

MAY 06 2009

**SAN JUAN COUNTY
HEARING EXAMINER**

DEVELOPMENT & PLANNING

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Kelly Boetger
56 Scenic Lane
Eastsound, WA 98245

File No: HE13-09 (09CU003)

Request: Conditional Use Permit (CUP)

Parcel No: 271451006

Location: 35 Main Street, Eastsound
Orcas Island

Summary of Proposal: An application for a conditional use permit to allow vacation rental (less than 30 days) of a two bedroom single family residence.

Land Use Designation: Village Residential, 4-12 units per acre

Public Hearing: After reviewing the report of the Community Development and Planning Department a public hearing was held on April 15, 2009.

Applicable Policies and Regulations: SJCC 18.40.270 Vacation Rentals
SJCC 18.80.100(D) CUP Criteria

Decision: The application is approved subject to conditions.

Findings of Fact

1. This is a CUP request for short term vacation rental of a two bedroom single family residence located on the west edge of Eastsound on Orcas Island. The property has previously been used as an office. There are five parking spaces.
2. The building lies within Zone 4 of the airport overlay district. There are no use proposals which are impacted by the zone or location. There is no airfield adjacent to the property.
3. No food service is proposed. No outdoor signs are proposed. There is no guest house.
4. The standards of SJCC 18.40.270 allow up to three persons per bedroom for short term (less than 30 days) rental purposes. The maximum number of guests that can be accommodated overnight is six.
5. The proposed use is in an existing house that has existing septic and water service.
6. A business license will be obtained and sales tax collected.
7. The proposal is exempt from the State Environmental Policy Act review.
8. Notice of application and hearing was published March 18, 2009. Mailing occurred on March 16, 2009 and the site was posted March 17, 2009. A public hearing was held on April 15, 2009.
9. The staff report is incorporated herein by reference as though fully set forth. The analysis and factual statements contained in the staff report are adopted as a finding herein.
10. Any conclusion herein which may be deemed a finding is hereby adopted as such.

Conclusions of Law

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding.
2. The proposal is exempt from the requirements of the State Environmental Policy Act.
3. Proper notice was given in compliance with local and state requirements.

4. Properly conditioned, the application is consistent with the policies and requirements of the San Juan County Code.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

Conditions

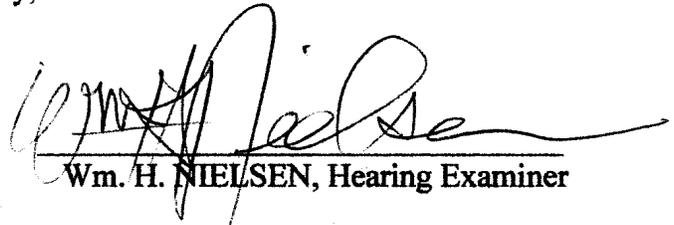
1. This permit allows the vacation rental of a two bedroom single family residence.
2. The rental shall be operated as described in the application materials except as modified by these conditions.
3. The residence may be rented as a single unit on a short term basis for periods less than 30 days. A maximum of six (6) guests shall occupy the residence at any one time.
4. No food service is to be provided. No outdoor advertising signs are allowed. Five parking spaces are required.
5. The rentals must meet all local and state regulations, including those pertaining to business licenses and taxes. Approval of this permit does not authorize the owner to violate private covenants and restrictions.
6. No use of the property shall be made that produces unreasonable vibration, noise, dust, smoke, odor or electrical interference to the detriment of adjoining properties.
7. A 24-hour non-message, non-recording contact number shall be provided to Community Development and Planning Department (CDPD) and to all neighbors within 300 feet of the property. A log of complaints shall be kept and a copy provided to CDPD upon request.
8. Prior to any rental, a proposed written Rules of Conduct will be submitted 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.
9. Authorization under this permit shall be void if the use is discontinued for 24 consecutive months.

10. Failure to comply with the conditions of this permit may result in revocation.

Decision

The conditional use permit is approved subject to the conditions set forth above.

DONE this 6th day of May, 2009.



Wm. H. NIELSEN, Hearing Examiner

Appeal

Any appeal of this decision shall be to Superior Court pursuant to the Land Use Petition Act, Chapter 36.70 RCW, within 21 days of the issuance of the decision. See Home Rule Charter, Section 3.70.