



# SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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## MEMORANDUM

**REPORT DATE:** May 6, 2022  
**TO:** San Juan County Council  
**CC:** Mike Thomas, County Manager  
David Williams, Department of Community Development (DCD) Director  
**FROM:** Sophia Cassam, DCD, Planner II *sc*  
**SUBJECT:** Vacation Rental Permit Cap Public Hearing  
**HEARING DATE:** May 17, 2022  
**ATTACHMENTS:** A. Draft Ordinance Establishing a Cap on Permits for Vacation Rental of Residences or Accessory Dwelling Units (ADUs); Amending San Juan County Code (SJCC) 18.40.275 and Ordinance 2-2018  
B. Public Comments received since April 5, 2022

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### PURPOSE

To provide to the County Council a draft ordinance establishing a cap on permits for vacation rental of residences or accessory dwelling units (ADUs); amending San Juan County Code (SJCC) 18.40.275.

To provide the current number of compliant and non-compliant vacation rental permits to the County Council.

### PUBLIC COMMENTS

Please send all public comments to [VRComments@sanjuanco.com](mailto:VRComments@sanjuanco.com). Please do not copy the County Council, Planning Commission members, or County Staff. Written public comments received by May 16 at 12:00 pm will be provided to the County Council prior to the meeting. Please focus public comments on the issues contemplated in this memo.

To view all public comments on this topic, please visit the 2021 Vacation Rental Code Amendment webpage: <https://www.sanjuanco.com/1826/2021-Vacation-Rental-Code-Amendment>

### BACKGROUND

The County Council began the ongoing Vacation Rental Code Amendment project in January 2021 when a moratorium on new vacation rental permits was enacted to allow time to consider a cap on vacation rentals. The County Council discussed vacation rental caps at their meetings on March 30, May 12, and June 29, 2021, before providing guidance to staff and the Planning Commission.

The Planning Commission discussed vacation rental permit caps at their meetings on July 16, August 20, and September 17 and at the public hearings on October 15, 2021, and February 18, 2022. The Planning Commission recommended a draft ordinance establishing vacation rental permit caps based on the number

of permits that were compliant on July 31, 2021, and to be revisited in five years. The Planning Commission’s findings and recommended draft ordinance are available in the staff report here: <https://www.sanjuanco.com/DocumentCenter/View/25292/>

On March 8, 2022, the County Council was briefed on the Planning Commission’s recommendations regarding a draft ordinance establishing vacation rental permit caps countywide and by island. The County Council removed the Planning Commission’s recommended clause, “for a period of five years following the adoption of the ordinance codified in this section.” This clause is unnecessary because the vacation rental regulations can be revisited at any time.

At the April 5, 2022 briefing, DCD clarified four options for possible permit caps that the County Council had previously discussed on March 8, 2022. The four options and possible implications are explained in the staff report here: <https://www.sanjuanco.com/DocumentCenter/View/25533/>. Options include setting vacation rental permit caps based on the number of permits that were/are:

- A. Compliant on July 31, 2021 (Planning Commission recommendation)**
- B. Active and compliant on July 31, 2021**
- C. Originally proposed by Council**
- D. Compliant at the date of adoption**

## **CURRENT NUMBER OF VACATION RENTAL PERMITS**

Throughout this project the exact number of compliant and non-compliant permits has been unclear. Permit numbers are constantly changing as permits come into compliance, are abandoned or revoked, and new permits are granted. In order to make an informed decision regarding the vacation rental permit caps at the public hearing, the County Council should have a clear understanding of the current number of permits. Department of Community Development and County GIS staff worked to streamline permit records and establish the number of compliant and non-compliant vacation rental permits countywide and by island. Updated day-of numbers will be provided on May 17, 2022, during a briefing prior to the hearing. The current numbers are shown in Table 1 below.

**Table 1. Number of Vacation Rental Permits on May 6, 2022.**

<b>Island</b>	<b>Compliant</b>	<b>Non-Compliant</b>	<b>Total</b>
Orcas	366	90	456
San Juan	266	71	337
Lopez	94	27	121
Other Islands	5	9	14
<b>Total</b>	<b>729</b>	<b>197</b>	<b>926</b>

## **DRAFT ORDINANCE**

Attachment A shows the draft ordinance with the Planning Commission’s recommendation, updated to reflect the County Council’s removal of the clause, “for a period of five years following the adoption of the ordinance codified in this section.” At the public hearing, after hearing public testimony, the County Council will deliberate and can adopt the ordinance as-is or with modifications.

The ordinance proposes new subsections (N) and (O) of SJCC 18.40.275 and amendments to SJCC 18.40.275(L) for consistency with the proposed changes. New section 18.40.275(N) sets the per-island caps.

New section (O) establishes that new permits will be issued by lottery. The proposed new SJCC 18.40.275(N) and (O) would read as follows:

N. The number of vacation rental permits countywide outside of the Master Planned Resort (MPR) designation shall not exceed:

1. On Orcas Island three-hundred and thirty-four (334);
2. On San Juan Island two-hundred and twenty-nine (229);
3. On Lopez Island eighty-five (85);
4. On Shaw Island vacation rentals are prohibited by SJCC 16.45.180(C);
5. On Waldron Island vacation rentals are prohibited by SJCC 16.36.060(G); and
6. On all other islands two (2).

O. Vacation rental permits shall be issued by lottery procedures established by the administrator and approved by the County Council.

Subsection 18.40.275(L) establishes the requirement that permits vested under previous regulations must submit certificates of compliance. This subsection will be amended to exclude the sections that existing permits vested or approved prior to Ordinance 02-2018 cannot certify compliance because they were issued under previous regulations. Ordinance 02-2018 was established on March 13, 2018. The proposed text of SJCC 18.40.275(L) with strikeout/underline formatting (~~Removal~~/Addition) states:

L. The owners of vacation rental permits vested or approved prior to ~~the effective date of the ordinance codified in this section March 13, 2018,~~ are required to comply with all subsections of this section except subsections (B), (F) and (J) of this section ~~by December 31, 2018,~~ in addition to the conditions of their permit.

#### **DRAFT FINDINGS**

The draft ordinance includes County Council findings in item X of the background section. These draft findings are highlighted and are a placeholder for findings that the County Council should establish at the public hearing. The findings shown in draft ordinance mirror the Planning Commission's findings on this matter. The findings originate from the County Council's findings in Resolutions 16-2021 and 33-2021, both extending the vacation rental permit moratorium. At the public hearing on May 17, 2022, the County Council can review and revise the draft findings to explain the need for vacation rental permit caps.

ORDINANCE NO. \_\_\_\_ - 2022

**ORDINANCE ESTABLISHING A CAP ON PERMITS FOR VACATION RENTAL OF RESIDENCES OR ACCESSORY DWELLING UNITS (ADUs); AMENDING SAN JUAN COUNTY CODE (SJCC) 18.40.275 AND ORDINANCE 2-2018.**

**BACKGROUND**

- A. In 1998, the County Council adopted Ordinance 2-1998, establishing performance standards for vacation (short-term) rentals of residences and accessory dwelling units (ADUs) in San Juan County Code (SJCC) 18.40.270.
- B. SJCC 18.40.270 was amended three times by Ordinances 145-1998, 21-2002, and 7-2006.
- C. In 2018, the San Juan County Council adopted Ordinance 2-2018, repealing SJCC 18.40.270 and establishing SJCC 18.40.275, which regulates vacation rental of residences and ADUs.
- D. SJCC 18.40.275 does not specifically regulate the number of vacation rental permits.
- E. The County Council identified a need to adopt specific regulations to limit the number of vacation rental permits allowed countywide and on a per-island basis.
- F. The County Council met to develop legislative options for regulations related to the vacation rental moratorium on February 23, 2021; March 9, 2021; March 30, 2021; April 20, 2021 and May 12, 2021.
- G. At their May 12, 2021 meeting, the County Council provided guidance to the staff and the Planning Commission for development additional vacation rental regulations including an overall cap on the number of permits issued, caps on numbers of permits issued by island, measures to address emergency management, impacts to neighborhoods and impacts to community roads and water systems.
- H. The County Council specifically desires to:
  - 1. Establish a Countywide cap for vacation rentals in the Unified Development Code (UDC), Title 18 SJCC.
  - 2. Establish a per-island cap for vacation rentals in the UDC, Title 18 SJCC.
- I. County staff briefed the Planning Commission about the County Council direction and draft proposal on July 16, August 20, and September 17, 2021.

- 1 **J.** County staff completed the environmental and nonproject action checklist for the project  
2 in compliance with the State Environmental Policy Act (SEPA) and determined that the  
3 proposal would be unlikely to create significant adverse environmental impacts.  
4
- 5 **K.** County staff issued a Determination of Non-significance (DNS) on September 29, 2021  
6 and published it in the Journal of the San Juan Islands and The Island's Sounder. County  
7 staff transmitted the environmental checklist and DNS to federal, state, and local agencies  
8 in accordance with SJCC 18.80.050 and WAC 197-11-340.  
9
- 10 **L.** The Washington State Department of Ecology published notice of the SEPA determination  
11 on their SEPA Register under No. 202105252.  
12
- 13 **M.** County staff submitted a sixty-day notice regarding the potential adoption of amendments  
14 to the County's development regulations to the Washington State Department of  
15 Commerce (Commerce) on September 28, 2021 in compliance with RCW 36.70A.106.  
16
- 17 **N.** Commerce acknowledged receipt of the sixty-day notice and identified it as Submittal ID  
18 No. 2021-S-3188 on September 28, 2021.  
19
- 20 **O.** An October 15, 2021 Planning Commission public hearing was advertised in the Journal  
21 of the San Juan Islands and The Islands' Sounder on September 29, 2021.  
22
- 23 **P.** The Planning Commission held a duly advertised public hearing on October 15, 2021,  
24 deliberated and recommended that the County Council should adopt the ordinance with  
25 modifications.  
26
- 27 **Q.** The Planning Commission did not issue findings at the October 15, 2021 public hearing.  
28
- 29 **R.** Per SJCC 2.20.070 Role and function of the planning commission, the Planning  
30 Commission must include findings when making a recommendation at a public hearing.  
31
- 32 **S.** The Planning Commission held a duly advertised public hearing on February 18, 2022,  
33 deliberated and agreed on findings to accompany the October 15, 2021, recommendation.  
34
- 35 **T.** County staff briefed the County Council on the Planning Commission's recommendation  
36 regarding the proposal on March 8, 2022.  
37
- 38 **U.** The County Council was briefed on the draft ordinance on April 5, 2022.  
39
- 40 **V.** A May 17, 2022, County Council public hearing was advertised in the Journal of the San  
41 Juan islands and the Island's Sounder on May 4, 2022.  
42
- 43 **W.** The County Council held a duly advertised public hearing on May 4, 2022 and received  
44 public testimony.  
45
- 46 **X.** The County Council deliberated on the ordinance and made the following findings:

1  
2 1. San Juan County Code 18.04.275 regulates vacation rental of residences or  
3 accessory dwelling units (vacation rentals) but does not include regulations that  
4 address the impact of concentration of vacation rentals or the impacts of tourism.

5  
6 2. Vacation rentals consist of transient occupants who are not resident in the  
7 community long enough to establish relationships capable of building  
8 community. Concentration of vacation rentals negatively impacts the sense of  
9 neighborhood or community as transient occupants begin to outnumber residents.

10  
11 3. Vacation rentals are the primary source of growth of transient  
12 accommodations in the County. Other sources of transient accommodations such  
13 as hotels, campgrounds and resorts are significantly limited by existing land use  
14 regulations.

15  
16 4. Growth of transient accommodations is likely to result in additional tourist  
17 visits to the islands, which may result in negative impacts if not properly  
18 regulated.

19  
20 5. It is appropriate to evaluate the impact of vacation rentals on the environment,  
21 neighborhoods, and the community.

22  
23 6. It is necessary to explore local regulations of vacation rentals to ensure that  
24 the County adequately addresses potential land use compatibility issues and  
25 adverse impacts to rural character, natural resources and the public welfare.

26  
27  
28 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County,  
29 State of Washington, as follows:

30  
31 **Section 1. SJCC 18.40.275 and Ordinance 2-2018 § 2 are each amended to read**  
32 **as follows:**

33  
34 **18.40.275 Vacation rental of residences or accessory dwelling units (ADUs).**

35  
36 When vacation rental of a residence or accessory dwelling unit, as defined by SJCC 18.20.220, is  
37 allowed by this code, the following standards apply:

38  
39 A. Outside of urban growth areas, one vacation rental is allowed on a property, either in  
40 the principal residence or an accessory dwelling. Detached accessory dwelling units  
41 permitted on or after June 29, 2007, are not allowed to be vacation rentals.

42  
43 B. No more than two overnight guests per bedroom plus additional three overnight guests  
44 shall be accommodated at any one time. The number of bedrooms is determined by the  
45 approved building permit for the structure. A guest is a person over two years of age.  
46

1 C. The vacation rental shall be operated according to rules of conduct approved by the  
2 County that prevent the following disturbances to area residents:

- 3
- 4 1. Trespassing;
- 5
- 6 2. Noise that violates Chapter 9.06 SJCC (Noise Ordinance);
- 7
- 8 3. Off-site parking issues;
- 9
- 10 4. Vehicle speeds of higher than the posted speed limit, or 20 miles per hour (mph)
- 11 on private paved roads and 15 mph on private nonpaved roads; and
- 12
- 13 5. Outdoor burning that violates the requirements adopted pursuant to SJCC
- 14 15.04.070(F)(4)(c), including violations of a burn ban.
- 15

16 D. Solid waste must be removed from the vacation rental to an approved solid waste facility  
17 every two weeks. Solid waste shall be stored in completely enclosed and secured solid  
18 waste receptacles or stored completely indoors.

19  
20 E. Guests shall be made aware of the importance of water conservation. Best practices to  
21 conserve water shall be included in the rules of conduct.

22  
23 F. One on-site parking space shall be provided for each bedroom within the vacation rental.

24  
25 G. Meal service provided by the permit holder or their agents is not allowed.

26  
27 H. All vacation rental permit holders are required to display the address of the residence so  
28 that it is clearly visible from the street or access road.

29  
30 I. Vacation rental accommodations must meet all applicable local and state regulations,  
31 including those pertaining to business licenses and taxes such as Washington State sales,  
32 lodging and business and occupation taxes.

33  
34 J. Vacation rental permits vested or approved after the effective date of the ordinance  
35 codified in this section shall expire two years after the date of approval unless the annual  
36 certificates of compliance meeting the requirements of subsection (K)(4) of this section are  
37 on file with the administrator.

38  
39 K. All owners of property used for vacation rental shall comply with the following  
40 operational requirements:

- 41
- 42 1. Maintain an up-to-date property management plan on file with the administrator
- 43 and property owners within 300 feet of the building within which the vacation rental
- 44 is located. The property management plan must include the following:
- 45

46 a. Rules of conduct approved by the County;

1  
2 b. Unified business identifier number, and the names and addresses of the  
3 property owner and agents authorized to act on the property owner’s behalf;

4  
5 c. A designated local property representative who lives on the island where  
6 the vacation rental is located and will respond to complaints and  
7 emergencies; and

8  
9 d. A valid telephone number where the local property representative can be  
10 reached 24 hours per day;

11  
12 2. Prominently display in the rental the rules of conduct and a map clearly depicting  
13 the property boundaries of the vacation rental. The map shall indicate if there is an  
14 easement that provides access to the shoreline; if so, the boundaries of the easement  
15 shall be clearly defined; if there is no access, this shall be indicated together with a  
16 warning not to trespass;

17  
18 3. Include the San Juan County permit number for the vacation rental in all  
19 advertisements and marketing materials such as brochures and websites;

20  
21 4. Annually certify compliance with the conditions of permit approval and with the  
22 fire and life safety requirements of the International Fire Code (IFC) as identified  
23 by the department on forms specified by the administrator. The annual certification  
24 shall be prominently posted on site; and

25  
26 5. Certify compliance with the conditions of permit approval within 90 days after  
27 the closing date of the sale of the property. Written certification must be submitted  
28 to the department on forms specified by the administrator.

29  
30 L. The owners of vacation rental permits vested or approved prior to ~~the effective date of~~  
31 ~~the ordinance codified in this section~~ March 13, 2018, are required to comply with all  
32 subsections of this section except subsections (B), (F) and (J) of this section ~~by December~~  
33 ~~31, 2018~~, in addition to the conditions of their permit.

34  
35 M. A vacation rental shall not operate or be advertised without a vacation rental permit.  
36 Evidence of operation includes advertising, online calendars showing availability, guest  
37 testimony, online reviews, rental agreements or receipts.

38  
39 N. The number of vacation rental permits countywide outside of the Master Planned Resort  
40 (MPR) designation shall not exceed:

41  
42 1. On Orcas Island three-hundred and thirty-four (334);

43  
44 2. On San Juan Island two-hundred and twenty-nine (229);

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46 3. On Lopez Island eighty-five (85);

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4. On Shaw Island vacation rentals are prohibited by SJCC 16.45.180(C);

5. On Waldron Island vacation rentals are prohibited by SJCC 16.36.060(G); and

6. On all other islands two (2).

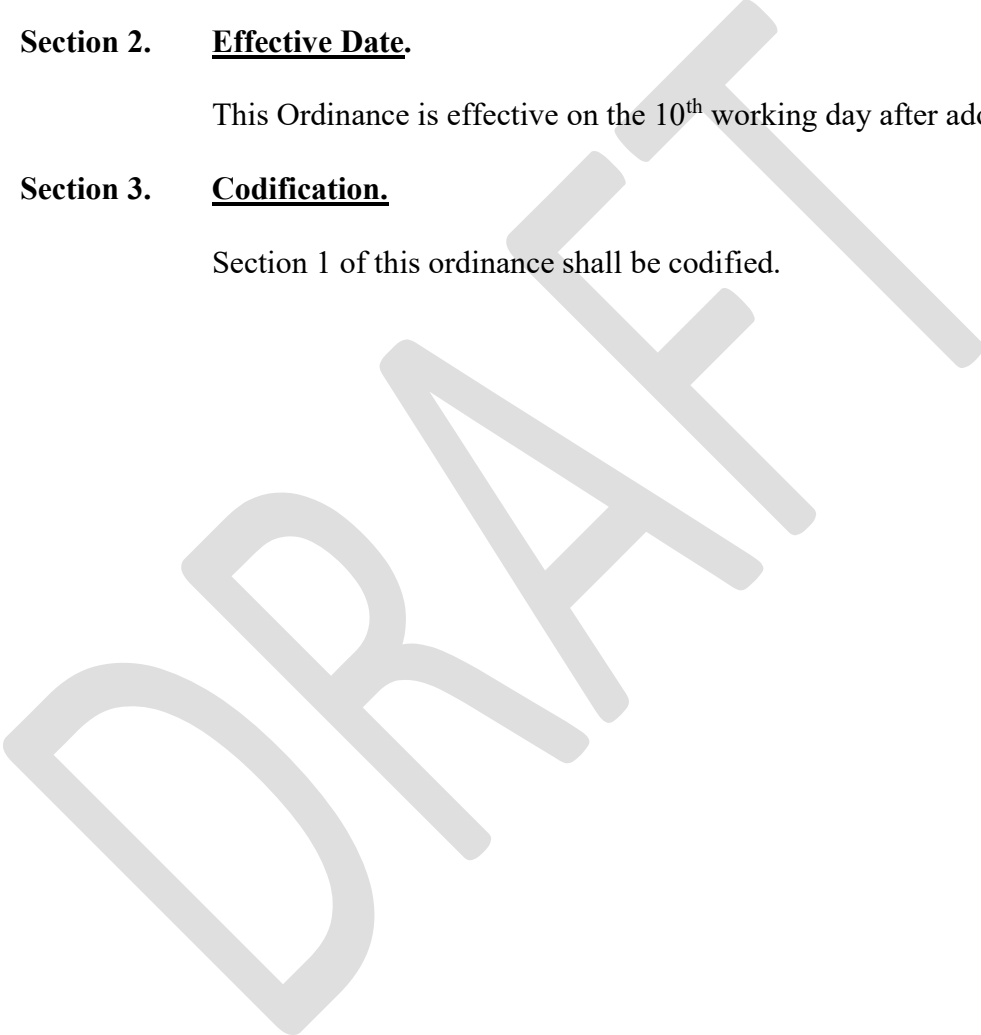
O. Vacation rental permits shall be issued by lottery procedures established by the administrator and approved by the County Council.

**Section 2. Effective Date.**

This Ordinance is effective on the 10<sup>th</sup> working day after adoption.

**Section 3. Codification.**

Section 1 of this ordinance shall be codified.



1 ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

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ATTEST: Clerk of the Council

**COUNTY COUNCIL  
SAN JUAN COUNTY, WASHINGTON**

\_\_\_\_\_  
Ingrid Gabriel, Clerk Date

\_\_\_\_\_  
Christine Minney, Chair  
District 1

REVIEWED BY COUNTY MANAGER

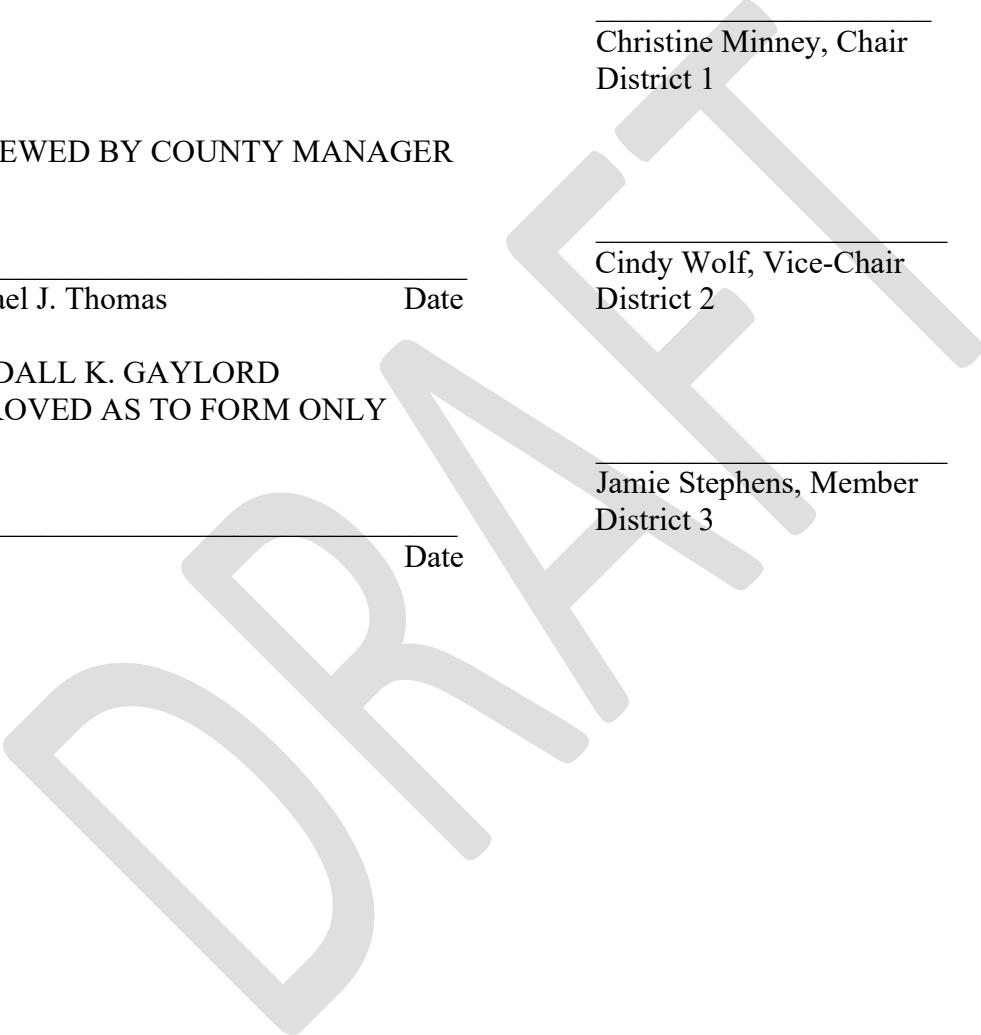
\_\_\_\_\_  
Michael J. Thomas Date

\_\_\_\_\_  
Cindy Wolf, Vice-Chair  
District 2

RANDALL K. GAYLORD  
APPROVED AS TO FORM ONLY

By: \_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Stephens, Member  
District 3



**Sophia Cassam**

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**From:** Jan Alderton <janetmalderton@gmail.com>  
**Sent:** Tuesday, April 12, 2022 3:24 PM  
**To:** Vacation Rental Comments  
**Subject:** Mercy For Orcas

You don't often get email from janetmalderton@gmail.com. [Learn why this is important](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Councilors Minney & Stephens,

Please have mercy for Orcas Island.

We are at the epicenter of the short-term vacation rental impacts.

We appreciate Councilor Wolf standing up for our island!

I do not understand where the compromise would lie in setting an Orcas VR cap around 500.

The unsuitability of choosing 500 has been explained clearly by Councilor Wolf:

Matthew Gilbert reporting:

"At the recent April meeting, Wolf noted that with 5,000 residential units on Orcas, the number of permitted VRs of 508 in "compromise" Option D would represent 10% of all homes. Given that 40% of those 5,000 units are summer-only, however, that 508 becomes 15%. And, she continued, if that 500 was to turn over every week in the high season, it would (hypothetically) fill 10 ferries. "The pain (on Orcas) started back in 2019," she said, when the number of active and compliant rentals was barely above 200 on Orcas. Minney and Stephens were not impressed and continued to push back."

If you feel that your constituents on Lopez and San Juan Islands are fine with the higher proposed numbers, then it is within your powers to decide for your home islands.

But please have mercy for Orcas Island and listen to Councilor Wolf.

Thank-you for your attention to this important decision.

Janet Alderton  
Orcas Island  
510-520-1073

## Sophia Cassam

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**From:** Ed Suij <edsuij@rockisland.com>  
**Sent:** Friday, April 15, 2022 11:18 PM  
**To:** Vacation Rental Comments  
**Subject:** Here is my comment on the Vacation Rental Issue, take your time and read it!

You don't often get email from edsuij@rockisland.com. [Learn why this is important](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Orcas your House is on Fire.

The time around Earth Day is a great time to sit in a comfortable chair in front of your favorite tree or shrub and watch the leaves appear. Wait a minute you will say, that will take some patience. We know the leaves will appear, they have done it every year. And yes it will take an enormous amount of patience to sit there and see it happen. From not being there, they will be there. And even though we have been sitting there, we will not have seen it happen, but it happened.

The speed with which it happened is just beyond the human perception. And there are several things occurring at the moment that are happening just at that speed.

One is of course climate change. It is happening, but we don't really see it, or notice it. A few tenths of a degree warmer, a couple millimeters in sea level rise. We hardly notice, but over a lifetime it will be significant. The other example is the change happening to our home, Orcas Island.

Yes, Greta Thunberg is right. Our house is on fire. But we see no smoke, we see no fire, so we are not really concerned. But something is disappearing! Going up in smoke, burning up! The big fossil fuel screw-up.

How many groups of Islands are there along the West coast of this nation?

Not too many. The San Juans are called the Jewels of the Salish Sea. An amazing collecting of natural wonders millions of years in the making, and we get to experience it. We who live here should be the natural stewards of this place, to guard it from degrading, to keep the biodiversity, the abundance, the beauty and pass it on for the next seven generations.

But in merely one generation these jewels are losing their lustre! Call it modernity, uglification, development, progress or whatever, but what existed here when we visited these shores for the first time will be gone not too long from now. We have cut down the big trees, emptied the waters (see old pictures of the canneries in Anacortes), and are very busy paving over paradise with asphalt and concrete, even celebrate with ribbon cutting when another parking lot is ready!

There is a disease called "Shifting Baseline Syndrome". Every newcomer to these islands will consider it still better than the "mainland", because they have never experienced this place over the last 50 years. They will never know what it was like "before" they came.

All this is happening with that imperceptible speed. And no one is paying attention, because we don't see it happen.

Where is the collective memory of the Tribe? Where is the Council of Elders, the consciousness of the Tribe to guide us into the future. These Elders, chosen for their wisdom and experience, have seen it happen. They have seen "the snow melt", they represent the knowledge of the tribe over time.

We always talk how we want our children to have it better than we had it,

we work hard and sacrifice for their education, we hope they have a "better" life than we had.

But will your child ever know the world you once knew? The silence, the crow calls, the dark skies, the glorious big trees, the abundance of wildlife, birds, flowers, teeming wetlands, lush fertile meadows and farmland for our sustenance.

No they will not! So what is the point? Why are you doing all this?

Our children will ask: How did you manage to lose all the precious things that we have heard about? We will have to answer that we really didn't "manage" any of it. It was managed for us! We handed it over to the hired "professionals and the well paid consultants. People with no bone in the fight. People who "plan" for profit, who pull another map or little story out of their computer and put our name on it.

People who have no collective memory of how it was before, who are scrambling to just even keep up with the complexities and speed of change.

So let's step back and look at the stealing that is happening right in front of our noses. This remorseless pursuit of profit, this "off shore" exploitation of our natural resources. Call it the plundering (the disappearing without smoke) of the Commons.

What is disappearing, is the "rural character", the livability of these islands. The peace, natural beauty and quietness is being exploited, and we are not even being paid for it. Our air is being polluted, our water is fouled, our vistas are being spoiled. The silence replaced by the sounds of modernity, airplanes, chainsaws, leaf blowers, crowded roads, the cell phone of your neighbors. Our water access, our sacred sites sold off to the highest bidder. Call it what you want, but financial imperialism sounds right. If you can afford it, you can buy, own it, pave it, destroy it if you want.

Just imagine if the whole island was your home, that you could access the coast anywhere, probably on a trail that connected clam gardens, camas prairies, berry patches, and sacred sites, while slaking your thirst on cool creeks and springs. Imagine that your mode of transportation was by dugout canoe, requiring planning, cooperation, coordination and stamina.

Talk about the future in these islands often brings up the concept "carrying capacity". What is the carrying capacity of a lifeboat full of refugees in the Mediterranean, shoulder to shoulder, no lifejackets, water to the gunnels?

There will be a certain point where one more person pulled on board will sink the whole boat.

Everybody perishes.

We are testing the carrying capacity of the planet, and we are testing the carrying capacity of these Islands.

We are in uncharted waters, but the outlook at the moment for the planet and these islands are grim.

Just like the carpenter ants do, holes are being eaten in our "oikos", the Greek word for house. Our "ecological" systems are collapsing, the systems that regulate our home (this planet), our house, (these islands). Species are disappearing, biodiversity is diminishing, desertification is happening on a big scale. The chainsaws never stop, the cement and asphalt trucks are never idle.

Imagine the decisions the Tribal Elders had to make. Do we try to work on another clam garden this year?

When do we burn the camas prairies? Do we need to start thinking about a new dug-out canoe, as the old one is nearing its lifespan. It will take two years to make one and it will draw men from other tasks, how do we manage? Shall we barter a load of camas bulbs at the Canoe Barter on Lopez for salt, seal skins and flint this year? They apparently managed, as several tribes lived here for thousands of years and left us healthy ecosystems, beauty, abundance. They figured out the carrying capacity of these islands and had a lifestyle to go with it.

The planet is in trouble. We all know it, we can read about it every day. Is Orcas in trouble? It must be, we are part of the whole.

Is our lifestyle compatible with the longterm survival of the qualities we say we cherish? Or are we exploiting, mining, destroying, exhausting, diminishing our own nest? Is the Commons being monetized and sold off by a greedy few?

Imagine the decisions our County Council members have to make.

Shall we support building more and bigger ferries? Which roads shall we widen next? Where shall be the next parking lot? How do we stimulate more "growth"? Shall we divide more of the islands up in "one acre" parcels? Shall we allow 300, 600 or 1200 vacation rentals?

One idea: let's create this "Council of Elders", to advise the County Council members, some of them have barely lived here for ten years. Are they reading up on all the issues of the old Comp Plan? Are they talking to the seniors who have been here 50-60 years, and have seen the dramatic shift?

Already I know people who would love to support their local farmers, but will not go to Eastsound on Saturdays anymore, because it is just become "a zoo". Parking impossible, streets filled with strangers. I know people who now consider a bicycle trip from the ferry to Eastsound a suicide attempt. Way too many cars zipping by at your elbows. No more spontaneous ferry trips, every move planned weeks ahead, boats always late.

So what can we do? Here are some suggested actions, as a community, that we can take today:

First of all a complete stop on vacation rental permits.

Existing permits will not vest with the land. Owners of a permit have to live on the same parcel. Rental unit has to be within 100 feet of the main house.

Every permit will be very expensive and have a time limit (2 years), and come before the Council of Elders, who can decide to renew or revoke. Fees for the permits will go towards a local housing COOP. Only 5 years of every 10 can a lot have a vacation rental.

Sorry, only Islanders (registered voters) can bring their cars to the islands. Tourists will be transported by electric busses to travel nodes, from there they will be shuttled to their destination by a network of local electric cars. There are islands where this is already in place, it can be done. No need for more or bigger ferries. Water taxis will shuttle passengers from Bellingham and Anacortes to Obstruction Pass, Rosario, Eastsound and Deer harbor. Free lying bike paths will be created from Orcas Village to Doe Bay.

Declare The San Juans a Regional Park, with sweeping powers to safeguard all that we hold dear. No more loss of wetlands and old trees. No more shoreline development. No widening of roads, no more asphalt. Carbon neutral by 2030, and absorbing carbon ( sequestering) by 2040. Let's make it a special place. Shoreline access will be greatly increased, a "around the Island" trail will be established. No more uglification, strict rules about where and what can be built. We can be (and should be) an example of what can be done when people really care about a place.

A pipe dream you say? Well, if we can't save Orcas, we surely will not be able to save the planet. If we do not act NOW all will be lost. The lifeboat will have sunk, with all of our grandchildren in it!

Ed Sujj

## Sophia Cassam

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**From:** Wes / Pillar Marketing <wes@pillarmarketing.com>  
**Sent:** Sunday, May 1, 2022 6:23 PM  
**To:** Vacation Rental Comments; Christine Minney; Cindy Wolf; Jamie Stephens  
**Subject:** Final Anti Capping & Moratorium Comments - Wesley Edholm

You don't often get email from wes@pillarmarketing.com. [Learn why this is important](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you for all the time and effort you have put into considering the pros and cons of capping the number of vacation rentals in the islands.

Having the option to become a vacation rental host on my property is a way for my island family to prosper. I've lived on the island since 1984 and have zero negative experiences with vacation rentals nor do I know anyone who has. In fact it was vacation rentals that got me started as a commercial photographer and website developer.

I feel the short term rental industry is a scape-goat for the conditions caused by the incredible pandemic ignited economic bull run, six trillion dollars injected into the economy, and zoom enabled telecommuters.

A cap will harm ferry ridership, local businesses and their employees. The cap would be taking away economic mobility from many by removing an entire critical industry the islands have to offer.

If any cap is instated it should be **subject to review three years from now** and should be as high a cap as possible on San Juan Island. Also; it would only make sense to set it as a percentage of homes rather than a number of homes.

Thank you

Wes Edholm  
[www.wesedholm.com](http://www.wesedholm.com)  
360 298 0055

## Sophia Cassam

---

**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

You don't often get email from karen@lindholm-realestate.com. [Learn why this is important](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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  
P.O. Box 884  
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.

Randall K. Gaylord  
San Juan County Prosecuting Attorney  
96 Second Street, 2nd Floor  
P.O. Box 760  
Friday Harbor, WA 98250  
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

3  
4 ROBERT GREENE, )  
5 Petitioner, )  
6 vs. )  
7 SAN JUAN COUNTY, )  
8 Respondent. )

9  
10 Verbatim Report of Court's Oral Ruling  
11

12  
13 BE IT REMEMBERED, that on Monday, April 10,  
14 2000, the above-named and numbered cause came on regularly  
15 for hearing before the HONORABLE ALAN R. HANCOCK, sitting  
16 as judge in the above-entitled court, at the San Juan  
17 County Courthouse, in the town of Friday Harbor, state of  
18 Washington.

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

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

23 WHEREUPON, the following proceedings were had,  
24 to-wit:  
25

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

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

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

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

I do recognize that this is a citizen board; that there needs to be some relaxed standard as far as what evidence can be considered by the Board and on review by this court, but, in my view, there needs to be something more than a general statement that I think does come very close to being the kind of inaccurate stereotype or popular prejudice that was rendered -- or held to be impermissible 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.)

C E R T I F I C A T E

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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!

## Sophia Cassam

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**From:** Jan Scilipoti <hostingontherock@gmail.com>  
**Sent:** Monday, May 2, 2022 11:24 AM  
**To:** Vacation Rental Comments; David Williams; Sophia Cassam  
**Subject:** Hosting on the Rock letter 5-1-22  
**Attachments:** HOTR letter to Council 5-1-22 .pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see the attached, "HOTR letter to Council 5-1-22.pdf"

**Hosting on the Rock**, Vacation Rental Owner/Host Group  
Jan Scilipoti, 214 Military Road  
Lopez Island, WA 98261

May 1, 2022

San Juan County Council Members

Cc: David Williams, Sophia Cassam

**RE: Vacation Rental (VR) Moratorium & Caps**

Dear County Council Members,

As the leadership team of Hosting On the Rock (HOTR), we feel compelled to respond to several comments made during the Council Meeting on April 5, 2022.

**Regarding Cindy Wolf's comment that VR permits do not need to be available to SJC residents, because they can get a B&B permit to rent rooms in their own home:**

1- Later in the meeting, it came out that B&B's are not allowed county-wide, but only in some areas. This will not serve all residents, but only those with homes in the identified areas.

2- The SJC regulations for B&Bs are different from the VR regulations. They are not the same, and should not be lightly compared. See below, from the SJC Code:

**Definitions**

[18.20.020 "B" Definitions](#)

"Bed and breakfast inn" means a hospitality commercial use containing three to five lodging units without cooking facilities, which provides overnight accommodation and breakfast meals in a proprietor- or owner-occupied existing single-family residence and additional legal structures or up to 10 lodging units in an existing historic structure.

"Bed and breakfast residence" means a hospitality commercial use containing one to two lodging units without cooking facilities, which provides overnight accommodation and breakfast meals in an owner-occupied existing single-family residence.

**Performance Standards:**

[18.40.250 Hospitality commercial establishments – Bed and breakfast inns.](#)

[18.40.260 Hospitality commercial establishments – Bed and breakfast residences.](#)

**Where are they allowed and which permit type is required?**

[18.30.030 Land use table – Activity center land use designations.](#)

[18.30.040 Land use table – Rural, resource, and special land use designations.](#)

3- Many VR owners inherited homes, although they currently live full time in other locations. They intend to move to SJC eventually, but want to maintain the home in the meantime. Renting it as a VR allows them to use the home themselves and have income for homeownership expenses. This use does not qualify as a B&B Residence. These owners should have access to a VR permit.

**4- *HOTR believes that in order to support the middle class in this high cost county, VR permits should be available to residents.***

**Regarding Cindy Wolf's calculations that on Orcas there are about 5000 dwelling units and 508 VR permits, so that is over 10% of the housing:**

1- In the same County Council meeting, David Williams reviewed the DCD's latest VR permit numbers. 508 was the number of Compliant permits on Orcas. *The number of actively renting permits on Orcas, however, was 211 (4% of the dwelling units).* The actual number of Active Compliant permits on Orcas is probably somewhere between 211 and 508.

2- Do we know, exactly, how many permits are actually Active, and do we know how many nights per year they rent? Do we know what changes have occurred since Pandemic? NO. We think this data is needed before tight caps - or any caps - are enacted.

**Regarding Cindy Wolf's mention of the petition that circulated in 2019 against VRs:**

1- The strict new VR regulations were enacted in 2018, and address specific neighborhood concerns. A petition begun in 2019 did not allow time for the new regulations to take effect before asking for public response.

2- Even now, 4 years later, many SJC residents are not aware of the specific regulations that address their previous concerns. They are reacting from hearsay, not from fact.

3- Enforcement MUST support the regulations before tight caps - or any caps - are enacted.

**Regarding Cindy Wolf's estimate that 5 full ferries each way to and from Orcas during the summer are full of VR tourists:**

1- It is our opinion that a Council Member should express personal opinions based on fact, not subjective guesses.

2- Not all tourists are VR guests. There are also hotel and resort tourists, boaters, campers, and friends and family of residents. All are tourists, and all use the ferry system. If VR tourists are being limited by Caps, these tourists should also be limited.

3- What about the many festivals and events that bring large numbers of tourists to the islands each year, such as Hops on the Rock, Doe Bay Festival, Imagine Festival, Chamber Music, and 4th of July, which bring in at least 3500 people a year? It is not equitable to arbitrarily restrict VR tourists over any other tourists.

Regarding the comments made about using a lottery to distribute available VR permits if a Cap is enacted:

1- A lottery system of distribution adds to the economic insecurity of homeowners, because they are not able to gauge when they might get a permit after applying.

2- A First-Come, First Served method of distribution would allow homeowners to have some idea of when they might secure a permit, and make decisions accordingly. This reduces the 'pain' of waiting for a randomly-distributed permit.

3- This is just one example of the consequences of setting Caps: a method must be devised to distribute them fairly and equitably.

**Regarding the fact that the presentation by the DCD offered only four options, all of which assume that Caps will be enacted:**

Given that the DCD is still unclear about the exact numbers of Active/Inactive Compliant VR permits, and the Pandemic has radically changed the housing situation on the islands, we do not think Council has the data it needs to enact strict Caps, or indeed any Caps at all.

We urge you to lift the Moratorium, enforce the regulations that already exist, and gather more information before further restricting VR permits.

***In summary, Hosting on the Rock asks that if Council must set Caps, vote for Option C, which allows for moderate increase of VR permits.***

We appreciate your consideration of these points, and request that you address them in your Council discussions.

Jan Scilipoti, Lopez

Vicki Leimback, Orcas

Linda Bannerman, Orcas

Karen Key Speck, Orcas

Johannes Krieger, San Juan

## Sophia Cassam

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**From:** Brad Brown <bradleywaynebrown@gmail.com>  
**Sent:** Friday, May 6, 2022 2:31 PM  
**To:** Vacation Rental Comments  
**Subject:** ---> opposition to VR caps

You don't often get email from bradleywaynebrown@gmail.com. [Learn why this is important](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greetings, Honorable Councilpersons,

Numerical caps on vacation rentals within a jurisdiction is an option for governmental entities. Hundreds of cities and counties throughout the United States have been or are in the process of regulating vacation rental numbers. A percentage of those regulations are tied up in court with no clear determination as to the legality or even the constitutionality of these laws.

No one can say with authority if vacation rental caps are legal.

San Juan County will be joining the august company of those who are venturing into this contested field.

Implementing unproven experimental regulations, *especially* without complete and thorough procedures attached and lacking a comprehensive facility/ability to enforce, means the county is flying blind into a potential legal and political quagmire.

Perhaps the more conservative, equitable and principled path is to enforce and fully fund current directions specified by the council in its 2018 decision. This would allow for the current regs to have time to work. It would also provide for the gathering of causational data that vacation rentals effect as adjacent to and antecedent to housing affordability in the islands. It is at this point – where accurate, authentic, actionable data is present – that the council can determine prudent further steps. A wait on implementation of VR caps for precise local evidence would also allow for time to distinguish the results of adjudication of court cases related to vacation rentals nationwide.

An decision of the degree and scope in our instance is burdened with potential obstacles: lawsuits, uneven execution, the manifesting of evidence contradicting original “gut feelings” which instigated the push for VR caps. These barriers could offend the purposes of the council.

Beyond that, what will happen if, more likely when, the proposals fail – either in implementation and need to be “tweaked,” or when a judicial ruling requires changing or ending such a county regulation.

If this proposed regulation has to be revisited within the next few years, what would be the concomitant discord then?

We have seen community fractionalization around the issue of vacation rentals. How much more so if you, deciders, must alter these regulations either because of court rulings or because of your own subsequent determination of the facts on the ground?

A responsible decision is to follow your own strictures of 2018 regarding vacation rentals and to wait for the winding of court cases through the U.S. judicial system for the final word on how best to proceed.

Sincerely, Brad Brown, Orcas