SAN JUAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
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BEFORE THE HEARING EXAMINER FOR SAN JUAN COUNTY

FINDINGS, DECISION AND CONDITIONS OF APPROVAL FOR REEF RETREAT LLC (BAGBY) CONDITIONAL USE PERMIT

[ONE-BEDROOM HOUSE, AT 335 COCKERILL LANE, ORCAS ISLAND]

SJC DEPARTMENT OF
MAR 25 2019
COMMUNITY DEVELOPMENT

FILE NUMBER:	PCUP00-18-0027
OWNER/APPLICANT:	REEF RETREAT LLC (CALI BAGBY, MEMBER) 1403 S. CRESTLINE ST. SPOKANE, WA 99203
APPLICATION:	CONDITIONAL USE PERMIT – TO AUTHORIZE VACATION RENTAL OF A 1-BEDROOM HOUSE
SITE ADDRESS:	335 COCKERILL LANE, ORCAS ISLAND
TAX PARCEL NUMBER:	170750006000
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS
SUMMARY OF DECISION:	***APPROVED – SUBJECT TO CONDITIONS***
DATE OF DECISION:	MARCH 25, 2019

SJC DEPARTMENT OF
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COMMUNITY DEVELOPMENT

I. INTRODUCTION

The applicant, Reef Retreat LLC, owns two adjoining properties located on Orcas Island, one with a 1-bedroom house on the site, at 335 Cockerill Lane, Tax Parcel Number 170750006000; and another with a 2-bedroom house, at 337 Cockerill Lane, Tax Parcel Number 170750002000. Reef Retreat LLC, via Member Cali Bagby, seeks two conditional use permits to rent each house as a short-term vacation rental. Both properties are in the County's Rural Residential (RR) land use designation.

This decision applies to the 1-bedroom house, assigned File No. PCUP00-18-0027. The permit decision regarding the 2-bedroom house located on the neighboring property owned by the same applicant is addressed in a separate decision issued the same date, assigned File No. PCUP00-18-0028.

Both properties are now served with a shared on-site septic system. Conditions of approval have been supplemented to ensure that the shared septic system will have capacity to serve the number of authorized guests for the duration of this permit. Each property receives potable water from the Eastsound Water Users Association. *(Staff Report, Project Data, and discussion on page 9; Exhibit 1, application materials, including Site Plan illustration, page 1 of 3, depicting ""Shared 3BR Septic System" line connecting the septic system serving both parcels, and location of the "Shared 3BR Drainfield" just south of the parking area and one-bedroom house on the 335 Cockerill Lane parcel; and Exhibit 2, septic permit).*

II. CONTENTS OF RECORD

EXHIBITS:

A. Staff Report, prepared by Project Planner, Adam Zach, dated January 7, 2019, with 26 attached Exhibits, as numbered and identified on pages 15 and 16 of the Staff Report;

Additional exhibits submitted at the public hearing:

27. Public Comments received after the comment period, with cover page summary chart prepared by Staff, for File No. PCUP00-18-0027;

28. Public Comments received after the comment period, with cover page summary chart prepared by Staff, for File No. PCUP00-18-0028 (appears identical to Ex. 27);

29. Letter from Mr. Grifo, with revised Proposed Rules of Conduct for both Reef Retreat properties, UBI number, and survey for 337 Cockerill Lane, dated Jan. 23, 2019;

30. Color image / map depicting Reef Retreat properties and location of various neighbors in the vicinity who provided written comments and/or spoke at the public hearing, submitted by Mr. Otis at the public hearing.

TESTIMONY AT PUBLIC HEARING:

Because the two properties are adjacent to one another, and public comments mostly applied the same to both properties, with more-focused remarks easily assigned to one application and not the other, the two Reef Retreat applications were heard during a consolidated public hearing process. All witnesses who offered testimony during the public hearing were placed under oath, including the following:

1. Adam Zach, the County's planner assigned to review the pending application, summarized his review, written comments received, his response, and relevant conditions of approval for the requested permits;

2. Bill Bagby, Member of Reef Retreat LLC, appeared for the applicant;

3. James Grifo appeared at the hearing as the applicant's agent and attorney, and expressed support for the recommended conditions of approval. He explained that the application merits approval, subject to conditions.

4. Jeff Otis appeared at the hearing as a representative for the owners of the Snelson properties, located near the two parcels owned by the applicant, expressed concerns with impacts caused by vacation rentals, that the small house may not be compliant with applicable codes, for fire protection and perhaps with an unpermitted kitchen;

5. Richard Petro, with Orcas Sewage Design, expressed concerns that the septic system for the properties may not have sufficient capacity to serve the number of people allowed to stay in the two proposed vacation rental properties, noting that typical septic systems are designed with capacity based on 2 people per bedroom, and that the "+3" allowed by the requested permits for the two properties could pose a risk of failure;

6. Randi Tellefsen, expressed concerns that the septic system is too small;

7. Lindsey Tellefsen, expressed concerns with septic system capacity, noting she once lived in the one-bedroom house, that an alarm has gone off before indicating the septic system was overused;

8. Brian Feathers, shares concerns expressed by others;

9. Rebecca Flint, expressed concerns that access lane is too narrow, general concerns about speeding and safety;

10. Ms. Edquist, expressed general safety concerns;

11. Karen Snelson, expressed concern with her grandparents living next to vacation rentals;

12. Steve Knapp, owns farm where Cockerill Lane (access road to site) runs, expressed concerns about use of road, traffic, safety, questioned the applicant's rights or easement to travel over portions of his property, arguing that a road maintenance agreement is not an easement;

13. Mr. Snelson, lives next to site, expressed concerns with strangers, problems that may arise due to vacation rentals near his property.

Mr. Grifo responded to public comments from neighbors, arguing that the application meets applicable codes, that access issues raised by some commenters are private matters, and that the applicant will meet all standards found in current county codes.

III. APPLICABLE LAW

Jurisdiction.

Under SJCC 18.80.090(C), if a development application is processed as a Conditional Use Permit application, "the Hearing Examiner is the decisionmaker." SJCC 18.80.100(C), captioned "Decisionmaking Authority", provides that "[t]he hearing examiner has the authority to approve or deny conditional use permit ... applications, and to impose conditions of approval on such permits."

Conditional Use Permit required for vacation rentals.

The "allowability" of various land uses, including "vacation rental of a residence or accessory dwelling unit" is found in a table codified as SJCC 18.30.040. Properties identified under the Rural Residential land use designation are required to obtain a Conditional Use Permit for a vacation rental. *See "Allowable and Prohibited Uses in Rural, Resource, and Special Land Use Designations Table,"* at SJCC 18.30.040.

Standards for vacation rentals; Criteria for CUP approval.

San Juan County's Unified Development Code includes specific standards that apply to all vacation (short-term, less than 30 days) rentals of single family residential units and accessory dwelling units or portions thereof. These standards are now found at SJCC 18.40.275, and include a lengthy list of items numbered A through M. The Criteria for approval of a Conditional Use Permit are found at SJCC 18.80.100(D), and include ten items that must be considered by the Examiner.

Burden and Nature of Proof.

Under SJCC 18.80.040(B), "[t]he burden of proof is on the project permit applicant. The project permit application must be supported by evidence that it is consistent with the applicable state law, County development regulations, the Comprehensive Plan, and the applicant meets his burden of proving that any significant adverse environmental impacts have been adequately analyzed and addressed."

IV. ISSUE PRESENTED

Whether a preponderance of evidence demonstrates that the applicant has satisfied its burden of proof to meet the criteria for Conditional Use Permit approval?

Short Answer: Yes, subject to conditions.

V. FINDINGS OF FACT

1. Upon consideration of all the evidence, exhibits, testimony, codes, policies, regulations, and other information contained in the file, the undersigned Examiner issues the following findings, conclusions and Decision approving the Conditional Use Permit as set forth below.

2. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such, including without limitation the Introduction provided above.

3. The applicant submitted a Vacation Rental Permit application to the San Juan County Community Development & Planning Department on or about October 2, 2018. The pending application was deemed complete for purposes of vesting and review on October 19, 2018. *(Staff Report at page 4; and Exhibit 1, application materials).*

4. As noted above, this application and the permit issued herein is applicable to a one-bedroom house structure on the site, located at 335 Cockerill Lane, on Orcas Island, on land that is within the County's Rural Residential (RR) land use designation. *(Staff Report, Project Data).*

5. In the Staff Report, Mr. Zach confirmed that notices and publication required for the application were provided in accord with applicable county requirements, and described how notices were re-published and comment periods were extended upon request by the applicant, responding to some written comments expressing concern with timing of notices and comment deadlines. *(Staff Report, at page 8, describing initial publication in October, second notice in November, notices mailed to owners within 300 feet of site on Nov. 30, 2018; Exs. 6, 13, 20, and 21).*

6. County staff determined that the application is exempt from SEPA review, citing SJCC 18.80.050. *(Staff Report, at page 10).*

7. As explained above, because the two properties owned by the same applicant are adjacent to one another, and public comments mostly applied the same to both properties, with more-focused remarks easily assigned to one application and not the other, the two Reef Retreat applications were heard during a consolidated public hearing process.

8. At the public hearing, Mr. Zach credibly summarized the county staff review for each permit, written comments received, key issues raised, his responses, and relevant conditions of approval for the requested permits. A number of property owners (or a designated representative) from the vicinity of the two Reef Retreat properties spoke at the public hearing to question and generally oppose vacation rentals in their area, including Mr. Otis, Randi and Lindsey Tellefsen, Mr. Feathers, Ms. Flint, Ms. Edquist, Mr. Knapp, and Mr. Snelson. Comments focused on access issues, concerns about safety as visitors travel along the narrow Cockerill Lane route to access the two vacation rentals, general fears about strangers coming and going as guests at the vacation rentals, concerns about the rocky shoreline in the vicinity, and concerns about the condition of the small house at issue in this permit, including whether the kitchen is up to code and whether the septic system is adequate to serve the two properties as proposed. A local septic system contractor, Richard Petro, with Orcas Sewage Design, spoke at the hearing to express concerns that the septic system for the properties may not have sufficient capacity to serve the number of people allowed to stay in the two proposed vacation rental properties, noting that typical septic systems are designed with capacity based on 2 people per bedroom, and that the "+3" allowed by the requested permits for the two properties could pose a risk of septic system failure.

9. Mr. Grifo responded to public comments from neighbors, arguing that the application meets applicable codes, that access and potential easement issues raised by some commenters are private matters, and that the applicant will meet all standards found in current county codes.

10. As in previous contested hearings for vacation rental permits, neighbors expressed sincere concerns about possible trespassing and lack of respect for private property by vacation guests using either or both of the two proposed vacation rentals on Reef Retreat's two adjoining parcels of property. Understandably, some neighbors are concerned about privacy, speeding cars, possible noise, and the like. Others are concerned about safety hazards in the event someone should injure themselves on rocks, while climbing or walking too close to edges along the shoreline. As with all vacation rental permits, County staff has explained that complaints provide a basis for them to take action against vacation rental permit holders who may not be operating in compliance with relevant codes and conditions. The same is true in this situation. If the applicant's vacation rental is operated in a manner where guests violate regulations and conditions, including a no-trespass rule, the County would have grounds to commence a permit revocation action against the permit holder. If neighboring property owners or residents see a problem –like vacation guests who violate rules or trespass onto private property where they have no right to be, excessive speeding, or excessive noise during "quiet hours" – then they should report the problem to County staff and the 24-hour hour property management contact person required under the Conditions of Approval.

11. Public comments, particularly those by Mr. Petro (the septic design contractor) and Ms. Tellefsen (a one-time occupant of the small house addressed in this permit), support an additional condition of approval to require the applicant to obtain inspections and regularly maintain the shared-septic system for the property so as to demonstrate that there is adequate capacity to serve all vacation rental guests authorized to use the home. This obligation should already be known to the applicant – because the San Juan County On-site Sewage Program Plan, Adopted 7/20/2011, mandates inspection for all septic systems. Those imposed as a condition of approval for this permit are in addition to any and all inspection and maintenance requirements already established under applicable county and state regulations regarding on-site septic systems.

12. As noted by the applicant's agent/attorney of record, there is no evidence in the record that would serve as a basis to deny the requested permit, because the applicant has agreed to operate the requested vacation rental in compliance with all applicable county standards and conditions of approval. Instead, the unchallenged analysis and explanation provided in the Staff Report, with its supporting exhibits, constitutes a preponderance of evidence demonstrating how the requested permit complies, or can be conditioned to comply, with all applicable approval criteria.

13. The Staff Report explains that the property is served with a shared on-site septic system and now receives water service from the Eastsound Water Users Association. *(Staff Report, Project Data).* As discussed elsewhere, an additional condition of approval has been included by the Examiner to address the shared septic-system capacity concerns established by witness testimony in the record.

14. As with all permits issued by the County, this permit does not waive or excuse an applicant's obligation to comply with any utility service provider's lawful regulations or requirements, including without limitation electrical, telephone, cable, internet, sanitation, and water service providers.

Facts establishing compliance with Vacation Rental Standards.

15. SJCC 18.40.275 lists a number of standards that apply to all Vacation Rentals (short-term/less than 30 days) of single-family residential homes and accessory dwelling units, or portions thereof. These standards and their application and relevance to the pending CUP is discussed below. The following findings are written in *italics*, immediately after re-statement of the applicable standard. Each of the *italicized findings* are supported by previous Findings, and the Staff Report, on pages 3 - 5:

A. Outside of urban growth areas, one vacation rental is allowed on a property, either in the principal residence or an accessory dwelling. Detached accessory dwelling units permitted on or after June 29, 2007 are not allowed to be vacation rentals.

   The property is located outside an urban growth area. The one-bedroom house at issue is the only dwelling unit on the parcel addressed by this permit.

B. No more than two (2) overnight guests per bedroom plus additional three (3) overnight guests shall be accommodated at any one time. The number of bedrooms is determined by the approved building permit for the structure. A guest is a person over two (2) years of age.

   There is just one bedroom in this residence so no more than five (5) people may be accommodated at any time. This is a condition of approval.

C. The vacation rental shall be operated according to rules of conduct approved by the County that prevent the following disturbances to area residents:

   1. Trespassing;

2. Noise that violates Chapter 9.06 SJCC (Noise Ordinance);
3. Off-site parking issues;
4. Vehicle speeds of higher than the posted speed limit, or twenty (20) miles per hour (mph) on private paved roads and fifteen (15) mph on private non-paved roads; and
5. Outdoor burning that violates the requirements adopted pursuant to SJCC 15.04.070.F.c, including violations of a burn ban

The applicant's draft rules address all of these issues. A final, complete and accurate set of Rules of Conduct shall be submitted to the Department for its review and approval. This requirement is a condition of approval.

D. Solid waste must be removed from the vacation rental to an approved solid waste facility every two weeks. Solid waste shall be stored in completely enclosed and secured solid waste receptacles or stored completely indoors.

This requirement is a condition of approval.

E. Guests shall be made aware of the importance of water conservation. Best practices to conserve water shall be included in the rules of conduct.

This requirement is a condition of approval.

F. One (1) on-site parking space shall be provided for each bedroom within the vacation rental.

The proposal is for a one-bedroom home, requiring one parking space. The submitted site plan shows two (2) parking spaces, see Exhibit 1. This meets the criteria.

G. Meal service provided by the permit holder or their agents is not allowed.

Meal service is not proposed by this application.

H. All vacation rental permit holders are required to display the address of the residence so that it is clearly visible from the street or access road.

This requirement is a condition of approval.

I. Vacation rental accommodations must meet all applicable local and state regulations, including those pertaining to business licenses and taxes such as Washington State sales, lodging and business and occupation taxes.

This requirement is a condition of approval, including without limitation the requirement to have a current UBI number and to include the permit number for this specific vacation rental operation in any and all advertisements regarding same. See SJCC 18.40.275(K) and (M).

J. Vacation rental permits vested or approved after the effective date of this ordinance shall expire two (2) years after the date of approval unless the annual certificates of compliance meeting the requirements of subsection (K)(4) of this section are on file with the administrator.

The expiration and filing of annual certificates of compliance meeting SJCC 18.40.275(K)(4) is a condition of approval.

K. All owners of property used for vacation rental shall comply with the following operational requirements:

1. Maintain an up-to-date property management plan on file with the administrator and property owners within three hundred (300) feet of the building within which the vacation rental is located. The property management plan must include the following:
   a. Rules of conduct approved by the County;
   b. Unified Business Identifier number, and the names and addresses of the property owner and agents authorized to act on the property owner's behalf;
   c. A designated local property representative who lives on the island where the vacation rental is located and will respond to complaints and emergencies; and
   d. A valid telephone number where the local property representative can be reached twenty-four (24) hours per day.

Submitting a property management plan for review and approval by the Director, prior to vacation rental use of the house, and then mailing such plan to neighboring property owners as required by the code, is a condition of approval.

2. Prominently display in the rental the rules of conduct and a map clearly depicting the property boundaries of the vacation rental. The map shall indicate if there is an easement that provides access to the shoreline, if so, the boundaries of the easement shall be clearly defined; if there is no access, this shall be indicated together with a warning not to trespass.

The rules of conduct to be submitted for review and approval by the Department must include language to address all relevant topics addressed in applicable county codes and conditions of approval for this permit. Prominent display of the rules and a map meeting this requirement is imposed as a condition of approval for this permit.

3. Include the San Juan County permit number for the vacation rental in all advertisements and marketing materials such as brochures and websites.

This requirement is a condition of approval.

4. Annually certify compliance with the conditions of permit approval and with the fire and life safety requirements of the International Fire Code (IFC) as identified by the department on forms specified by the administrator. The annual certification shall be prominently posted on-site; and

Annual certification of compliance with conditions of approval, and the fire and life safety requirements of the IFC is a condition of approval.

5. Certify compliance with the conditions of permit approval within ninety (90) days after the closing date of the sale of the property. Written certification must be submitted to the

department on forms specified by the administrator. Maintain an up-to-date property management plan on file with the administrator and property owners within three hundred (300) feet of the building within which the vacation rental is located. The property management plan must include the following:

a. Rules of conduct approved by the County;
b. Unified Business Identifier number, and the names and addresses of the property owner and agents authorized to act on the property owner's behalf;
c. A designated local property representative who lives on the island where the vacation rental is located and will respond to complaints and emergencies; and
d. A valid telephone number where the local property representative can be reached twenty-four (24) hours per day.

The requirement to file a certificate of compliance within ninety (90) days after the close date of the sale of the property is a condition of approval.

L. SJCC 18.80.030(A)(2)(a) requires publication of a notice of application.

A notice of application for Conditional Use permit for vacation rental was published in the Journal of the San Juans and the Island Sounder in October and November of 2018 (Exhibits 6 and 13).

M. SJCC 18.80.030(A)(2)(b) and (c) require notification of the application to all property owners within 300 feet of the subject property and posting of the notice of application on the subject property.

The applicant submitted verification that it mailed notices as required by county codes.

16. Given the applicant's commitment to comply with all conditions of approval imposed by this permit, the Record establishes that the applicant has met its burden to satisfy the criteria for approval of a Conditional Use Permit, found in SJCC 18.80.100(D)(1-10). The 10 items listed as approval criteria are listed and discussed below. The following findings are written in *italics*, immediately after re-statement of the applicable requirement. Each of the *italicized findings* are supported by previous Findings, and the Staff Report, on pages 9 and 10:

1. The proposed use will not be contrary to the intent or purposes and regulations of this code or the Comprehensive Plan;

As conditioned, the requested CUP will be consistent with the SJCC and the Comprehensive Plan.

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;

According to the Staff Report, the proposed use would be in an existing dwelling unit on the site, so it would not change the appearance of the structure. Staff indicates that with conditions, the property would continue to function in a manner similar to the existing use of the 1-bedroom structure already on the site. Therefore, the residential character of the site would be maintained. Additionally, the proposal meets or can be conditioned to meet the applicable standards of SJCC Chapters 18.40 and 18.60. Obviously, owners' failure to operate the vacation rental in compliance with applicable codes, rules and regulations can and should result in revocation of the permit addressed herein.

3. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;

Staff has determined that various concerns can be dealt with through conditions of approval. The CUP is conditioned to enable neighbors to report problems and possible violations of any conditions of approval to the owner, or their required contact. Such issues can be dealt with through enforcement of the conditions of permit approval including submitting a property management plan as required by SJCC 18.40.275(K) which includes rules of conduct, emergency contact information, and a designated local property representative. Violations of rules can result in revocation of the permit issued herein.

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;

The use would continue to appear and function in a manner similar to the existing single family residential use. Permitted vacation rentals that operate in compliance with conditions of approval should pose no cumulative impacts.

5. The proposal will be served by adequate facilities including access, fire protection, water, stormwater control, and sewage disposal facilities;

The proposed use is in an existing development site that currently appears to be served by adequate facilities, and/or to receive adequate services; provided, conditions of approval have been included to require regular septic system inspections and maintenance and the permit issued by this decision does not and should not be construed to authorize the owner to violate any applicable utility service provider's requirements.

6. The location, size, and height of buildings, structures, walls and fences, and screening vegetation associated with the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties;

The existing single-family residence on the site that is the subject of this application has not interfered with allowable development or use of neighboring properties. As long as occupants comply with applicable codes and rules, no new interference with allowable development or use of neighboring properties should occur.

7. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood;

Staff has determined that vehicular traffic associated with a vacation rental is not often described as hazardous. Guests and visitors are subject to the same traffic regulations as others who live in the area. Rules of conduct will mandate that the vacation rental shall not be operated in a manner where guests or visitors pose a hazard to pedestrian or vehicular traffic in the area.

8. The proposal complies with the performance standards set forth in Chapter 18.40 SJCC;

As conditioned, the proposal will be in compliance with SJCC 18.40.275. See pages 4-8 of Staff Report.

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);

There is no airport or airfield adjacent to this property.

10. The proposal conforms to the development standards in Chapter 18.60 SJCC.

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

VI. CONCLUSIONS of LAW

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed Conditional Use Permit for a vacation rental conforms to all applicable land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the CUP application meets the standards necessary to obtain approval by the County.

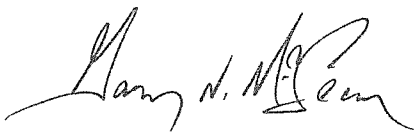
2. The Department's recommended conditions of approval as set forth in the Staff Report are reasonable, supported by the evidence, and capable of accomplishment. Each and every condition is adopted and incorporated herein by reference, except as modified below. Based on evidence in the record and under authority of applicable county codes, including without limitation SJCC 18.80.100(C), the Examiner has added a new condition to ensure proper inspection and maintenance of the shared septic system serving the two properties owned by the applicant.

3. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VII. DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the record, and the Examiner's online site visit, the undersigned Examiner APPROVES the Conditional Use Permit for the Reef Retreat 1-Bedroom vacation rental, subject to the attached Conditions of Approval.

ISSUED this 25th Day of March, 2019



Gary N. McLean
Hearing Examiner

CONDITIONS OF APPROVAL

Reef Retreat (Bagby) Vacation Rental CUP – for 1 BR Home
335 Cockerill Lane, Orcas Island
File No. PCUP00-18-0027

1. The 1-bedroom house described in the application materials and site plan *(Ex. 1)* may be operated as a vacation rental, subject to compliance with SJCC 18.40.275, except as modified by these conditions.

2. The residence may be rented as a single unit on a short-term basis for periods less than thirty (30) days. A maximum of two (2) people per bedroom plus an additional three (3) overnight guests [five (5) total guests] may occupy the residence at any one time.

3. No food service is allowed.

4. A minimum of one (1) parking space must be provided for this vacation rental house as required by SJCC 18.40.275(F) and as shown on the approved site plan, included as part of Ex. 1.

5. The owner must meet all local and state regulations, including those pertaining to business licenses and taxes. Approval of this permit does not authorize the owner to violate private covenants and restrictions.

6. No use of the property shall be made that produces unreasonable vibration, noise, dust, smoke, odor or electrical interference to the detriment of adjoining properties.

7. Prior to operation, the applicant shall call the SJC Fire Marshal to have the driveway inspected for emergency vehicle access. Evidence of the Fire Marshal's inspection must be submitted to the San Juan County Department of Community Development, with reference to the permit number for this particular vacation rental house.

8. The property owners shall:

   A. Prior to and during operation of the 1-bedroom house as a vacation rental, submit and maintain an up-to-date property management plan, which shall be subject to review and approval by the Director, and provide copies of such approved plan, and any revisions thereto, to all property owners within three hundred (300) feet of the building within which the vacation rental is located. The property management plan must include the following:

   1. Rules of conduct meeting the requirements of SJCC 18.40.275(C) and approved by the County;

      a) Trespassing;
      b) Noise that violated Ch. 9.06 SJCC (County Noise Code provisions);
      c) Off-site parking issues;
      d) Vehicle speeds higher than the posted speed limit;
      e) Vehicle speeds higher than ten (10) mph on Cockerill Lane; and
      f) Outdoor burning that violates regulations found in SJCC 18.04.070(F)(4)(c), including violation of any applicable burn ban.

   2. The Unified Business Identifier number for the vacation rental unit, and the names and addresses of the property owner and agents authorized to act on the property owner's behalf;

   3. A designated local property representative who lives on the island where the vacation rental is located and will respond to complaints and emergencies; and

4. A valid telephone number where the local property representative can be reached twenty-four (24) hours per day.

B. Prominently display in the rental the rules of conduct and a map clearly depicting the property boundaries of the vacation rental. The map shall indicate if there is an easement that provides access to the shoreline, if so, the boundaries of the easement shall be clearly defined; if there is no access, this shall be indicated together with a warning not to trespass.

C. Display the address of the residence so that it is clearly evident from the street or access road.

D. Include the San Juan County permit number for this specific vacation rental house in all advertisements and marketing materials such as brochures and websites.

E. Annually certify compliance with the conditions of permit approval and with the fire and life safety requirements of the International Fire Code (IFC) as identified by the Department of Community Development on forms specified by the administrator. The annual certification shall be prominently posted on-site.

F. Given unrebutted evidence regarding concerns about the shared septic system capacity to serve this house and a neighboring house also subject to a vacation rental permit, the property owner must ensure that the septic system is properly operated and maintained (cleaned-out, repaired, and the like), for the duration of this permit. Accordingly, prior to operating the house as a vacation rental, the property owner must obtain an inspection by a qualified septic system professional to certify that the shared-septic system for the property has been properly maintained/cleaned-out so as to provide adequate capacity to serve all vacation rental guests authorized to use the home. Such certification must be submitted for review and approval by the Director prior to operating the house as a vacation rental. Further, the shared septic system for this property will need on-going inspections to certify proper operation and system-capacity every six months for the first two years the property is operated as a vacation rental, and annually thereafter, unless more frequent inspections are required by the Director or local Health Officer. Again, all certifications mandated by this condition must be submitted for review and approval by the Director. Failure to comply with this or any other condition of approval is grounds for revocation of this permit.

G. Certify compliance with the conditions of permit approval within ninety (90) days after the closing date of the sale of the property. Written certification must be submitted to the Department of Community Development on forms specified by the administrator and must reference the permit number.

9. This permit shall expire two (2) years after the date of approval unless the annual certificates of compliance meeting the requirements of SJCC 18.40.275(K)(4) are on file with the administrator.

10. Guests shall be made aware of the importance of water conservation. Best practices to conserve water shall be included in the rules of conduct.

11. Solid waste must be removed from the vacation rental to an approved solid waste facility every two weeks. Solid waste shall be stored in completely enclosed and secured solid waste receptacles or stored completely indoors.

12. Upon determination by the Director of DCD that any condition listed above has been violated and following issuance of a Notice of Violation, the Director may, in addition to other code enforcement remedies, revoke the conditional use permit.

EFFECTIVE DATE, APPEALS, VALUATION NOTICES

Hearing Examiner decisions become effective when mailed or such later date in accordance with the laws and ordinance requirements governing the matter under 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/or SJCC 18.80.110.

Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County Council, unless the County council has adopted, by ordinance, written procedures for the discretionary review of such decisions. See Section 4.50 of the San Juan County Home Rule Charter and SJCC 2.22.100.

Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to the Washington State Shorelines Hearings Board. State law provides short deadlines and strict procedures for appeals and failure to timely comply with filing and service requirements may result in dismissal of any appeal. See RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal deadlines and procedural requirements and confer with advisors of their choosing, possibly including a private attorney.

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