbors within the same water table.
4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

Decision

The application for a short term rental CUP is denied.

DONE this 15th day of April, 2009.



Wm. H. NIELSEN, Hearing Examiner

Appeal

Any appeal of this decision shall be to Superior Court pursuant to the Land Use Petition Act, Chapter 36.70 RCW, within 21 days of the issuance of the decision. See Home Rule Charter, Section 3.70.