

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicant(s):	Margaret Weston Trust P.O. Box 655 Carmel, CA 98250	
File No.:	PCUP000-14-0019	
Request:	Conditional Use Permit (CUP)	S.J.C. COMMUNITY
Parcel No:	173154023	MAR 0 4 2015
Location:	277 Geiser's Way Orcas Island	DEVELOPMENT & PLANNING
Summary of Proposal:	An application for a conditional use permit to allow vacation rental of a single-family residence.	
Land Use Designation:	Rural Residential	
Public Hearing:	February 19, 2015	
Application Policies and Regulations:	SJCC 18.40.270 Vacation Rentals SJCC 18.80.100(D) CUP Criteria	
Decision:	The application is approved subject to conditions.	



1 5. Adverse Impacts of Proposed Use. There are no adverse impacts resulting  
2 from the proposed use. As conditioned, the proposed use should not interfere with  
3 the residential use of neighboring properties. Noise must be kept to a minimum and a  
4 24-hour phone number must be provided in case problems arise. Since no exterior  
alterations are proposed and no change in use, the proposal is not incompatible with  
any airport activity.

## 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.  
San Juan County Code (“SJCC”) 18.80.020 Table 8.1; 18.80.100(C).

### 9 **Substantive:**

10 2. Zoning Designations. Rural Residential

11 3. Permit Review Criteria. Table 3.2, SJCC 18.30.040 authorizes vacation  
12 rentals in the rural residential district as a conditional use. SJCC 18.80.100(D)  
13 governs conditional use criteria. SJCC 18.80.100(D)(8) requires compliance with the  
14 performance standards of Chapter 18.40 SJCC. SJCC 18.40.270 contains detailed  
standards for vacation rentals. The criteria for conditional use permits (SJCC  
18.80.100(D)) and vacation rentals (SJCC 18.40.270) are quoted below and applied  
through corresponding conclusions of law.

### 15 Vacation Rentals of Residences Criteria

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

18 4. The project is conditioned to limit the total number of guests to three per  
19 bedroom.

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

22 5. The conditions of approval of the permit have been imposed to prevent  
23 any unreasonable disturbances. These conditions limit the number of guests; require  
24 posting of rules of conduct which specifically mention prohibition of trespassing and  
identifying property lines; require provision of a 24-hour contact phone number to  
25 neighbors in case problems may arise; and require maintenance of a written log of  
complaints.

**SJCC 18.40.270(C):** *At least one additional off-street parking space shall be*

1 *provided for the vacation rental use in addition to the parking required for the*  
2 *residence or accessory dwelling unit.*

3 6. The SJCC contains no specific parking requirements for single-family  
4 homes in the Rural Residential district. Three parking spaces is adequate to serve the  
5 needs of the proposed use and is consistent with the amount of parking required in  
6 past vacation rental decisions.

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

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

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

11 8. No outdoor advertising is proposed.

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

15 9. There is no accessory dwelling unit.

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

19 10. There is no accessory dwelling unit.

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

11. Not applicable because the proposal is the first vacation rental of the premises.

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

12. This will be required as a condition of approval.

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 will be required as a condition of approval.

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 will be required as a condition of approval.

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 accessory dwelling unit on the property.

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

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

17 16. The proposal is consistent with the SJCC for the reasons stated above.  
18 The proposal is consistent with the San Juan County Comprehensive Plan, which  
19 provides that vacation rentals should be classified as residential uses and subject to  
20 standards similar to those that apply to hospitality commercial establishments. See  
21 Land Use Element, Section 2.2A(10). The detailed standards adopted into the SJCC  
22 for vacation rentals provide protections to residential uses that are more detailed than  
23 those typically associated with hospitality establishments located in residential areas.

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

17. The proposal will not alter the exterior appearance of the home, which is a  
single family home and is thus compatible and appropriate in design, character and  
appearance with the surrounding single family homes and applicable goals and  
policies thereto. The criterion is satisfied.

**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;*

1 18. Mitigation measures for vacation rental impacts, such as noise and  
2 trespassing, have been added as conditions of approval. Therefore, the use, as  
3 conditioned, should not cause significant or unreasonable adverse impacts on  
4 neighbors or surrounding environment.

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

8 19. The property will continue to appear and function in a manner similar to  
9 the existing use with no significant adverse impacts, and further similar requests will  
10 not produce significant adverse impacts to the environment.

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

13 20. The proposal is in an existing development and according to staff has been  
14 shown to meet these requirements.

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

18 21. There will be no alteration to location, size, or any other “outside” feature  
19 of the existing property, so no new interference should occur as a result.

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

23 22. According to the staff report, the pedestrian and vehicular traffic  
24 associated with the use will not be hazardous to the neighborhood and there is nothing  
25 in the record to suggest anything to the contrary. The criterion is satisfied.

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

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

25 **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. Since no exterior alterations or changes in use are proposed, the proposal  
does not create any compatibility problems with any airport or airfield.

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

3 25. As an existing development site, the proposal is consistent with Chapter  
4 18.60 SJCC.

### 5 **DECISION**

6 The application is approved as conditioned below. As conditioned below, the  
7 proposal is consistent with all the criteria for a conditional use permit:

8 1. The vacation rental shall be operated as described in the application  
9 materials except as modified by these conditions.

10 2. A maximum of six guests shall occupy the unit at any one time for rentals  
11 of 30 days or less.

12 3. No food service is to be provided. No outdoor advertising signs are  
13 allowed.

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

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

20 6. A 24-hour non-message, non-recording contact number shall be provided  
21 to Community Development and Planning Department (CDPD) and to all neighbors  
22 within 300 feet of the property along with a copy of this decision. A log of  
23 complaints shall be kept and a copy provided to CDPD upon request.

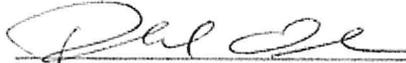
24 7. Prior to any rental, a proposed written Rules of Conduct will be submitted  
25 to and approved by CDPD. The Rules of Conduct shall specifically deal with  
trespass, property boundaries, noise disturbances and any special items specific to the  
rental unit or adjoining properties. Upon approval by CDPD a copy of the Rules of  
Conduct shall be posted in the residence, given to all adult tenants and given to all  
property owners within 300 feet of the residence.

8. Authorization under this permit shall be void if the use is discontinued for  
24 consecutive months.

9. Upon determination by the Director of CDPD that any condition listed  
above has been violated, following issuance of a Notice of Violation, the Director

1 may, in addition to other code enforcement remedies, revoke the conditional use  
2 permit.

3 Dated this 4th day of March, 2015.

4   
5 Phil A. Olbrechts

6 County of San Juan Hearing Examiner

7  
8 **Effective Date, Appeal Right, and Valuation Notices**

9  
10 Hearing examiner decisions become effective when mailed or such later date in  
11 accordance with the laws and ordinance requirements governing the matter under  
12 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.

13 This land use decision is final and in accordance with Section 3.70 of the San Juan  
14 County Charter. Such decisions are not subject to administrative appeal to the San  
Juan County Council. See also, SJCC 2.22.100.

15 Depending on the subject matter, this decision may be appealable to the San Juan  
16 County Superior Court or to the Washington State Shorelines Hearings Board. State  
17 law provides short deadlines and strict procedures for appeals, and failure to timely  
18 comply with filing and service requirement may result in dismissal of the appeal. See  
19 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.

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