

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

3 Phil Olbrechts, Hearing Examiner

|  |  |
|--|--|
| 4 RE: Norris and Karen Palmer                  | <b>FINDINGS OF FACT, CONCLUSIONS<br/>OF LAW AND FINAL DECISION</b> |
| 5 Conditional Use Permit<br>6 (PCUP00-09-0002) |  |

7 **INTRODUCTION**

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

11 **TESTIMONY**

12 Julie Thompson submitted an updated staff report that contained new information on  
13 the notice provided for the project. No other testimony was provided.

14 **EXHIBITS**

15 See Exhibit List attached to January 20, 2010 staff report.

S.J.C. COMMUNITY

FEB 22 2010

16 **FINDINGS OF FACT**

DEVELOPMENT & PLANNING

17 **Procedural:**

- 18 1. Applicant. The applicants are Norris and Karen Palmer.
- 19 2. Hearing. The Hearing Examiner conducted a hearing on the subject  
20 application on February 4, 2010.

21 **Substantive:**

22 3. Site and Proposal Description. The applicants request a conditional use  
23 permit to allow short-term vacation rentals of their home. There are three bedrooms,  
24 which could house a total of nine people. The site is an upland parcel located on the  
west side of San Juan Island. It is developed with a three-bedroom single-family  
residence and a garage. The parcel is also rather heavily vegetated.

25 4. Characteristics of the Area. The property is located within a rural  
residential area.

1 5. Adverse Impacts of Proposed Use. The Examiner finds that the proposed  
2 project will have no significant adverse impacts. The conditions recommended by  
3 staff will minimize noise and other adverse impacts associated with short term rental  
4 of the property.

## 5 **CONCLUSIONS OF LAW**

### 6 **Procedural:**

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

### 10 **Substantive:**

11 2. Comprehensive Plan and Zoning Designations. The subject property is  
12 designated as Rural Residential, and the existing land use is Residential.

13 3. Permit Review Criteria. The SJCC governs the policies and criteria for  
14 conditional use permit review. SJCC 18.80.110 establishes the criteria for approval,  
15 which are quoted in italics below and addressed through conclusions of law.

#### 16 **Vacation Rentals of Residences Criteria**

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

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

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  
23 to area residents.*

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

**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.*

1 6. There are three parking spaces available, which is in excess of the number  
2 required.

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

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

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

7 8. No outdoor advertising signs are proposed in the application.

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

11 9. There is no accessory dwelling unit on the site, and as such only the  
12 residence will be rented.

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

16 10. There is no accessory dwelling unit on the site.

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

24 11. This property is in the rural residential district and has never been rented  
25 as a vacation rental in the past; therefore, a conditional use permit is being required  
and requested.

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

12. Upon approval, the applicant will be required to obtain a business license  
or work through a property management company.

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

3 13. This section has been included as a condition of approval of the permit.

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

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

11 **SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC*  
12 *18.40.240 cannot be separately leased or rented for less than 30 days.*

13 15. There is no other structure beside the single-family residence being  
14 proposed for rental.

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

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

18 16. This proposal is conditioned to be consistent with the SJCC and the  
19 Comprehensive Plan, as detailed above.

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

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

**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;*

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

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

4 19. The property will continue to appear and function in a manner similar to  
5 the existing single-family residential use, and further similar requests will not produce  
6 significant adverse impacts.

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

9 20. The residence is in an existing development and has been shown to meet  
10 these requirements.

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

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

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

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

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

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

**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.

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

1 25. As an existing developed site, the proposal is consistent with SJCC 18.60.

2 **DECISION**

3 The proposed project is consistent with all the criteria for a conditional use permit.  
4 The proposal is approved subject to the conditions listed in the staff report.

5 Dated this 22<sup>nd</sup> day of February, 2010.

6 

7 Phil Olbrechts  
8 County of San Juan Hearing Examiner

9  
10 **Right of Appeal**

11 This decision may be appealed to San Juan County Superior Court as governed by the  
12 Land Use Petition Act, Chapter 36.70C RCW. As required by the Land Use Petition  
13 Act, appeals must be filed with the superior court and served upon all required parties  
14 within 21 days of the issuance of this decision.