

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Susan Scott
88 Virginia St., Apt. 5
Seattle, WA 98101

File No.: PCUP00-12-0003

Request: Conditional Use Permit (CUP)

Parcel No: 271441011

Location: 133 Crescent Beach Drive
Eastsound

Summary of Proposal: An application for a conditional use permit to allow
vacation rental of a residential dwelling unit

Land Use Designation: Eastsound Residential/2

Public Hearing: May 9, 2012

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.

S.J.C. COMMUNITY

MAY 23 2012

DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

4
5 RE: Susan Scott

6 Conditional Use Permit
7 (PCUP00-12-0003)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND FINAL DECISION**

8 **INTRODUCTION**

9
10 The Applicant has applied for approval of a conditional use permit for the vacation
rental of a two bedroom residence. The application is approved with conditions.

11 **TESTIMONY**

12
13 Julie Thompson, senior San Juan County planner, presented
14 the staff report and some exhibits. In response to questions
15 from the Hearing Examiner Ms. Thompson explained the
16 regulatory basis for requiring a conditional use permit in the
Eastsound Residential 2 district.

17
18 Terri Williams, Applicant's agent, testified she concurred
19 with the staff report and presented a letter of support from
20 the Eastsound Planning Review Committee. Ms. Williams
21 explained that the Planning Review Committee is working to
22 amend the vacation rental requirements for the Eastsound
Residential 2 district to only require provisional as opposed
to conditional use permits.

23
24 **EXHIBITS**

25 Ex. 1: Application materials.

Ex. 2: Request for review.

1 Ex. 3: May 4, 2012 letter from Eastsound Planning Review
Committee

2 Ex. 4: Rules of Conduct; Rules of the House

3 4 **FINDINGS OF FACT**

5 **Procedural:**

- 6 1. Applicant. The Applicant is Susan Scott.
- 7 2. Hearing. The Hearing Examiner conducted a hearing on the subject
8 application on May 9, 2012 at 10:00 am at the meeting chambers of the San Juan
County Council in Friday Harbor.

9 **Substantive:**

- 10 3. Site and Proposal Description. The Applicant proposes the vacation rental
11 of a two bedroom single family home located at 133 Crescent Beach Drive,
12 Eastsound. No accessory dwelling unit is on-site. On-site parking is available for at
least two automobiles. The home is not the principal residence of the Applicant.
- 13 4. Characteristics of the Area. The surrounding neighborhood is rural and
14 residential in nature. There is a Land Bank parcel to the north and a piece of Crescent
Beach to the south. The parcels are fairly small in this neighborhood.
- 15 5. Adverse Impacts of Proposed Use. There are no adverse impacts caused
16 as a result of the proposed use. As conditioned, the proposed use should not interfere
17 with the residential use of neighboring properties. Noise must be kept to a minimum
and a 24-hour phone number must be provided in case problems arise.

18 **CONCLUSIONS OF LAW**

19 **Procedural:**

- 20 1. Authority of Hearing Examiner. The hearing examiner is authorized to
21 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).

22 **Substantive:**

- 23 2. Zoning Designations. Eastsound Residential/2.
- 24 3. Permit Review Criteria. SJCC 16.55.240(D)(5) authorizes transient
25 housing in the ESR/2 district with site plan review if guest rooms are limited to two in
number and located in the primary residence in the primary residence of the operator.
SJCC 16.55.240(D)(6) provides that other allowable nonresidential uses shall be

1 subject to conditional use permit approval. SJCC 16.55.240(B) provides that
2 transient housing is allowed in the ESR/2 zone. SJCC 16.55.045 defines transient
3 lodging “as a commercial enterprise which provides lodgings for transient occupancy
4 for any period of less than 30 consecutive days.” Since the home is not the principal
5 residence of the Applicant, the Applicant must acquire a conditional use permit for
6 the proposed vacation rental (termed “transient lodging” in the ESR/2 district) of the
7 home.

5 **Vacation Rentals of Residences Criteria**

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

8 4. The project is conditioned to limit total number of guests for the 2 rooms
9 at 6.

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

13 5. The conditions of approval of the permit have been imposed to prevent
14 any unreasonable disturbances. These conditions include limitation of occupants to
15 twelve guests, required posting of rules of conduct which specifically mention
16 prohibition of trespassing and identify property lines, provision of a 24-hour contact
17 phone number to neighbors in case problems may arise, and required maintenance of a
18 written log of complaints.

19 **SJCC 18.40.270(C):** *At least one additional off-street parking space shall be*
20 *provided for the vacation rental use in addition to the parking required for the*
21 *residence or accessory dwelling unit.*

22 6. Table 300-1 of Chapter 16.55 SJCC requires one parking space for single-
23 family homes under 550 square feet or less and 1.5 spaces for homes over 550 square
24 feet, which translates into 2 and 2.5 parking spaces respectively under the criterion
25 quoted above. The staff report notes that at least two parking spaces are available on-
site, which may not be sufficient. The area of the home is unknown. The proposal
will be conditioned to comply with the criterion quoted above.

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

7. No food service is proposed in the application.

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

8. No outdoor advertising is proposed.

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

4 9. There is no accessory dwelling unit.

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

8 10. There is no accessory dwelling unit.

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

16 11. Not applicable.

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

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

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

22 13. This will be required as a condition of approval.

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

29 14. This will be required as a condition of approval.

30 **SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC*
31 *18.40.240 cannot be separately leased or rented for less than 30 days.*

32 15. There is no accessory dwelling unit on the property.

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

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

4 16. This proposal is consistent with the SJCC for the reasons stated above.
5 The vacation rental is consistent with the San Juan County Comprehensive Plan,
6 which allows for tourism-related businesses and activities within the context of
maintaining a diverse and balanced economy while minimizing the related negative
impacts.

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

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

13 **SJCC 18.80.100(D)(3):***The proposed use will not cause significant adverse impacts*
14 *on the human or natural environments that cannot be mitigated by conditions of*
approval;

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

18 **SJCC 18.80.100(D)(4):***The cumulative impact of additional requests for like actions*
19 *(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;

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

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

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

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

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

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

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

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

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

16 **SJCC 18.80.100(D)(9):***The proposal does not include any use or activity that would*
17 *result in the siting of an incompatible use adjacent to an airport or airfield (RCW*
18 *36.70.547); and*

19 24. There is no airport or airfield adjacent to this property.

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

22 25. As an existing development site, the proposal is consistent with Chapter
23 18.60 SJCC.

24 DECISION

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

1. The 2-bedroom vacation rental shall be operated as described in the application
materials except as modified by these conditions.

2. A maximum of sixguests shall occupy the unit at any one time for rentals of 30
days or less.

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

1 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.

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

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

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

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

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

6 6. A 24-hour non-message, non-recording contact number shall be provided to
7 Community Development and Planning Department (CDPD) and to all neighbors
8 within 300 feet of the property. A log of complaints shall be kept and a copy
9 provided to CDPD upon request.

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

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

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

21 10. If the subject home is more than 550 square feet in area, at least 2.5 parking
22 spaces shall be available on-site.

23 Dated this 22nd day of May, 2012.

24 

25 Phil Olbrechts
County of San Juan 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