Pacific County
HEARINGS EXAMINER

March 22nd, 2024

William Barrett & Deborah Dolman
3112 NW Tall Fir Ln.
Poulsbo, WA 98370

RE: Special Use Permit, Application No. P2400040 - APPROVED
Tax Parcel ID No.: 11113323155

Dear Property Owner/Applicant:

The Pacific County Hearings Examiner acted on March 13th, 2024 hearing to approve the above referenced application. Enclosed you will find a copy of the decision that includes the Findings of Fact and Conclusions of Law. The complete case file is available for review Monday through Thursday, 7:30 a.m. - 12:00 p.m. / 1:00 p.m. – 3:00 p.m., at our Long Beach office. Please contact me to set up an appointment to ensure that we are able to assist you.

The Hearings Examiner decision is final and conclusive unless an appeal is filed in accordance with RCW 36.70C. If no appeal is filed within the 21-day appeal period, the project is allowed to proceed once all conditions are met and other permits have been obtained.

Included with this letter is an invoice for the cost of the hearing. If you have permits pending as a result of this hearing, they cannot be issued until the balance is paid. Any outstanding balance will be forwarded to collections if not paid within 30 days from the date listed above.

If you have any questions, please do not hesitate to contact me at 360-642-9382 or via email zjohnson@co.pacific.wa.us

Sincerely,

Zane Johnson
Sr. Planner
Enclosure

c: Parties of Record
Parcel File

March 18, 2024

Pacific County Hearing Examiner's Decision

Permit application: P2400040

Subject property: Parcel # 11113323155, 13101 North Alley, Long Beach

Applicants: William Barrett and Deborah Dolman, owners

Hearing: March 13, 2024, 7013 Sandridge Road, Long Beach, Washington, and over the internet via a Zoom meeting.

Witnesses:

Zane Johnson, Senior Planner, Pacific County Department of Community Development (Henceforth, "County" and "DCD")

Deborah Dolman, owner

Lynda Losson, neighbor

Leslie Brophy, neighbor

Julie Maggart, neighbor

Documentary Evidence

DCD packet, including report, application and related documents

Email from Rosa Weber and Paul Buckel, March 2, 2024

Email from Lynda Losson, March 1, 2024

Email from Conrad Brown, March 1, 2024

Email from Sheila and Jay Bryant, March 1, 2024

Letter from Julie Maggart, filed March 6, 2024

Letter from Deborah Dolman and William Barrett, filed March 7, 2024

Summary of Application, Evidence and Testimony

This is an application by William Barrett and Deborah Dolman for a special use permit to allow a short-term vacation rental use in a Rural Residential (R-R) zoning district.

Rosa Weber and Paul Buckel wrote in to oppose the application, saying that they had purchased their nearby home a year ago because there were no short-term vacation rentals in the neighborhood. They said that if this application were granted, their property value would decrease significantly, calling it an "externality effect." They wrote that the applicants were not voting residents of Pacific County and would not be "personally subject to the daily happenings here on N Alley." They wrote that short-term vacation tenants would bring vandalism, noise, and a security risk to the neighborhood and would destroy the fragile ecosystems nearby. And they wrote

that granting a permit would create a "commercialization of the residential area" which is what they don't want.

Lynda Lossen wrote to say that a short term rental 'could' cause "lowering property values, traffic, noise, theft, and trespassing."

Conrad Brown wrote to say that renting the property "to large parties every weekend will increase traffic/noise/pollution significantly which is the opposite of the intent of the Rural Residential District zoning." He wrote that Newport Oregon does not have short-term rental restrictions and is suffering from having empty homes owned by corporations.

Sheila and Jay Bryant wrote to oppose the application. They said that the applicants' drive is within 10 feet of their house and that renters "will be driving in and out constantly and consistently causing noise and safety concerns." They said that there will be little or no enforcement regarding the tenants' behavior. They said that they don't want to live next to a party house. They said that North Alley street is insufficient for its current use and that granting this permit will put pets and people in jeopardy. They too noted that the applicants are not registered to vote in Pacific County and concluded from this that they have no vested interest in the wellbeing of the "neighbors, street or community." And they said that this short-term vacation rental will reduce their own property value.

Julie Maggart wrote to oppose the application. She cited traffic concerns, wildlife getting into trash cans, potential fireworks use by tenants, and the danger and noise of tenants potentially using firepits.

The applicants responded with a letter filed March 7, 2024. They said that they have owned, maintained and enhanced the property for over 20 years and will continue to do so. They said that they do not intend to add any fencing to the property because it is unrealistic and unneeded. They don't allow fires outside the house. They wrote that the street is a County street and that short-term tenants would not adversely affect traffic. They wrote that their driveway is gated and locked and that they would be putting up a 'slow' sign. They noted that half of their neighbors are not full-time residents. They said that though they do not vote in Pacific County, they are subject to its taxes. They wrote that they will have property managers to enforce good behavior and their rules against parties, guns or fireworks. They wrote that their residence is 1000 feet from the street, 600 feet from the Bryants and Brown residences, and farther from others voicing opposition.

Zane Johnson testified, reading the request and conclusions to his report. He offered the report and its supplementary materials into evidence.

Ms. Lossen testified that, though she liked the applicants, she opposed the application because the short-term vacation tenants would not respect property

boundaries and would endanger the local wildlife. She said that the property values would go down in the neighborhood.

Leslie Brophy testified that she wanted the area to remain as pristine as possible for the protection of wildlife. She voiced concern that the rules would not be followed and espressed pessimism that anyone would respond to a complaint at midnight.

Ms. Maggart testified that the fire risk was great in the area and that illicit fireworks could create a dangerous situation.

Ms. Dolman testified that they would prohibit fireworks and open fires outside at their property. She said that the garbage cans are stored inside, away from wildlife. And she said that the property is about a hundred feet from the dune line – she knew the fire risk.

Findings of Fact

The subject property is a 2,225-square-foot, three-bedroom single-family residence built in 1994 at 13101 North Alley street in Long Beach. The record lacks evidence concerning the size of the parcel (perhaps because the assessor values such parcels not by total land area, but by the front-feet – the length of the parcel's boundary with the Pacific dunes). There is space on this property to park at least three vehicles. The lot borders the Pacific Ocean dunes to the west. The applicants own the parcel to the east of the subject property and a lane travels from the subject property past that additional parcel to North Alley street. There are similar single-family residences to the north and south.

There are no other short-term vacation rentals within 300 feet of the subject property.

With three bedrooms the property would be limited to eight adult overnight guests.

The property has an on-site private septic system that passed an Operation and Maintenance inspection on January 11, 2024. It has an approved private well. The applicants have engaged Pacific Rentals in Seaview to manage the place, haul out garbage, and to fulfill the requirements of a local point of contact.

Conclusions of Law

The subject property, being in a Rural Lands zoning district, requires a special use permit by Ordinance 184 §10(D)(4) for a short-term vacation rental.

Ordinance 184 §27(G) sets the criteria for granting or denying the special use permit:

1. [The] special use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;

The owner will not change the design of the existing property for the special use. The existing property and its neighbors are single-family residential dwellings. The special use of being a short-term vacation rental is compatible with the character and appearance of its neighborhood. There was no evidence of any proposed development.

2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the permitted development or use of properties in the immediate vicinity of the special use;

The applicant does not seek to change the existing structure for the special use requested. The existing structure does not hinder or discourage permitted development or use of properties in its neighborhood. There was no evidence of any proposed development in this neighborhood.

3. The special use is designed in a manner that is compatible with the physical characteristics of the subject property;

The subject property, like its neighbors, was designed to be a single-family residence. The short-term vacation rental use is extremely similar to a long-term residential use whether by an owner/occupier or by a lessee. The use is compatible with the subject property's design and that of its neighbors.

4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

The petitioners request no modifications to the standards.

5. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the adjacent area;

The subject property has off-street parking for three vehicles. The special use of a short-term vacation rental is similar to the property's use as a long-term residence. There are no sidewalks in this area. There was no evidence presented of anticipated traffic, only conjecture. Vehicular traffic associated with the short-term vacation rental will not be hazardous or conflict with existing traffic.

6. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities;

There was no evidence presented that this proposed special use would require any more public facility or service than its current use or that its neighbors have. The site has a private well and adequate service by local utilities. The special use will have no greater burden on public facilities and services than if it remained solely a private residence.

7. The special use is not in conflict with the health and safety of the community nor detrimental to the public interest.

The proposed special use conforms with all relevant public health and safety laws and regulations.

Several neighbors wrote and testified that this short-term vacation rental would bring tenants who would behave badly. This is entirely conjecture. There was no evidence that short-term vacation tenants behaved any better or worse than long-term tenants or owner/occupiers or their guests. These neighbors have more influence over the behavior of short-term tenants than over poorly behaved long-term tenants or resident owners. Neighbors can follow the complaint procedure that is reproduced in the DCD packet, page 7, #16, and potentially cause the County to revoke the permit and license.

The neighbors testified that their property values would go down, but presented no evidence to substantiate that claim. Though this is not in evidence, and thus not part of the decision, the assessor's office does not factor in proximity to short-term rentals as affecting a property's value.

Whether or not the applicants vote in Pacific County is legally immaterial to their property interests in this application. The decision to allow short-term vacation rentals, in general, in a rural residential zone is a legislative decision by the Board of County Commissioners.

The special use permit request is congruent with the County's Comprehensive Plan. Because there are no modifications to the improvements on the property there are no new Critical Area or Resource Land limitations.

The applicants should consider including in the emergency plan procedures in case of an earthquake or tsunami. While the risk of an earthquake and tsunami are quite low, the magnitude of the danger is extremely high.

The applicant should also consider including directions to the nearest hospital and warnings about the dangers of swimming in the surf.

Ordinance 184 §21(N) regulates Short Term Vacation Rentals. The applicants have demonstrated with clear and convincing evidence that they have met all the required criteria and so the application is granted subject to the conditions listed below.

The County complied with the public notice requirements of Ordinances 177 and 184.

All findings of fact that are also conclusions of law shall be treated as such. All conclusions of law that are findings of fact shall be treated as such.

Conclusion

The applicants have proven by clear and convincing evidence that they have complied with all of the required criteria and so the application for a short-term vacation rental is approved subject to the following conditions:

The special use is permitted subject to the applicant complying with the plans submitted for this application. The insurance on this property shall not lapse during the period of occupancy. The applicant shall secure the required annual license.

The use shall conform in all other respects with all applicable state and local health, safety, and building codes. Any and all future development on this subject property requires permit approval from Pacific County.

The permit shall be issued to William Barrett and Deborah Dolman. It is non-transferable and does not guarantee future approval to others.

Pacific County may revoke this permit if the permittee fails to comply with the conditions listed.

The permit shall not begin and is not authorized until at least 21 days from the date of filing of this decision.

Please note that any appeal of this decision shall comply with the requirements of RCW 36.70C. The deadline for filing any appeal is both swift and definite. If you have any questions concerning this strict deadline or the appeals process, please consult an attorney.

Signed this 18th day of March, 2024.

Eric Weston, Hearings Examiner