

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

3 Phil Olbrechts, Hearing Examiner

4 RE: Jon and Debbie Richards	FINDINGS OF FACT, CONCLUSIONS
5 Conditional Use Permit 6 (PCUP00-10-0002)	OF LAW AND FINAL DECISION.

7 TPN #

461451003000

INTRODUCTION

8 The applicant has applied for approval of a Conditional Use Permit to allow for
9 vacation rental of a 4-bedroom residential dwelling. The Examiner approves the
10 permit subject to conditions.

S.J.C. COMMUNITY

TESTIMONY

APR 20 2010

11 Lee McEnergy – Community and Development Planning

DEVELOPMENT & PLANNING

12 Ms. McEnergy gave a brief overview of the application. It is consistent with all of
13 the regulations regarding rentals, and no comments were received.

14 Jon Richards – Applicant

15 Mr. Richards simply urged approval of the application.

EXHIBITS

16 See Attachments to the staff report dated March 8, 2010.

FINDINGS OF FACT

Procedural:

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- 20 1. Applicant. The applicants are Jon and Debbie Richards.
- 21 2. Hearing. The Hearing Examiner conducted a hearing on the subject
22 application on April 1, 2010.

Substantive:

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- 24 3. Site and Proposal Description. The applicant requests a conditional use
25 permit to allow short-term vacation rentals of their home. There are four bedrooms,
which could house a total of twelve people. It is developed with a four-bedroom

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Findings, Conclusions and Decision

1 single-family residence, garage, and a guesthouse attached to the garage on .86 acres.
2 The guesthouse will not be rented.

3 4. Characteristics of the Area. The property is located within a rural
4 residential area. To the north of the property is shoreline, and to the south, east, and
5 west are further residential development.

6 5. Adverse Impacts of Proposed Use. The Examiner finds that the proposed
7 project will have no significant adverse impacts. The project does not include any
8 construction elements, and as such there will be no adverse impacts associated with
9 such.

10 CONCLUSIONS OF LAW

11 **Procedural:**

12 1. Authority of Hearing Examiner. Conditional Use permit applications are
13 reviewed and processed by Development Services Department staff, and The Hearing
14 Examiner, after conducting an open-record public hearing, renders a decision on the
15 permit. SJCC18.80.020 Table 8.1

16 **Substantive:**

17 2. Shoreline Designation. The subject property is not within the shoreline.

18 3. Comprehensive Plan and Zoning Designations. The subject property is
19 designated as Rural Residential, and the existing land use is Residential.

20 4. Compliance with Notice Requirements. City staff advertised the
21 application in accordance with RCW 90.58.140, WAC 173-27-110 and the San Juan
22 County Code Sections 18.80 and 18.50. Notice of the Public Hearing and SEPA
23 Appeal for the project was properly published, posted on-site, and noticed to parties
24 of record and adjacent property owners, on February 10, 2010. No comments were
25 received.

5. Permit Review Criteria. The San Juan County Code ("SJCC") governs the
policies and criteria for conditional use permit review. SJCC 18.80.110 establishes
the criteria for approval.

The applicable policies, use regulations, and criteria are quoted (in italics) and
addressed below.

Vacation Rentals of Residences Criteria

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

3 6. There is a four-bedroom house, so no more than twelve guests shall be
4 allowed at any given time. This shall be a condition of approval.

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

8 7. Noise and trespassing impacts should be normal in comparison the normal
9 residential use of the site. Conditions of approval of the permit have been included to
10 mitigate any such impacts. These conditions include limitation of occupants to 12,
11 required posting of rules of conduct which specifically mention prohibition of
12 trespassing, the identification of property lines, and providing neighbors with a 24
13 hour contact phone number for problems which may arise.

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

17 8. There are five parking spaces available, which is in excess of the number
18 required.

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

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

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

23 10. No outdoor advertising signs are proposed in the application.

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

11. There is a guesthouse attached to the garage, but that unit will not be
available for rental.

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

4 12. Although the owner does not intend at this time to live on the property, he
5 may do so in the future. Additionally, the guesthouse on the property will remain
6 unrented.

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

14 13. This property is in the rural residential district, and has never been rented
15 as a vacation rental in the past, therefore a conditional use permit is being required
16 and requested.

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 14. The applicant already operates a vacation rental management business.

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

22 15. This section has been included as a condition of approval of the permit.

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*
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.

16. This section has been included as a condition of approval of the permit.

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.

17. Although there is a guesthouse attached to the garage, it will not be rented with the main residence, nor will it be rented separately.

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;*

18. This proposal is conditioned to be consistent with the SJCC and the Comprehensive Plan, as detailed above.

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;*

19. The proposed use does not alter the general use of the structure as a residence, and the character of the site will be maintained. As such, the proposal site is already consistent with this criteria.

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;*

20. Vacation rental impacts, such as noise, parking, and trespassing have been added as conditions of approval. As such, the use will not cause significant adverse impacts on neighbors or surrounding environment.

SJCC 18.80.100(D)(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;*

21. The property will continue to appear and function in a manner similar to the existing single-family residential use, and further similar requests will not produce significant adverse impacts.

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

22. The residence is in an existing development, and has been 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 23. During its use as a single-family residence, the property has not interfered
5 with allowable development or use of neighboring properties. Nothing on the
6 property will be altered from the outside, so no new interference should occur as a
7 result of the rental of the property.

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

11 24. Although vacation rentals generate pedestrian and vehicular traffic that
12 can be described as inconsiderate, it is generally not deemed to be hazardous.

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

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

17 **SJCC 18.80.100(D)(9):** *The proposal does not include any use or activity that would*
18 *result in the siting of an incompatible use adjacent to an airport or airfield (RCW*
19 *36.70.547); and*

20 26. There is no airport or airfield adjacent to this property.

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

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

24 DECISION

25 The proposed project is consistent with all the criteria for a shoreline substantial
development permit. The proposal is approved subject to the conditions listed in the
staff report.

Dated this th20 day of April, 2010.


Phil Olbrechts
County of San Juan Hearing Examiner

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2 **Change in Valuation**

3 Notice is given pursuant to RCW 36.70B.130 that property owners who are affected by this
4 decision may request a change in valuation for property tax purposes notwithstanding any
5 program of revaluation.
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