

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicant(s): Jeffrey and Inge Beehler  
21020 NE Union Hill Road  
Redmond, WA 98053

Agent: Teri Williams  
PO Box 1001  
Eastsound, WA 98245

File No.: PCUP00-12-0007

Request: Conditional Use Permit (CUP)

Parcel No: 271458001

Location: 233 Langell Lane  
Eastsound

Summary of Proposal: An application for a conditional use permit to allow vacation rental of a four bedroom home.

Land Use Designation: Eastsound Residential 2/acre

Public Hearing: October 10, ~~2011~~ 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

OCT 26 2012

DEVELOPMENT & PLANNING

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

3                   Phil Olbrechts, Hearing Examiner

4           RE: Jeffrey and Inga Beehler 5 6           Conditional Use Permit 7           (PCUP00-12-0007)	8 <b>FINDINGS OF FACT, CONCLUSIONS 9           OF LAW AND FINAL DECISION</b>
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10                   **INTRODUCTION**

11           The Applicant has applied for approval of a conditional use permit for the vacation  
12           rental of a four bedroom residence. The application is approved with conditions.

13                   **TESTIMONY**

14           Lee McEnery, senior San Juan County planner, presented the staff report and some  
15           exhibits.

16           Terri Williams, Applicant's agent, testified she concurred with the staff report. In  
17           response to questions from the hearing examiner she noted that the surrounding area  
18           is residential in character.

19                   **EXHIBITS**

- 20           Ex. 1:       Staff report.  
21           Ex. 2:       Application materials.

22                   **FINDINGS OF FACT**

23           **Procedural:**

- 24           1.           Applicant. The Applicants are Jeffrey and Inga Beehler.  
25           2.           Hearing. The Hearing Examiner conducted a hearing on the subject  
              application on October 10, 2012 at 10:00 am via phone conference.

**Substantive:**

3.           Site and Proposal Description. The Applicant proposes the vacation rental  
              of a four bedroom single family home located at 233 Langell Lane, Eastsound. No  
              accessory dwelling unit is on-site. On-site parking is available for four automobiles.

1 There is no guest house or accessory dwelling unit on site. No outdoor advertising or  
2 food service is proposed.

3 4. Characteristics of the Area. The surrounding neighborhood is residential  
4 in nature. There is no airport in the vicinity.

5 5. Adverse Impacts of Proposed Use. There are no adverse impacts caused  
6 as a result of the proposed use. As conditioned, the proposed use should not interfere  
7 with the residential use of neighboring properties. Noise must be kept to a minimum  
8 and a 24-hour phone number must be provided in case problems arise.

## 9 **CONCLUSIONS OF LAW**

### 10 **Procedural:**

11 1. Authority of Hearing Examiner. The hearing examiner is authorized to  
12 conduct hearings and issue final decisions on conditional use permit applications.  
13 San Juan County Code ("SJCC") 18.80.020 Table 8.1; 18.80.100(C).

### 14 **Substantive:**

15 2. Zoning Designations. Eastsound Residential/2.

16 3. Permit Review Criteria. SJCC 16.55.240(D)(5) authorizes transient  
17 housing in the ESR/2 district with site plan review if guest rooms are limited to two in  
18 number and located in the primary residence of the operator. SJCC 16.55.240(D)(6)  
19 provides that other allowable nonresidential uses shall be subject to conditional use  
20 permit approval. SJCC 16.55.240(B) provides that transient housing is allowed in the  
21 ESR/2 zone. SJCC 16.55.045 defines transient lodging "*as a commercial enterprise  
22 which provides lodgings for transient occupancy for any period of less than 30  
23 consecutive days.*" Since the proposal involves more than two guests, the Applicant  
24 must acquire a conditional use permit.

### 25 **Vacation Rentals of Residences Criteria**

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

28 4. The project is conditioned to limit the total number of guests for the four  
29 rooms to 12.

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

33 5. The conditions of approval of the permit have been imposed to prevent  
34 any unreasonable disturbances. These conditions include limitation of occupants to

1 twelve guests, required posting of rules of conduct which specifically mention  
2 prohibition of trespassing and identify property lines, provision of a 24-hour contact  
3 phone number to neighbors in case problems may arise, and maintenance of a written  
4 log of complaints.

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

8 6. Table 300-1 of Chapter 16.55 SJCC requires one parking space for single-  
9 family homes under 550 square feet or less and 1.5 spaces for homes over 550 square  
10 feet, which translates into 2 and 2.5 parking spaces respectively under the criterion  
11 quoted above. The staff report notes that there are four parking spaces on site.

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

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

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

16 8. No outdoor advertising is proposed.

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

20 9. There is no accessory dwelling unit.

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

24 10. There is no accessory dwelling unit.

25 **SJCC 18.40.270(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.*

11. Not applicable.

**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.

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

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

**SJCC 18.40.270(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.*

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

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

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

**Conditional Use Permits – Criteria for Approval**

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

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

**SJCC 18.80.100(D)(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;*

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  
neighbors or surrounding environment.

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

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

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

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

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

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

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

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

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

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

28 **SJCC 18.80.100(D)(9):** *The proposal does not include any use or activity that would*  
29 *result in the siting of an incompatible use adjacent to an airport or airfield (RCW*  
30 *36.70.547); and*

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

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 four bedroom vacation rental shall be operated as described in the application  
9 materials except as modified by these conditions.
- 10 2. A maximum of twelve guests shall occupy the unit at any one time for rentals of  
11 30 days or less.
- 12 3. No food service is to be provided. No outdoor advertising signs are allowed.
- 13 4. The rentals must meet all local and state regulations, including those pertaining to  
14 business licenses and taxes. Approval of this permit does not authorize the owner to  
15 violate private covenants and restrictions.
- 16 5. No use of the property shall be made that produces unreasonable vibration, noise,  
17 dust, smoke, odor or electrical interference to the detriment of adjoining properties.
- 18 6. A 24-hour non-message, non-recording contact number shall be provided to  
19 Community Development and Planning Department (CDPD) and to all neighbors  
20 within 300 feet of the property. A log of complaints shall be kept and a copy  
21 provided to CDPD upon request.
- 22 7. Prior to any rental, a proposed written Rules of Conduct will be submitted to and  
23 approved by CDPD. The Rules of Conduct shall specifically deal with trespass,  
24 property boundaries, noise disturbances and any special items specific to the rental  
25 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 may, in  
addition to other code enforcement remedies, revoke the conditional use permit.

10. The proposal shall meet all standards of SJCC 16.55.240 and 16.55.300.

Dated this 24th day of October, 2012.



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 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 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 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.