

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicants:** Rob and Suzanne Fleming  
PO Box 330  
Medina, WA 98039

**Agent:** Jeff Otis  
393 Bobbyann Lane  
Eastsound, WA 98245

**File No:** HE53-08 (08SJ011)

**Request:** Shoreline Conditional Use Permit

**Location:** 3387 Pear Point Road  
San Juan Island SJC COMMUNITY

**Parcel No:** 251913004 DEC 12 2008

**Summary of Proposal:** This is a request to extend an existing <sup>DEVELOPMENT & PLANNING</sup> marine railway by approximately 30 feet and to allow repairs and maintenance.

**Shoreline Designation:** Rural Residential

**Public Hearing:** After reviewing the report of the Community Development and Planning Department a public hearing was held on December 3, 2008.

**Applicable Policies and Regulations:** RCW 90.58 Shoreline Management Act (SMA)  
SJCC 18.50 Shoreline Master Program (SMP)  
SJCC 18.80.110(J) Shoreline Conditional Use Permits

**Decision:** The application is approved subject to conditions.

## Findings of Fact

1. Mr. and Mrs. Fleming own property located on the Griffin Bay side of Pear Point. There is an existing marine railway approximately 97 feet long that terminates at zero tideline. The boat carriage is 34 inches above the rail limiting the facility to tides higher than plus 2.5 feet.
2. The shore is rocky and exposed. The existing railway is accessible by foot from a path near the house. The previous owner was granted a shoreline conditional use permit in 1993. Because the railway ends at zero tidal contour its use is severely limited.
3. The existing rails and some beams and pilings will be replaced with new components if the railway is extended.
4. The site is not a class I beach because it does not have a dry useful beach at all tides.
5. The railway is located on grade, does not involve any fill and does not alter public access to the tidelands.
6. There is no boathouse associated with the railway. Lengthening the rails will prevent a request to construct a dock.
7. The proposed additional 30 feet makes the railway more functional on an everyday basis. It does not change the use of the railway. No cumulative impact is anticipated because the existing use will continue.
8. Notice of public hearing on October 8, 2008 and mailed that same date. Site posting occurred on October 6, 2008. A public hearing was held December 3, 2008. No members of the public attended.
9. A Determination of Non-Significance was issued for this proposal on October 8, 2008.
10. 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.
11. 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. Proper notice was given in compliance with local and state requirements.
3. The proposal has complied with the requirements of the State Environmental Policy Act.
4. Properly conditioned, the project meets the requirements of the SMA and the SMP, specifically SJCC 18.50.190.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

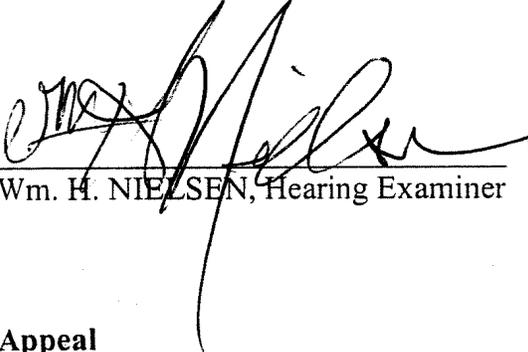
### **Conditions**

1. This permit allows the expansion of the existing marine railway and necessary repairs to the older components, as shown on the site plan.
2. All debris entering the water or shoreline area shall be removed immediately and disposed of in a legal manner.
3. The wood portions of the railway shall be kept a natural appearing wood color.
4. Any lighting shall be designed to shine downward, be of low wattage and shall not exceed a height of three feet above the railway.
5. If during construction an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find shall be halted and the Planning Department notified.
6. All requirements of federal, state and local agencies shall be met.
7. Development authorized by this permit shall commence within two years of the date of approval and shall be substantially complete within five years or the permit shall become null and void.
8. Failure to comply with any terms or conditions of this permit may result in its revocation.

**Decision**

The shoreline conditional use permit is approved subject to the conditions set forth above.

DONE this 12<sup>th</sup> day of December, 2008.



Wm. H. NIELSEN, Hearing Examiner

**Shoreline Appeal**

Any appeal of the shoreline conditional use permit shall be made to the Washington State Shoreline Hearings Board pursuant to RCW 90.58.180 and the rules adopted by said hearings board.

**Department of Ecology Review**

If approval of a Shoreline Variance or Shoreline Conditional Use becomes final at the County level, the Department of Ecology must approve or disapprove it, pursuant to RCW 90.58.140.