

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant: John Savage
5584 Bonneville Rd.
Hidden Hills, CA 91302

File No.: PCUP-10-0004

Request: Conditional Use Permit for use of a residence as a short term rental property.

Parcel No: 362032004

Location: 27 San Juan Drive
San Juan Island

Summary of Proposal: A request for the rental of a 4-bedroom residence, to accommodate up to 12 guests.

Land Use Designation: Rural Residential

Public Hearing: June 3, 2010

Application Policies and Regulations: SJCC 18.80.110 Vacation Rentals

Decision: The application is approved.

S.J.C. COMMUNITY

JUN 21 2010
RG

DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

4 RE: John Savage 5 Conditional Use Permit 6 (PCUP00-10-0004)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.
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7 **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.

11 **TESTIMONY**

12 No one other than staff was present or testified on the application.

13 **EXHIBITS**

- 14 Exhibit 1: Staff Report prepared by Lee McEnery, dated May 12, 2010
15 Exhibit 2: Land Use Permit Application
16 Exhibit 3: Letter from San Juan Property Management dated April 7, 2010
17 Exhibit 4: Site Plan & Surrounding Properties
18 Exhibit 5: Floor Plans

19 **FINDINGS OF FACT**

20 **Procedural:**

- 21 1. Applicant. The applicant is John Savage.
22 2. Hearing. The Hearing Examiner conducted a hearing on the subject
23 application on June 3, 2010.

24 **Substantive:**

- 25 3. Site and Proposal Description. The applicant requests a conditional use
permit to allow short-term vacation rentals of his home. There are four bedrooms,
which could house a total of twelve people. The parcel is heavily vegetated.
4. Characteristics of the Area. The property is located within a rural
residential area. To the south is the shoreline, and in all other directions is residential
housing.

{PLP627165.DOC;1/13036.900000/}

1 5. Adverse Impacts of Proposed Use. The Examiner finds that the proposed
2 project will have no significant adverse impacts. As conditioned and regulated, the
3 use of the property for rental purposes should not create any unreasonable disruption
4 to neighboring properties. The numbers of people who can rent the home at any one
5 time are limited and the neighbors will be provided with a contact phone number in
6 case of any problems.

7 **CONCLUSIONS OF LAW**

8 **Procedural:**

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

13 **Substantive:**

14 2. Comprehensive Plan and Zoning Designations. The subject property is
15 designated as Rural Residential 5, and the existing land use is Residential.

16 3. Compliance with Notice Requirements. County staff advertised the application in
17 accordance with RCW 90.58.140, WAC 173-27-110 and the San Juan County Code
18 Sections 18.80 and 18.50. Notice of the Public Hearing for the project was properly
19 published, posted on-site, and noticed to parties of record and adjacent property
20 owners. No letters or comments were received during the comment period.

21 4. Permit Review Criteria. The San Juan County Code (“SJCC”) governs the
22 policies and criteria for conditional use permit review. SJCC 18.80.110 establishes
23 the criteria for approval.

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

26 **Vacation Rentals of Residences Criteria**

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

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

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

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

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

10 7. There are five parking spaces available, which is in excess of the number
11 required.

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 8. No food service is proposed in the application.

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

16 9. No outdoor advertising signs are proposed in the application.

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 10. The proposal is to rent the main house.

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 11. There is no accessory dwelling unit on the site.

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.*

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

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

3 13. Upon approval, the applicant will be required to obtain a business license or work
4 through a property management company. The applicant has already established a
5 working relationship with San Juan Property Management for the rental of the
6 property.

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

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

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

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

17 **SJCC 18.40.270(L):** *Detached accessory dwelling units established under SJCC*
18 *18.40.240 cannot be separately leased or rented for less than 30 days.*

19 16. There is no proposal for further rentals beyond the main residence.

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

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

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

25 **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;

18. 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;

1 19. Vacation rental impacts, such as noise, parking, and trespassing have been added
2 as conditions of approval. As such, the use will not cause significant adverse impacts
3 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 20. The property will continue to appear and function in a manner similar to the
8 existing single-family residential use, and further similar requests will not produce
9 significant adverse impacts.

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 21. The residence is in an existing development, and has been shown to meet these
13 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 22. During its use as a single-family residence, the property has not interfered with
18 allowable development or use of neighboring properties. Nothing on the property
19 will be altered from the outside, so no new interference should occur as a result of the
20 rental of the property.

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

24 23. There is nothing in the record to suggest that the pedestrian or vehicular traffic
25 associated with the proposed use would be hazardous.

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

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

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

25 25. 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 26. As an existing developed site, the proposal is consistent with SJCC 18.60.

4 **DECISION**

5 The proposed project is consistent with all the criteria for a conditional use permit.
6 The proposal is approved subject to the conditions listed in the staff report.

7 Dated this 17th day of June, 2010.

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9 _____
10 Phil Olbrechts
11 County of San Juan Hearing Examiner

12 **Effective Date, Appeal Right, and Valuation Notices**

13 Hearing examiner decisions become effective when mailed or such later date in
14 accordance with the laws and ordinance requirements governing the matter under
15 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.

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

19 Depending on the subject matter, this decision may be appealable to the San Juan
20 County Superior Court or to the Washington State Shorelines Hearings Board. State
21 law provides short deadlines and strict procedures for appeals and failure to timely
22 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.

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