

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Richard Durhack
784 Raven Ridge Road
Friday Harbor, WA 98250 S.J.C. COMMUNITY

Agent: Teri Williams
PO Box 1001
Eastsound, WA 98245 DEC 14 2009
DEVELOPMENT & PLANNING

File No: HE40 -09 (09CU013)

Request: Conditional Use Permit (CUP)

Parcel No: 363323001, 363213001, 2, 3, 4, 5; 363212003, 4;
363214002

Location: East of 1953 Egg Lake Road
San Juan Island

Summary of Proposal: An application for a conditional use request to operate a commercial recreational use for zip lines located on San Juan Island.

Land Use Designation: General Rural Use 5

Public Hearing: After reviewing the report of the Community Development and Planning Department a public hearing was held on December 2, 2009.

Applicable Policies and Regulations: SJCC 18.40.110 Commercial Facilities
SJCC 18.40.330 Recreational Development
SJCC 18.80.100(D) CUP Criteria

Decision: The application is approved subject to conditions.

Findings of Fact

1. The site of this request involves a number of parcels, some of which are in the designated Capital Forest Land program. Some of the parcels lie within the shoreline jurisdiction of the adjacent lake. The property is located adjacent to Lakedale Resort.
2. The property is located in an isolated area designated as Rural General Use. There is an existing internal access road and existing cleared areas.
3. A new parking area, placement of port-a-potties and construction of platforms to access the cables and walking paths, will be built.
4. The proposed lines would be placed within trees and for the most part there would be very little visibility from off site. The proposal will likely have no significant impacts because the site is large and activity is contained on the site. The proposed use is easily accessible from a county road for emergency purposes.
5. There will be no development within the shoreline except perhaps a landing area at the end of a zip line. There is no airport nor airfield adjacent to the property.
6. Impacts to the property from the proposed use will be minimal particularly if the use is limited to time periods between April and October during daylight hours only. No more than 20 people are expected on site at any one time and a maximum of 60 during any single day. It is anticipated that a van will be used to transport participants from the parking lot to the locales. If individual cars are used restrictions will be imposed so that noise and visibility issues are not increased over use of a van.
7. A Determination of Non-significance was issued October 14, 2009. No comments were received.
8. Notice of public hearing was published on October 14, 2009 and mailed and posted on October 24, 2009. A public hearing was held on December 2, 2009.
9. The staff report is incorporated herein by reference as though fully set forth. The analysis and factual statements contained in the staff report are adopted as a finding herein.
10. Any conclusion herein which may be deemed a finding is hereby adopted as such.

Conclusions of Law

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding.
2. The proposal is has complied with the requirements of the State Environmental Policy Act.
3. Proper notice was given in compliance with local and state requirements.
4. With the imposition of conditions the proposal is consistent with the CUP criteria and other applicable SJCC requirements.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

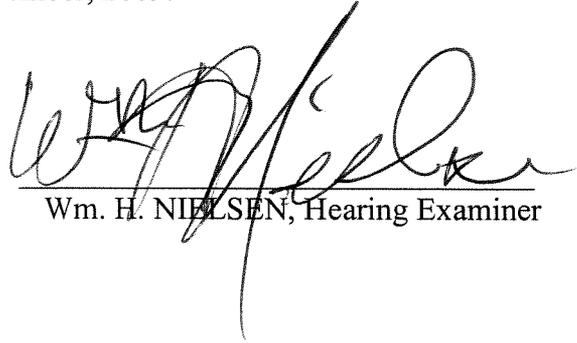
Conditions

1. The proposal shall be installed and used in accordance with the site plan submitted at the hearing as Ex. #1.
2. The proposal for use shall not be located in a wetland and may not be located in a wetland buffer unless the applicant can demonstrate that no impact will occur to the wetland buffer.
3. The use will only be allowed between and including the months of April through October. The use will only occur during daylight hours for a maximum of eight hours per day. No more than approximately 20 customers shall be on site at any particular time and a maximum of 60 customers per day is allowed.
4. All applicable codes and requirements shall be met prior to operation. The proposal is subject to the issuance of building permits.
5. Failure to comply with the conditions of this permit may result in revocation.

Decision

The CUP is approved subject to the conditions set forth above.

DONE this 14th day of December, 2009.



Wm. H. NIELSEN, Hearing Examiner

Appeal

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