Pacific County
HEARINGS EXAMINER

April 29th, 2024

Crystal & Joel Blair
804 G St.
Centralia, WA 98531

RE: Special Use Permit, Application No. P2400116 - APPROVED
Tax Parcel ID No.: 75002015003

Dear Property Owner/Applicant:

The Pacific County Hearings Examiner acted on April 15th, 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

April 23, 2024

Pacific County Hearing Examiner's Decision

Permit application: P2400116

Subject property: Parcel # 75002015003, 29401 L Lane, Ocean Park

Applicants: Crystal and Joe Blair, owners

Hearing: April 15, 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")

Crystal Blair, owner
Joel Blair, owner
Lakaela Olszanski, property manager
Paula Burnett, neighbor
Kelly Mason, neighbor
Karen Chappell, neighbor
Tammy Kinsella, neighbor

Documentary Evidence

DCD packet, including report, application and related documents
Email from Kelly Mason, filed April 8, 2024
Email from Deborah Michael-Turk, filed April 11, 2024
Email from Karen Chappell, filed April 15, 2024

Summary of Application and Testimony

This is an application by Crystal and Joel Blair for a special use permit to allow a short-term vacation rental use in a Rural Residential (R-R) zoning district.

Kelly Mason wrote to oppose the application. He said that he and his neighbors had previously worked hard to block two other short term rental properties in the neighborhood by threatening to sue their owners. He said that short-term rental properties attract people who party with loud music, loud voices, and drugs late into the night.

Deborah Michael-Turk wrote to ask that she be added to the petition in opposition to this request.

Karen Chappell wrote to oppose the application, appending a petition containing 16 names including her own. She said that the signatures represent nearly all of the people living full time in the affected neighborhood. She said that there were two primary reasons for their opposition. The first is that this is a residential neighborhood. She said that a short-term vacation rental there would be "extremely detrimental" to the residents who suffer "significant medical disabilities." "For those of us who work, we need to be able to sleep at night and not be kept up until the wee hours of the morning by vacationers who are here to party."

She said that the second primary reason they opposed the application was that the road servicing the rental is "a single lane dirt road that is not maintained by the county." She said that the maintenance of the road has devolved onto three neighbors. She said that the road could not handle the excessive traffic that the short-term vacation rental would bring.

She wrote, "Not only would this cause excessive strain on us both financially and physically, it may also prevent emergency services and the USPS from being able to access our homes thus resulting in a denial of emergency service and critical medication that some of our residents require. The USPS has denied delivery to people on roads that they deem to be too damaged to drive down and the constant abuse of the road by weekly vacationers could certainly turn our road into the 'too damaged' status very quickly."

She concluded that "It would be an incredible injustice to place these burdens on all residents here just so two people, who never lived in our neighborhood for even so much as 5 minutes, can run a commercial business and profit themselves while causing physical, mental, & financial hardship on everyone else."

Zane Johnson testified stating the request and his conclusions. He offered the report into evidence.

Crystal Blair testified that she loved the neighborhood and had no desire to disrupt the neighborhood. She said that the house in question had two bedrooms with no real facility to host a party – there were no pool tables, foosball tables or basketball hoops. She was seeking nice quiet renters who would treat her new house well. She said that she retained a property manager who assured her that they would look after the place 24/7 with a presence to address any issues that arose. She said that they originally bought the lot 10 years ago as a place to park their camper. She said that she didn't intend to harm the street and had laid gravel on the street after they had completed construction.

Lakaela Olszanski identified herself as the local contact for the property manager, Bloomer Estates. She said that she lived in Ocean Park near Jack's. She said that

Bloomer Estates does not tolerate bad behavior. She said that they have a guest/ emergency telephone number so that they can respond immediately. She said that they have had no complaint calls in 20 years of business. She said that the worst issue that had been brought to her attention as property manager was that someone had left a fan on, and that she had to turn it off. She said that if anyone had any complaint at all that they should call her. She wanted to know.

Paula Burnett (a signatory to the petition) testified that there was previously a short-term vacation rental in the neighborhood, on K Lane. She said that there were problems with that rental. They left their trash out and bears got into it, spreading trash everywhere. She said that that place had noise, yelling, screaming, and gunfire. She said that by the time you call it takes hours to get a response and by that time the noise is over – it becomes their word against yours. She said that the subject property had no privacy fence, so what was to prevent people from walking onto others' property. She expressed doubt that any place would be quiet after 10:00 p.m., particularly on holidays such as the 4th of July.

Kelly Mason testified that his property was directly across the street of the subject property. He said that it was a quiet neighborhood with retirees. He said that the previous short-term vacation rental house had no respect for the neighbors. He said that they were noisy, frequently talking loudly. He said that there were cars coming and going all the time with people parking on the front lawn. He said that at another short-term vacation rental on J Lane people were selling drugs and making a lot of noise. He said that the sheriff responded to a call and moved them out. He said that short-term rentals were not for residential neighborhoods. Privacy is compromised. Regardless of the property manager, you shouldn't have to call to complain.

Karen Chappell asked a few questions concerning whether the short-term vacation rental permit would follow the land. Mr. Johnson said that it was personal to the applicants. She repeated her point that L Lane, the road serving the subject property, was inadequately maintained by the county. She said that there were three men who did the work of filling potholes, Dale Harris, Mr. Kinsella, and Mr. Archer, and that one of those had a heart condition that would prevent him from doing this in the future. She counted out all the times that someone would use the road: The vacationers would come and go; The manager would come and go; The cleaning crew would come and go; and the new vacationers would come and go. She said that this would cause traffic to grow exponentially, and that it would be impossible to maintain the road. She expressed doubt that the applicants had in fact laid gravel on the road after their construction. She said that she had mentioned it in her letter, but that people may not be getting their needed medications if the road deteriorated further and that they had full time medical issues. She said she just didn't want those problems in her neighborhood.

Tammy Kinsella testified that the man who maintained the road with the heart problem was her husband. She said that he wouldn't tell you about his medical

condition but he also has bad knees. She said that he worked on the road at least three times a year.

Kelly Mason testified again that he's had problems with people pilfering wood in the neighborhood. He said that the bears got into the other short-term rental's garbage at least nine times. He said that he had to clean it up and couldn't get it all. He said that the house and the neighborhood's best use is long-term rentals or living there full time. He asked Ms. Blair what their intentions were when they built the place – whether they intended to rent it as a short-term rental before they built it.

Ms. Blair testified that they built the place as a vacation home that they could retire into. She said that they live in Centralia. She said that when they started they believed that they could not have a short-term rental because there already was one nearby. Then later she learned that the other place no longer used their permit. She said that they didn't intend to rent the place out all the time, but when they weren't using it themselves. She said that when she began the process she had no idea that there were issues with that other property. She said that she talked with Bloomer Estates extensively to insure that there would be no issues for the neighborhood. She said that they would be managing the place full time.

Mr. Mason testified that the response to any issues would still be up to the property manager and not any resident owner.

Ms. Blair said that it was distressing to be on bad terms with her neighbors.

Ms. Chappell testified that she had spoken with the postmaster about people with medical issues and he said that they would not send a vehicle down an unsafe road. She said that the road condition was a serious concern. She again said that she doubted that the applicants had ever applied gravel because she didn't see it. She said that granting the application would create a four-fold increase in traffic.

Joel Blair testified that about a year ago, after they had completed the construction on the house, they paid to put down two dump loads of gravel from Peninsula Landscape Supply. He said that they used their smaller dump truck because it fit on the road. He said that they began at Joe Johns Road and spread it out rather than fill potholes. He said it cost $500.

Ms. Blair asked if anyone had looked at this as a grading issue rather than a gravel issue. She said that if the road does wear she would be concerned. She said that she didn't want to create issues among the neighbors.

Someone asked the property manager if they could limit the guests to seniors. Ms. Olszanski said that that would be a violation of anti-discrimination laws. She said that they had rules concerning garbage. They had locking garbage cans. They had a maintenance crew of four and that if one of them noted a full garbage can they

would have it dumped. She said that they don't allow parties. They don't allow fireworks. She said that during tourist season they had a four-day minimum rental.

Someone asked what the maximum rental period could be. Mr. Johnson answered that it would be 30 days for short-term vacation rental properties.

Paula Burnett testified that people would gather firewood from the woods without knowing that it was private property. She asked whether it was legal for a property manager to go to a rental property and evict the tenants immediately. She said that the other short-term vacation rental property that had caused so much problem was managed by Lacosta. (spelling?)

Ms. Olszanski said that property managers could make short-term tenants leave immediately. It was in the rental contract. She said that she knew of no instance where one of their tenants had shot guns or discharged fireworks.

Mr. Mason said that when he tried to complain about the other property, that manager would not return his calls or do anything. He said that the sheriff didn't want to come over. He said that tenants don't want to be told what to do. He said that full-time residents were different. Short-term residents don't care. He said when it was quiet you could hear the ocean and when it was noisy you heard the noise.

Ms. Burnett said that the other short-term vacation rental had locked trash cans outside and still the bears got into it. She said that this trash attracted bears. She said that in this area you needed to keep the garbage cans inside.

Mr. Mason asked if dirt bikes were restricted. He said that they ran all over the neighborhood.

Ms. Olszanski said that no one had asked about bringing dirt bikes. She says that she communicates to tenants that there can be no motorized vehicle on the dunes or beach.

Mr. Johnson said that when enforcing the noise ordinance, the county can't respond immediately. He said that the county can revoke a license and shut down a short-term vacation rental with sufficient founded complaints.

I asked Mr. Johnson whether he would know if anyone had ever complained to the county about the tenants in a short-term vacation rental. He said that though the complaint would go to a different department of DCD, he would know. I asked him if he had ever heard of such a complaint. He said that he had not in his five years of working for the county.

Ms. Chappell asked what it would take for a substantiated claim. Mr. Johnson said verification of the offense. Ms. Chappell asked how that would happen. Mr. Johnson

said with evidence substantiating the claim. He said that if there were a noise complaint, someone from DCD would go over to investigate. He said that it's difficult to get someone over when the noise is happening and he suggested that it's best for the complainant to get their own evidence, such as making a video.

Mr. Mason said that he wanted to point out that the applicants were making money off of their house at the neighbors' expense. He said that he didn't want to have to call anyone. He said that that's just the way things should be.

Ms. Burnett said that she didn't want to get her camera out. She said that she didn't want to be spying.

Mr. Mason said that he was 68 years old. He said that he had had a long stressful career. He said he wanted a quiet neighborhood.

Ms. Blair said that she understood not wanting to call the police. She said that there would be no reason that her tenants would be getting firewood. The house had a gas fireplace. There was no fire ring outside to burn firewood. She said that they would keep the garbage inside.

Mr. Blair said that the property had two outbuildings with sufficient area to store the trash cans.

Ms. Chappell said that there were no guarantees that the tenants would behave.

Findings of Fact

The subject property is a two-bedroom single-family residence built in 2022 on a .25-acre double lot parcel at 29401 L Lane in Ocean Park. There is space on this property to park at least four vehicles. The slightly sloping lot has some trees shielding it from its neighbors. The neighborhood has both single-family residences and unimproved lots, and some of those lots are used for camping in RVs.

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

With two bedrooms the property would be limited to six adult overnight guests.

The property has an on-site private septic system that passed an operation and maintenance inspection on February 12, 2024. The house has a private well. The applicants have contracted with Bloomer Estates to manage the property, with a local property manager Dabra Keil on call.

The property has a private drive linking it to L Lane. L Lane appears to be less than a quarter-mile long before it intersects Joe Johns Road to the south. It is uncontested

that the road is unpaved and generally unmaintained by the County. The residents served by this road have taken it upon themselves to maintain it.

Conclusions of Law

The subject property, being in a Rural Lands zoning district, requires a special use permit by Ordinance 194 §10(D)(4) for a short-term vacation rental.

Ordinance 194 §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 or undeveloped lots. 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. This permit would preclude others within a 300 feet radius from obtaining a special use permit to operate a short-term vacation rental but this density was purposive.

> 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 four 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. L Lane is short and out of the way. The county has not maintained it, so the neighbors have. While there was speculation about increased traffic associated with the property becoming a short-term vacation rental, there were no facts presented. Ms. Chappell counted the cars: Management in and out; property cleaners in and out; and whatever trips the tenants would take in and out. There was no evidence presented whether tenants took more trips than long-term residents and there is no reason to believe that one group travels more than another. Using Ms. Chappell's numbers, there would be four additional vehicle trips for the property manager and cleaner. There was no evidence presented as to current traffic – how many trips anyone makes down that road. There was no evidence, only speculation, presented that four additional trips would significantly harm the road. There was no evidence presented that traffic would be hazardous to anything other than the road bed itself. If the road is owned by the county, it should be maintained by the county. It is not up to the neighbors, whether living there now or potential landlords for short-term tenants, to maintain the road. This is not their burden but that of the Department of Public Works.

> 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, a certified septic system, 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.

There was significant public opposition to this request. However, most of the opposition was to placing short-term rentals in a residential neighborhood, rather than particular issues with this request. The Pacific County Commissioners, the county's legislative and executive body, have made the decision that short-term

rentals could be placed in a Rural Residential zone so long as they remained at least 300 feet apart and could otherwise prove by clear and convincing evidence that the application met the requirements of Ordinance 194 §27(G) as discussed above.

"Public interest" is not a vote of the neighborhood, but a vote of the county as reflected in the decisions of the County Commissioners. With the exception of the marginal gravel road, all of the neighbors' concerns are about short-term vacation rentals in general rather than this application in particular. Thus the County Commissioners have already ruled on those issues.

Ordinance 194 §21(N)(16) states,

> The vacation rental shall be operated in a way that will prevent disturbances to neighboring properties not typical of a residential neighborhood, including but not limited to, loud music, loud noises, excessive traffic, loud and uncontrolled parties, junk/debris/garbage accumulation in the yards, trespassing, barking dogs, or excess vehicles, boats or recreational vehicles parked in the streets in front of the unit;

The ordinance contemplates all the anticipatory complaints lodged against this particular application, with the exception of "this place could attract dangerous bears."

The neighbors who testified against the application had issues that all could happen, anticipatory. There was no evidence that it would happen. Mr. Johnson testified, in his five years of working for the county he was unaware of any complaint lodged with the county against a short-term vacation rental. Ms. Olszanski testified that in her time managing properties for Bloomer Estates she had had one complaint, about someone leaving a fan on, that she promptly resolved.

There are few things worse in life than a bad neighbor. The witnesses testified to their bad experiences with a previous short-term vacation rental by another owner managed by another management firm. Unlike long-term rentals (month-to-month and greater) or owner-occupied properties, short-term vacation rentals have greater restrictions over occupant behavior.

Ordinance 194 §21(N) states:

> 22. Complaints. All complaints shall proceed as follows:
> a. The complaining party shall first attempt to communicate with the local contact person designated on the permit and property management plan, describe the problem and leave a contact phone number for call back information;
> b. The contact person shall respond promptly to the complaint, regardless of time of day and make reasonable efforts to remedy any situation that is out of compliance with the Section, and;
> c. If the response is not satisfactory to the complaining party, then the complaining party may next provide a written complaint to the Pacific County Community Development Director, which complaint shall identify

and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the County. The Director of Community Development shall attempt to resolve the complaint. If so required, the owner of local contact person shall provide a written response to the complaint with the anticipated corrective action within ten (10) days. A copy of the complaint will be filed with the vacation rental license file.

23. Compliance and Revocation

a. Owners of vacation rentals shall obey all applicable Laws and Ordinances of the County and shall be subject to permit revocation procedures and appeals processes outlined in this Section and in Pacific County Ordinance 177, or any amendments thereto;

b. If there have been three (3) or more authenticated violations of this Ordinance related to the same vacation rental within one (1) calendar year, or if there have been three (3) or more authenticated violations of other County Ordinances related to the same vacation rental within one (1) calendar year, the Administrator shall revoke the vacation rental license and underlying vacation rental permit, and the property owner shall be prohibited from obtaining a new vacation rental permit & license for at least one (1) year from the revocation;

c. The property owner may appeal the revocation of the vacation rental license & permit pursuant to the appeals procedures outlined in Pacific County Ordinance No. 177, or any amendments thereto; and

d. Nothing in this subsection precludes Pacific County from proceeding with formal enforcement action against a property owner and/or occupant for violations of this Ordinance as authorized under Pacific County Ordinance No, 165, or any amendments thereto, or for violations to Board of Health Ordinance No. 2 (Solid Waste/Littering), or any amendments thereto, or Board of Health Ordinance No. 4 (Nuisance), or any amendments thereto.

If short-term vacation rentals don't comply, they can lose their license. You have no similar mechanism against bad long-term rental neighbors.

The application for the permit lists Dabra Keil and Robbie Wright as local contacts for the property management. It lists a telephone number of (360) 243-9510 and (360) 255-5937, and an after hours number of (360) 244-0393. The Pacific County Sheriff's Office non-emergency number is (360) 875-9395.

Mr. Mason testified that he had complained to the property manager of the previous bad short-term rental and did not have his calls returned. He testified that the sheriff's office did not want to be called. He did not testify that he in fact called the sheriff. He did not testify that he contacted the County to complain about the nuisance. He said that he shouldn't have to complain. Ms. Burnett testified that she felt uncomfortable taking videos of the nuisance.

The Washington State Legislature limits the County's taxing authority and thus limits the amount of income that the County has for its expenses. The County has to decide where to allocate those resources. It enforces its nuisance and short-term

vacation rental ordinances based on citizen complaints. The County does not have the resources to hire a code enforcement officer to look for violations unless it took money out of a different use. (Unlike health code regulations for restaurants, where food poisoning could kill someone.) If people believe that money would be better spent on nuisance enforcement, they should petition their county legislature, the County Commissioners.

The special use permit request is congruent with the County's Comprehensive Plan and there are no Critical Area or Resource Land limitations.

The applicants should consider including in the emergency plan safety procedures for an earthquake or tsunami. While the risk of an earthquake and tsunami are extremely 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.

The County complied with the public notice requirements of Ordinances 177 and 194.

Ordinance 194 §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.

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 Pacific County Ordinance 194 and 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 Crystal and Joel Blair. 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 25th day of April, 2024

Eric Weston, Hearings Examiner