

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS, AND DECISION

Applicant(s): Cindy Jo Wavra
221 Forrest Drive
Friday Harbor, WA 98250

Agent: Stephen Benito, Personal Agent
221 Forrest Drive
Friday Harbor, WA 98250

File No.: PCUP00-15-0020

Request: Conditional Use Permit (CUP)

Parcel No: 463551003

Location: 221 Forrest Drive, Friday Harbor, San Juan Island

Summary of Proposal: An application for a conditional use permit to allow vacation rental of a single-family home

Land Use Designation: Rural Residential

Public Hearing: December 17, 2015

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

Decision: Approved subject to conditions

S.J.C. DEPARTMENT OF
JAN 04 2016
COMMUNITY DEVELOPMENT

**BEFORE THE HEARING EXAMINER
FOR SAN JUAN COUNTY**

In the Matter of the Application of)
Cindy Jo Wavra) NO. PCUP-15-0020
for approval of a conditional use permit)
to allow vacation rental of the two)
bedroom residence at 221 Forrest Drive)
Friday Harbor, San Juan Island)

S.J.C. DEPARTMENT OF
JAN 04 2016
COMMUNITY DEVELOPMENT

SUMMARY OF DECISION

The request for conditional use permit to authorize the use of the two bedroom residence at 221 Forrest Drive, Friday Harbor, San Juan Island as a vacation rental is **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request:

Cindy Jo Wavra (Applicant) requested a conditional use permit to authorize vacation rental use of the two bedroom residence located at 221 Forrest Drive, Friday Harbor, San Juan Island.

Hearing Date:

The San Juan County Hearing Examiner held an open record public hearing on the request on December 17, 2015.

Testimony:

At the open record public hearing, the following individual presented testimony under oath:

Lee McEnery, Planner, San Juan County Department of Community Development

Exhibits:

The following exhibits were admitted in the record:

1. Department of Community Development Staff Report, dated October 22, 2015
2. Application, received July 31, 2015
3. Aerial parcel map
4. "Plot Plan" (site plan)

5. Floor Plan
6. Plat map for Mitchell Bay Playground preliminary plat
7. San Juan County Septic permit information, finalized in 1990
8. Notice of Hearing, with Applicant's signed affidavit of mailing and posting, attached photos of posted notice, and attached mailing list

Upon consideration of the testimony and exhibits submitted at the open record public hearing, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicant requested approval of a conditional use permit to authorize the use of the two bedroom residence located at 221 Forrest Drive, Friday Harbor, San Juan Island as a vacation rental.¹ The parcel is developed with a single-family residence, a detached 20-by 20-foot shop building, a parking area, and residential landscaping. *Exhibits 1, 2, 4, 6, and 7.*
2. Located in the Mitchell Bay Playground subdivision, the subject property has a Rural Residential land use designation. The parcel abuts residential development on all sides. It is served by an on-site well and septic system. No changes to the exterior of the residence or the property are proposed. *Exhibit 1.*
3. The subject property has existing access from Forrest Drive. No changes to the existing site access are proposed or required. According to Planning Staff, two off-street parking spots are required for the two-bedroom residence and at least one more space is required for vacation rental use of the home. There is a paved driveway area outside the existing shop that would provide off-street parking for more than two vehicles. *Exhibits 1, 4, and 6; McEnery Testimony.*
4. Planning Staff submitted that because the subject property is an existing developed site, the proposal is consistent with San Juan County Code (SJCC) Chapter 18.60. *McEnery Testimony; Exhibit 1.*
5. The proposal would allow for the residence to be rented on a short term basis for periods less than 30 days per month. Up to three persons per bedroom at a time may rent, for a maximum of six guests at a time. No outdoor advertising signs or food service are proposed. There is no accessory dwelling unit on the property. The subject property is not located near an airfield or airport. *Exhibit 1.*
6. Planning Staff noted that noise and trespassing impacts could be expected to mimic those associated with typical residential use of the site, and that the potential for disturbance to surrounding properties from temporary rental occupants could be mitigated by the

¹ The subject property is known as Assessor Parcel number 463551003. *Exhibit 1.*

following measures: restricting the number of vacation rental occupants to three per bedroom; requiring rules of conduct to be posted that specifically prohibit trespass; identification of property lines; providing neighbors with a 24-hour contact phone number; and requiring the contact to keep a written log of complaints. Staff recommended conditions implementing the above measures. *Exhibit 1; McEnery Testimony.*

7. The Applicant would be required to obtain a business license or work through a property management company. *Exhibit 1.*
8. The application was submitted July 31, 2015 and determined to be complete on the same date. Notice of application and of public hearing was posted on-site and mailed to surrounding property owners on October 10, 2015. Notice was published first on September 2, 2015, and then when the hearing was postponed, published a second time on October 14, 2015. The County did not receive comments on the proposal. *Exhibits 1, 2, and 8; McEnery Testimony.*
9. Upon review of the complete application materials, Planning Staff determined that the proposal can comply with all applicable criteria and recommended approval with conditions. *McEnery Testimony; Exhibit 1.* In not appearing for the hearing, the Applicant waived objection to the recommended conditions.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for conditional use permit pursuant to Chapter 36.70.970 of the Revised Code of Washington and Chapters 2.22 and 18.80 of the San Juan County Code.

Criteria for Review

Conditional Use Permit

Pursuant to SJCC 18.80.100.D, a conditional use permit shall be granted by the County only if the following criteria are met:

1. The proposed use will not be contrary to the intent or purposes and regulations of this code or 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;
3. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval;
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;

5. The proposal will be served by adequate facilities including access, fire protection, water, stormwater control, and sewage disposal facilities;
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;
7. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood;
8. The proposal complies with the performance standards set forth in Chapter 18.40 SJCC;
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
10. The proposal conforms to the development standards in Chapter 18.60 SJCC.

Vacation Rentals

Pursuant to SJCC 18.40.270, the following standards apply to all vacation rentals of single-family residential units and accessory dwelling units or portions thereof:

- A. No more than three guests per bedroom shall be accommodated at any one time.
- 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.
- 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.
- D. If any food service is to be provided the requirements for a bed and breakfast residence must be met.
- E. No outdoor advertising signs are allowed.
- F. The owner or a long-term lessee may rent either the principal residence or the accessory dwelling unit on a short-term basis (vacation rental), but not both.
- G. Where there are both a principal residence and an accessory dwelling unit, the owner or long-term lessee must reside on the premises, or one of the living units must remain unrented.
- H. In all activity center land use districts, rural residential, and conservancy land use districts, the vacation rental of a residence or accessory 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.
- I. Vacation rental accommodations must meet all local and state regulations, including those pertaining to business licenses and taxes.
- J. Owners of vacation rentals must file with the administrator a 24-hour contact phone number.

- 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.
- L. Detached accessory dwelling units established under SJCC 18.40.240 cannot be separately leased or rented for less than 30 days.

Conclusions Based on Findings

1. As conditioned, the proposed vacation rental would be consistent with applicable provisions of the SJCC and the Comprehensive Plan. The use would occupy an existing residence without altering the appearance of the structure. Conditions would ensure that even when rented it continues to function like a residence; the residential character of the neighborhood would be unaffected. No adverse cumulative environmental impacts are suggested by the record in the event of additional vacation rental request approvals. The proposal meets or can be conditioned to meet the applicable standards of sections 18.40 and 18.60 of the SJCC, ensuring there are adequate public services and facilities to serve the proposal. Pedestrian and vehicular traffic would be consistent with that expected of a typical residence. Potential adverse impacts of the vacation rental on neighboring properties would be mitigated by conditions requiring rules of conduct prohibiting trespass, clear presentation of property boundaries to renters, and a 24-hour contact for neighbor complaints (among other requirements). There is no airfield adjacent to this property. *Findings 1, 2, 4, 5, 6, and 9.*
2. Regarding the use-specific requirements of SJCC 18.40.270, conditions of approval would limit rental occupancy to six people. The site is currently served by private on-site well and septic. Potential noise, trespass, and parking impacts to surrounding parcels would be mitigated through conditions requiring posted rules of conduct, identification of property boundaries, provision of a 24 hour contact phone number, and the requirement for the contact to maintain a log of complaints. The rules of conduct would specifically be required to prohibit trespass. The site would provide at least two off-street parking spaces. No outdoor advertising, food service, or accessory dwelling unit are proposed. Conditions would ensure that the Applicant obtains a business license or works through a property management company. *Findings 1, 2, 3, 6, 7, and 9.*

DECISION

Based on the preceding findings and conclusions, the request for conditional use permit to authorize the use of the two bedroom residence at 221 Forrest Drive, Friday Harbor, San Juan Island as a vacation rental is **APPROVED** subject to the following conditions:

1. The two-bedroom vacation rental shall be operated as described in the application materials 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 30 days. A maximum of three people per bedroom (six guests) may occupy the rental at any one time.
3. No food service is to be provided. No outdoor advertising signs are allowed. At least three off-street parking spaces must be maintained on-site for the life of the vacation rental use.
4. Rentals 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.
5. 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.
6. A 24-hour non-message/non-recording contact number shall be provided to Department of Community Development and to all neighbors within 300 feet of the property. The owner shall keep a log of complaints and shall provide a copy provided to DCD upon request.
7. Written rules of conduct for rental guests shall be submitted to DCD prior to the first rental. Those rules of conduct shall be posted in the house and given to all the neighbors within 300 feet of the property boundary. The rules shall identify the property boundaries and explicitly forbid trespass onto surrounding parcels.
8. Failure to comply with the conditions of this permit may result in revocation. Upon determination by the Director of DCD that any condition listed above has been violated, following issuance of a Notice of Violation, the Director may, in addition to other code enforcement remedies, revoke the conditional use permit.

Decided January 4, 2016.

By:



Sharon A. Rice
San Juan County Hearing Examiner

Effective Date, Appeal Right, and 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 SJCC 18.80.110.

This land use decision is final and in accordance with Section 3.70 of the San Juan County Charter. Such decisions are not subject to administrative appeal to the San Juan County Council. See also, 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 the 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 consult with a private attorney.

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