

## Sophia Cassam

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**From:** Karen Speck <karen@lindholm-realestate.com>  
**Sent:** Sunday, May 1, 2022 9:56 AM  
**To:** Vacation Rental Comments  
**Subject:** VR caps  
**Attachments:** SKM\_C25822043018370.pdf

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Hello County Council,

Attached please find my letter of April 30, 2022 with Robert Greene vs San Juan Co. court case, year 2000 for consideration for your May 17 VR discussion.

Thank you,

Karen J. Key Speck

San Juan County Council  
P.O. Box 947  
Friday Harbor, WA 98250

vrcomments@sanjuanco.com

April 30, 2022

Dear Ms. Wolf, Ms. Minnie and Mr. Stephens,

Your task of the last one and a half years of trying to find the correct balance on vacation rentals in San Juan County has indeed been difficult. I believe every interested party acknowledges that. And if you are able to come to a final, fair and impartial resolution on May 17, 2022 then I know there would be a collective sigh of relief. However, I for one, would also applaud you if you were to say that, (despite the most fervent wish that we were done with this topic), we have more work to do. If that work was to acquire the empirical evidence we have been asking for and substantiate by giving time for the 2018 VR Rules to work without the asphyxiating pandemic - we should not end this discussion with a zero growth CAP on vacation rentals.

I am attaching the entire April 19, 2000 Robert Greene vs San Juan County Verbatim Report of Court's Oral Ruling and related San Juan County Press Release. It is annotated with pencil marks and pink highlighter where I call your attention to aspects of this case from right here in our own back yard which is explicably linked to the decisions you are trying to reach May 17<sup>th</sup>. The major summation I make to you is that vacation rentals, if properly regulated and enforced are no more harmful than a homeowner or long-term renter.

August 19, 2021, Realtor Sandi Friel sent you a letter titled A Realtor's Thoughts on Transient Rentals. I have the utmost respect for Ms. Friel as we are peers in the industry. However, since Ms. Friel's letter seemed to carry some weight with regard to Councilwoman Wolf, I would suggest that my industry experience is every bit as worthy as hers.

Only in my first letter to you dated February 17, 2021 did I mention my credentials because the VR discussion is not about me, but about balancing the County's final decision with the wishes and needs of the County's budget and wishes of all constituents, not just the most vocal. But since Ms. Friel's anecdotal evidence seemed to weigh heavily for some, I'd like to present my 36 years as a Realtor, real estate broker, office owner and property manager of both vacation rentals and long-term rentals (30 days or more).

The Green vs San Juan County case reveals the exact same elements you are grappling with 22 years later. What is too much tourism, should it be in our neighborhoods, what enforcements should/can be placed on VRs to mitigate any real or perceived threats to local neighborhoods and is the VR use any different than that of a homeowner, his guests and invitees, his long-term renters, and the Constitutional rights to leverage one's ownership of owned land.

There is no doubt we all have been miffed by lack of parking, long ferry lines, crowded groceries and restaurants. But I cannot and will not blame all of it on tourists. If the County intends to strictly regulate vacation rentals and the actions of their guests, then where and how are you going to regulate the resorts, the B&Bs, the hotels and inns and the actions of their guests?

The one area where Ms. Friel and I completely agree is enforcement. And with the 2018 VR Rules, enforcement has begun. But staff turnover, the County pulling the VR enforcement officer off of the task during covid years and the recent efforts to update the VR Maps and gain compliance from homeowners who were unpermitted or non-compliant, you have begun to do what has been needed but efforts are incomplete. ENFORCEMENT.

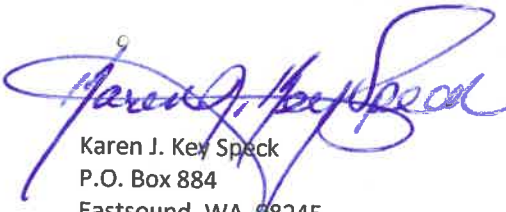
I have avoided anecdotal evidence wherever I could in my letters and meetings with you but allow me to say as a professional property manager of 36 years, that the stories told of long term rental homeowners jumping ship to cease holding rental properties of any kind are very real. And they are not just one offs. Almost every month I learn of homeowners whose long-term rental has been trashed by renters and they can no longer afford to offer the property as a rental. Just last week I met with homeowners who have three rentals. The one with a beautiful ocean view was going to be a vacation rental, but because of the VR moratorium, they instead moved into it during the pandemic. Thus, a dream fell by the wayside and another owner who moved here and into their own home during the pandemic is documented. As to their other two rentals? They have decided that the changes to the Washington Landlord Tenant Laws enacted last year and the ever-rising cost of hiring laborers in the islands, if you can even find one, has priced them out of their second dream....that of having a long-term rental whose income would be their retirement income. Thus, a renter is now being displaced after eight years as resident.

So, with long term rentals in short supply, this county has priced another middle-income citizen out of the island economy. And when the house goes on the market this fall? Likely another rental is lost forever and a modest home will sell for much more than it should because of the element of supply and demand in our fast-paced real estate market. Who wins here? I believe only the County who will receive taxes from both buyer and seller. Thus, we have more wage disparity among our population.

I also spoke just last week with a homeowner who has multiple long-term rentals. Two were not available to rent in 2020 and in 2021 as she had to spend \$40,000 renovating them so they could be habitable again, thanks to long term renters who trashed them. And while they should have been bringing her income during her retirement years (she is in her seventies), she instead had to work part time to make the money to repair the homes. Thus, she had to work to pay herself to pay for her own retirement investment. Where is the justice in that?

I personally just sold my long-term three-bedroom rental which I rented for the last 12 years for only \$900 per month to a single mother so I could do something altruistic yet necessary for good people in our community. However, there came a time when I could not continue to subsidize renters, thus I just got out of the long-term rental market with my own home that I owned for almost 20 years. And I sold it for under market value so that same single mother could afford a place to own/live. She works in a service industry and we need her here.

Please deliberate carefully as you must represent all of our islands and constituents. I invite you to carefully read the Greene vs San Juan County case provided. I believe it is quite illuminating. You have been hearing from some citizens from the Rosario Highlands neighborhood who express concern with a small percentage of homes in that subdivision which are VRs. It correlates to the Green court case where only 5 homes in the 70 lot Buckhorn neighborhood where on trial. Judge Hancock was very direct in pointing out that homeowners and their guests and long-term renters can be disrespectful, but what rules are available to regulate them like you are trying to regulate vacation rentals. The wealthiest are not ever going to rent their homes as VRs or long-term rentals. They don't need the income. The middle class hoping to retire here might rent their homes long term if they successfully find respectful tenants. Or the third scenario is the middle class may need to rent as a vacation rental to be able to buy their retirement home at all. Or if they inherited the family home – simply to keep it. There needs to be a Golden Rule mentality. Take the NIMBY (not in my backyard mentality) out of the equation. Treat others as you wish to be treated.



Karen J. Key Speck  
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Eastsound, WA 98245

## News Release

News Release No. 2000-8  
April 18, 2000

### JUDGE ALLOWS ORCAS ISLAND VACATION RENTAL - BOARD OF ADJUSTMENT REVERSED

On April 10, 2000, Judge Hancock overturned the County Board of Adjustment's (BOA) denial of a vacation rental on Orcas Island. Hancock ordered the BOA to issue Robert Greene a conditional use permit for the transient rental of his three bedroom home in Buckhorn Addition. The case was the first judicial interpretation of the County's ordinance regulating transient or "vacation" rentals.

The Board of Adjustment's decision to deny the vacation rental was based on the neighbors' testimony that the residential character of the neighborhood was being eroded by the presence of at least six vacation rentals. The neighbors told the Board that the continual parade of vacationing strangers resulted in noisy parties, trespassers trying to find their way down to the beach and a loss of their sense of community.

Judge Hancock ruled that the neighbors' testimony was based on fears and unfounded stereotypes. He said that the Board could not deny an application for a transient rental without particularized evidence that vacation rentals resulted in greater impacts than long-term rentals, which are allowed outright under County regulations. Karen Speck, an Orcas realtor and vacation rental manager who represented Greene at the BOA hearing, had testified that people using vacation rentals were no different than long-term residents or renters and that there would be no negative impacts to the neighborhood.

The Judge's ruling calls into question the County's ability to limit vacation rentals in Rural Residential neighborhoods under the current ordinance. "The Court has set a very high standard in order for the Board to deny vacation rentals," said Deputy Prosecuting Attorney Karen Vedder, who represented the BOA in the appeal filed by Robert Greene. "Judge Hancock has ruled that community displeasure with vacation rentals is not a sufficient reason for denying them. The Board is free to attach conditions which must be followed in operating vacation rentals. However, in the judge's view, unless the neighbors can demonstrate with specificity that no conditions can be attached to moderate the impacts from vacation rentals, future permits must be granted."

The County's development regulations allow transient rentals in most rural neighborhood land use districts through the use of an administrative permit which is automatically granted if certain specific criteria are followed. Only in Rural Residential neighborhoods, which have relatively smaller lot sizes, are homeowners required to obtain a conditional use permit to operate a vacation rental.

Permit Center Director Grant Beck believes the County should rethink the way it regulates transient rentals. "Under the current system," says Beck, "it is virtually impossible to document an objective distinction between the impacts between vacation and long-term rentals. It makes more sense to have a County policy which either prohibits or allows transient rentals without the requirement of a conditional use permit."

Whether the County will appeal the decision is uncertain. "We plan to discuss the decision with the Commissioners right away so we can plan what to do next," said Vedder.

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San Juan County Prosecuting Attorney  
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360/378-4101

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SAN JUAN

RECEIVED  
APR 19 2000

SAN JUAN COUNTY  
PROSECUTING ATTORNEY

RECEIVED  
Cause No. 99-2-05195-6

GBC-13  
APR 19 2000

SAN JUAN COUNTY  
BOARD OF COMMISSIONERS

ROBERT GREENE,  
Petitioner,  
vs.  
SAN JUAN COUNTY,  
Respondent.

Verbatim Report of Court's Oral Ruling

BE IT REMEMBERED, that on Monday, April 10, 2000, the above-named and numbered cause came on regularly for hearing before the HONORABLE ALAN R. HANCOCK, sitting as judge in the above-entitled court, at the San Juan County Courthouse, in the town of Friday Harbor, state of Washington.

The petitioner appeared in person and through his attorney, J. Richard Aramburu;

The respondent appeared through its attorney, Karen E. Vedder.

WHEREUPON, the following proceedings were had, to-wit:

COPY


1 THE COURT: The Court is prepared to rule on the  
2 matter. I do appreciate the fine briefs that were supplied  
3 by counsel. They were very well done; appreciate the fact  
4 that portions of the record were reproduced for the Court  
5 so the Court did not have to carry the original record back  
6 with it to Coupeville for review, and the matter was well  
7 argued this afternoon. I appreciate that very much.

8 It would be appropriate at the outset to review  
9 some of the Comprehensive Plan and Development Code  
10 provisions that apply to this decision.

11 Of course, the property owned by Mr. Greene on  
12 which he seeks a transient rental by conditional use permit  
13 from San Juan County is zoned Rural Residential. Generally  
14 speaking, in the Rural Residential zone parcels are two to  
15 five acres in size. This is the Buckhorn Addition on Orcas  
16 Island so that we have smaller lots and that's  
17 acknowledged.

18 In the Rural Residential zone cottage  
19 enterprises and commercial and industrial uses are  
20 prohibited except that home occupations and uses of  
21 comparable impact on residential use are permitted.

22 Obviously, transient rentals, as has been  
23 pointed out, are conditional uses in the Rural Residential  
24 zone.

25 I do recognize that a transient rental is 

1 defined in the Development Code as being a commercial  
2 activity, but I don't think the label is particularly  
3 significant.



4 I think, rather, the Court needs to look at the  
5 specific extent of the particular use and compare that with  
6 the various standards and conditions that apply and  
7 determine whether the use is an appropriate one as a  
8 conditional use.

9 Transient accommodation or transient rental is  
10 defined as a commercial use, as I've indicated, involving  
11 the rental of any structure or portion thereof for the  
12 purpose of providing lodging for periods less than 30 days.

13 It is interesting to note, as Mr. Aramburu  
14 pointed out, that a rental of property for in excess of 30  
15 days is not a conditional use and is generally a permitted  
16 use. There is no restriction on that activity.

17 The general criteria that the Board of  
18 Adjustment reviews in determining whether a conditional use  
19 permit should be granted include whether the proposed use  
20 will not be contrary to the intent or purposes and  
21 regulation of the Development Code or the Comprehensive  
22 Plan, whether the proposal is appropriate in design,  
23 character, and appearance with the goals and policies for  
24 the land-use designation in which the proposed use is  
25 located, whether the proposed use will not cause

X

1 significant adverse impacts on the human or natural  
2 environments that cannot be mitigated by conditions of  
3 approval, and whether the cumulative impact of additional  
4 requests for like actions, the total of the conditional  
5 uses over time or space, as the Code states, will not  
6 produce significant adverse effects to the environment that  
7 cannot be mitigated by conditions of approval.

8 I also wanted to note that, as was raised at the  
9 hearing before the Board of Adjustment, transient rentals  
10 that were in place prior to June 1st of 1997, are allowed  
11 by provisional permit but only if the owner or lessee  
12 demonstrates that the residence in question was used for  
13 transient rental on or before June 1st of 1997.

14 Then, of course, we have the Development Code  
15 criteria for the approval of transient rentals by  
16 conditional use permit. The standards are set forth in a  
17 particular section of the Development Code, 4.19, if memory  
18 serves correctly. I have them before me, but without the  
19 specific code section.

20 And, of course, those standards provide for  
21 having no more than three guests per bedroom. The  
22 transient rental is to be operated in a way that will  
23 prevent unreasonable disturbances to area residents;  
24 there's to be one additional off-street parking space; no  
25 outdoor advertising signs are allowed, and, of course,

1 counsel are well familiar with the other criteria that  
2 specifically apply to transient rentals or transient  
3 accommodations.

4 The case law which counsel have cited is also  
5 apt, and is important for consideration by the Court. The  
6 case of Hansen v. Chelan County, I think, is a significant  
7 case.

8 That case involved a situation where a  
9 conditional use permit was sought for a golf course in  
10 San Juan -- in Chelan County, and it was turned down by  
11 San Juan County. The Court of Appeals overturned the  
12 denial of the conditional use permit citing lack of  
13 evidence of significant impacts, and, significantly, the  
14 Court indicated that where there is no finding or any  
15 evidence that the effects of the proposed golf course were  
16 any greater than would occur if the Hansens used the  
17 property for uses permitted outright, that denial was not  
18 appropriate, but, rather, the county should have considered  
19 appropriate conditions on the particular conditional use so  
20 that the use was properly approved in such a manner that  
21 there would not be greater impacts than would be the case  
22 if a use permitted outright were the matter in question.

23 I think that is significant in our present case.

24 We do have the series of cases that the  
25 petitioners have cited -- or the petitioner has cited also

1 generally holding that it is not appropriate to deny the  
2 conditional use permit or other development permit simply  
3 because of community displeasure.

4 The Sunderland Family Treatment Services v. City  
5 of Pasco case, in 127 Wn.2d at 782, I think, is also  
6 particularly significant. Counsel have referred to it,  
7 and, I think, correctly cited the principles at work there.

8 The Court indicated in that particular case that  
9 involved a use different than a short-term rental,  
10 obviously, but a conditional use that the city's denial  
11 appeared to rest on neighborhood opposition, and while the  
12 Court indicated that opposition of the community may be  
13 given substantial weight, it cannot alone justify a local  
14 land use decision.

15 In the present case, the question arose at the  
16 hearing before the Board of Adjustment -- I think at the  
17 suggestion of the chair of the board -- as to when would it  
18 be appropriate ever to deny a conditional use permit where  
19 it's alleged that whatever impacts there are can be  
20 properly mitigated by conditions, and perhaps that issue  
21 arises here.

22 The Court does have to acknowledge that unless  
23 prohibited, land uses are permissible under our law, and so  
24 except to the extent that San Juan County regulates  
25 transient rentals through its Development Code, they would

1 of a long-term renter or of a homeowner himself or herself.

2 I do think there needs to be something more than  
3 a generalized statement that transient renters are like  
4 this or that perhaps one or more of the other five  
5 transient renters in this 70-lot subdivision act in a  
6 particular way.

7 This is the first transient rental, I think,  
8 that has sought a conditional use permit under the county's  
9 Development Code. Granted, there are apparently five,  
10 according to the record, prior transient rentals that are  
11 permissible under the provision of the Code that allows for  
12 those to occur if they were established prior to June 1st  
13 of 1997, but no specificity whatsoever as to how many  
14 parties there were at these transient rentals as opposed to  
15 parties at residences occupied by owners or long-term  
16 renters, and no other kind of particularized evidence that  
17 would be admissible in a court of law, for example.

18 I do recognize that this is a citizen board;  
19 that there needs to be some relaxed standard as far as what  
20 evidence can be considered by the Board and on review by  
21 this court, but, in my view, there needs to be something  
22 more than a general statement that I think does come very  
23 close to being the kind of inaccurate stereotype or popular  
24 prejudice that was rendered -- or held to be impermissible  
25 in the Sunderland case, S-U-N-D-E-R-L-A-N-D.

1 I do recognize the difficulty that lay people  
2 have on citizen boards like the Board of Adjustment in  
3 making decisions like this, and they are concerned about  
4 the neighborhood, and properly so.

5 At the same time, they are engaging in a  
6 quasi-judicial activity, and as this court engages in a  
7 judicial activity in reviewing the record below, and  
8 something more than the kind of generalized stereotypical  
9 impacts that were part of the record below to be shown in  
10 order for there to be a denial of a conditional use such as  
11 this.

12 The point here is that this particular transient  
13 rental that Mr. Greene is proposing and transient rentals  
14 generally can be mitigated by appropriate conditions, and I  
15 am going to be reversing the decision of the Board of  
16 Adjustment and remanding this matter back to the Board of  
17 Adjustment for the entry of an approval of a conditional  
18 use permit subject to reasonable conditions, such as those  
19 that are set forth in Mr. Otis's staff report.

20 I don't think it would be appropriate for this  
21 court to itself impose particular conditions; that's the  
22 function of the Board, and I don't think a reviewing court  
23 should substitute its judgment for the Board in determining  
24 what conditions are appropriate, but I think some guidance  
25 is appropriate, and so I would appreciate it if the order

1 otherwise be permitted so that, in effect, if there are  
2 conditions that can be imposed on transient rentals, and  
3 particularly in this case Mr. Greene's transient rental,  
4 that reduce the impacts of the transient rental to the  
5 level that would exist for any permitted use within that  
6 particular zone, in this case the Rural Residential zone,  
7 then I think the law would require that there be an  
8 approval of such a use subject to the appropriate  
9 conditions to bring it within the level of impact that any  
10 permitted use would have.

11 In this particular case, there is this whole  
12 matter of the character of the neighborhood; the so-called  
13 voice of the community, as Ms. Vedder characterizes it, and  
14 I think Ms. Vedder has done as good a job as anyone could  
15 possibly do in making much of what is really little as far  
16 as any evidence in the record of the potential effects of a  
17 transient rental.

18 It is true that there were some letters and some  
19 oral testimony that transient rentals generally might have  
20 some different effect than simply single family residences  
21 occupied by long-term rentals or owners.

22 In the view of the Court, however, there was no  
23 substantial evidence, as that term is defined in our law,  
24 that would suggest that transient rentals inherently have  
25 some different and greater level of impact than the impact

1 that Mr. Aramburu will present here would direct that there  
2 be reasonable conditions, such as those that were proposed  
3 by Mr. Otis.

4 In passing, I will note I thought Mr. Otis made  
5 a very good report about this particular proposed  
6 conditional use permit. I think he cited all of the  
7 necessary provisions of the Comprehensive Plan and the  
8 Development Code, made a reasoned analysis of it, and his  
9 report, I think, should go a long way toward giving the  
10 Board the guidance it needs in imposing particular  
11 conditions.

12 In the event that this decision is transcribed  
13 -- and the Board, I think, in its deliberations on this  
14 matter indicated that it thought that it might be a case  
15 that might go up on appeal and it was wondering what a  
16 court might do with this particular case -- I do think it  
17 would perhaps not be inappropriate for the Court to say  
18 that the Board in a situation like this perhaps needs to be  
19 more concerned about an objective review of the situation  
20 as a whole, rather than doing what it seemingly did, which  
21 was to reach a general decision that a denial was  
22 appropriate and then to search for reasons that might  
23 support that particular denial.

24 The human condition is such that it is not  
25 unusual for a person or a group of persons to do that where

1 they have some particular perception of how something  
2 should come out, but I did have a concern that the Board --  
3 and I say this with the greatest of respect for the  
4 individual citizens who compose the Board -- that there was  
5 a result-oriented form of decision making here that was  
6 not, strictly speaking, appropriate in this context.

7 Having said that, I do recognize that the Board  
8 must give deference to the -- this court must give  
9 deference to the Board and that it must view the record  
10 essentially in a light most favorable to the Board in the  
11 sense of searching for any substantial evidence in the  
12 record that might support the Board's findings of facts,  
13 and I have done that in this case.

14 In looking at the various kinds of impacts that  
15 a transient rental may have, we're really dealing with the  
16 kinds of things that ordinary people do when they own a  
17 piece of property or rent a piece of property long-term.

18 Perhaps there would be a few more parties on the  
19 part of a short-term renter than there would be over a  
20 particular span of time by a homeowner or long-term renter,  
21 but, again, I don't think that's the kind of evidence that  
22 would be substantial in terms of determining whether it  
23 would be appropriate to deny a conditional use permit like  
24 this.

25 We have the whole issue of cumulative impacts,

1 and I'm fully mindful of that. Counsel did not necessarily  
2 focus on that in oral argument here today, but I know it's  
3 a substantial issue, and the Board spent a good deal of  
4 time in its deliberation discussing cumulative impacts.

5 We have 70 lots in the Buckhorn Addition, most  
6 of which, as I understand the record, are developed as  
7 single family residences. This lot is developed with a  
8 single family residence and no new construction of any kind  
9 will be undertaken on it to have a transient rental, and I  
10 think it's going pretty far, and too far in this case, to  
11 say that because there may be five other transient rentals  
12 in a 70-lot subdivision and there may be one more here  
13 permitted by conditional use permit, that the cumulative  
14 impacts of this transient rental are more than would be  
15 permissible under the Development Code.

16 Again, the specific criterion in that regard is  
17 the general criterion applicable to conditional use permits  
18 generally and not specific to transient accommodations.

19 The standard reads that the cumulative impact of  
20 additional requests for like actions (the total of the  
21 conditional uses over time or space) will not produce  
22 significant adverse effects to the environment that cannot  
23 be mitigated by conditions of approval.

24 So the Board is placed in the difficult position  
25 of trying to think about what additional transient rentals

1 might be sought in the future and then to look into the  
2 future to see if those together with the one at hand might  
3 create cumulative impacts that are greater than  
4 permissible.

5 That's a difficult thing to do, to say the  
6 least, but suffice it to say that in the context of this  
7 first request for a transient rental in the Buckhorn  
8 Addition, that it cannot be said that the cumulative impact  
9 of additional requests for like actions will produce  
10 significant adverse effects to the environment that cannot  
11 be mitigated by conditions of approval.

12 Again, the whole point here is to condition this  
13 use with appropriate limitations so that the effect of this  
14 will be to create as much as possible a situation that is  
15 like a single family residence occupied by a long-term  
16 renter or owner, and that is what I think Mr. Otis  
17 attempted to do, and properly so, and what the Board should  
18 do on remand.

19 Again, I appreciate the difficulty that the  
20 Board faced in reviewing this matter, the difficulty in  
21 applying some of the general criteria applicable to  
22 conditional uses, and I have the greatest respect for the  
23 Board, believe me, but I do find that the Board's decision  
24 was erroneous legally by failing to condition the proposed  
25 use appropriately to mitigate appropriately what is being

1 done.

2 The decision of the Board was not supported by  
3 evidence that is substantial when viewed in light of the  
4 whole record before the Court, and I am mindful of the  
5 definition of substantial evidence, which is evidence in  
6 sufficient quantum to persuade a fair-minded person of the  
7 truth of the declared premises.

8 I also have a definite and firm conviction that  
9 the Board erred in denying this conditional use permit,  
10 and, therefore, I do find that the Board's decision was  
11 clearly erroneous; a clearly erroneous application of the  
12 law to the facts.

13 So I will reverse the decision, direct that the  
14 matter be remanded to the Board for the approval of the  
15 conditional use permit subject to reasonable conditions,  
16 such as those set forth in Mr. Otis's staff report.  
17 Counsel may have some other thoughts on the specific  
18 wording of the order on remand, which I trust will be  
19 presented at a later time.

20 Once again, thanks to counsel for their fine  
21 presentations.

22 MR. ARAMBURU: Your Honor, may I raise two  
23 questions that maybe you could give us some direction on?

24 First of all, we would appreciate some rapid  
25 action on behalf of the Board here. I would like to

1 include in my order that the Board do this at their next  
2 meeting. I'm cognizant of the weather today and summer's  
3 coming, and that's the kind of thing I would like to have  
4 Mr. Greene be able to proceed with, perhaps rental of the  
5 property.

6 Would that be acceptable, Ms. Vedder?

7 MS. VEDDER: I don't know the Board's particular  
8 schedule. They meet the second Wednesday of the month. So  
9 by next meeting you mean April?

10 MR. ARAMBURU: April is out, I concede that, but  
11 perhaps we could say at the May meeting there would be time  
12 to hear it.

13 MS. VEDDER: Let me ask a question that  
14 dovetails with that one I had. In these things in general  
15 -- it wouldn't seem that there would be need for an  
16 additional public hearing; that the Board, in fact, has all  
17 the evidence before it and could deliberate and grant a  
18 permit the same way it would have had they approved this  
19 one initially.

20 Is that the Court's understanding --

21 THE COURT: That's correct.

22 MS. VEDDER: -- of how this would work?

23 THE COURT: The hearing is over, and it has been  
24 held already, and the Board has the information on which it  
25 should make its decision about the appropriate conditions

1 to attach to the permit, so absent some indication that it  
2 would be totally impractical -- not totally, but very  
3 impractical, let's say, for the Board to enter a decision  
4 at its May meeting, let's have the order so direct --

5 MS. VEDDER: Okay.

6 MR. ARAMBURU: Thank you, Your Honor.

7 THE COURT: -- require.

8 MS. VEDDER: If for some reason it would make it  
9 hugely impractical -- I can find that out before the order  
10 is presented and talk to them -- but barring that --

11 THE COURT: Yes, please, and I'll be certainly  
12 willing to hear anything like that, but that would be the  
13 intent of the Court.

14 MR. ARAMBURU: And then, Your Honor, you  
15 indicated that you'd be willing to continue jurisdiction?

16 THE COURT: That's correct.

17 MR. ARAMBURU: I will include that in the order  
18 as well. I don't know what the county's intent is. Would  
19 it be your view that this would be an appealable order?

20 THE COURT: Yes.

21 MR. ARAMBURU: Okay.

22 THE COURT: Would you agree with that,  
23 Ms. Vedder?

24 MS. VEDDER: Yes.

25 THE COURT: You need to include the requisite

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findings under 54(b), and I can give you no guarantee that the Court of Appeals would accept the fact that this is an appealable order, but in my view it is since the Court has made a final decision on what is to occur.

I don't think the fact that the Court retains jurisdiction would preclude the entry of a final decision.

Okay. I think that's all. Thank you very much.

MR. ARAMBURU: Thank you, Your Honor.

(Whereupon, the proceedings in this matter were concluded.)

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I, JEANNE M. WELLS, do certify that the foregoing verbatim report of the Court's oral ruling was taken by me and completed on Monday, April 10, 2000, and thereafter, transcribed by me by means of computer-aided transcription;

That I am not a relative, employee, attorney or counsel of any such party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith mailing the original and one copy to J. Richard Aramburu and one copy to Karen E. Vedder.

Jeanne M. Wells  
Jeanne M. Wells, RPR  
4-18-00  
Date

COPY!