



Kitsap County Hearing Examiner

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36
http://www.kitsapgov.com/dcd/lu_env/he/
337-4925

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NOTICE OF HEARING EXAMINER DECISION

March 31, 2009

To: Interested Parties and Parties of Record

RE: Project Name: **Ramirez Landscape Business**
Applicant: **Efrain Ramirez**
5206 See Forever Lane
Poulsbo, WA 98370
North Kitsap County, Commissioner District #1
Application: **Conditional Use Permit**
Case Number: **090226-007 (082602-2-045-2009) LIS#08 58587**

Enclosed is the Decision issued by the Kitsap County Hearing Examiner in the above-referenced matter.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS APPEALED TO THE KITSAP COUNTY BOARD OF COMMISSIONERS, AS PROVIDED BY SECTION 120 OF THE KITSAP COUNTY LAND USE AND DEVELOPMENT PROCEDURES. **ANY APPEAL MUST BE FILED ON OR BEFORE THE CLOSE OF BUSINESS ON APRIL 14, 2008.**

Pursuant to the Kitsap County Land Use and Development Procedures, (KCC 21.04.120) an appeal may be filed objecting to the Hearing Examiner's Decision. An appeal must be made in writing, and filed with both the Department of Community Development (DCD) and the Board of County Commissioners (BCC) offices. At the time of filing the appeal, the appellant shall pay the sum of **five hundred dollars (\$500.00)**. This fee is non-refundable and subject to change. Make check payable to Kitsap County Department of Community Development (DCD).

The written appeal shall be made on or attached to an appeal form provided by DCD, and shall contain the following information.

1. The project name, project applicant, application type, and case number designated by the County;
2. The name, address, and signature of each appellant. If multiple parties file a single appeal, the appeal document shall designate, in writing, one party as the contract representative for all contact with the DCD Director and BCC. All contact between the County and the appellants regarding the appeal, including notices, shall be through this contact representative; and

**NOTICE OF HEARING EXAMINER DECISION – RAMIREZ LANDSCAPE BUSINESS
– CONDITIONAL USE PERMIT**

March 31, 2009

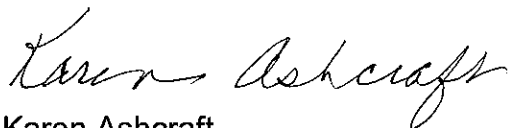
Page 2

3. A written statement of the specific aspects(s) of the Decision and/or SEPA determination being appealed, the reasons why each is in error as a matter of fact or law, and the evidence relied upon to prove the error.

The complete case file will be available for review at the Department of Community Development, Monday through Friday, except holidays, 8:15 a.m. to 4:00 p.m.

If you have questions, please contact me at (360) 337-4487. If you have procedural questions regarding the appeal hearing before the Board of County Commissioners, please contact the Clerk of the Board at (360) 337-7146.

Sincerely,



Karen Ashcraft
Clerk of the Examiner

C: Efrain Ramirez, 5206 See Forever LN, Poulsbo, WA 98370
Jeff Brown, PE, Whiteley Engineering Inc., 1015 NE Hostmark ST, Suite 102,
Poulsbo, WA 98370, jbrown@whiteley.us

Interested Parties:

Robert & Nancy Ballew seeforeverfarm@aol.com
Edward C Teather, 5278 NE See Forever LN, Poulsbo, WA 98370
JR Collier JR, jrc2p@aol.com
Nicholas L Wallace, schultab@bentonrea.com
On A Clear Homeowners Association, jrc2p@aol.com
Mike O'Connor, mike.team4@earthlink.net
Gerald Kearney, gerry@kitsapattorney.com
Donald R Edwards, schoolhousesalon@gmail.com

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MAR 26 2009

KITSAP COUNTY DEPT. OF
COMMUNITY DEVELOPMENT

BEFORE THE KITSAP COUNTY
HEARING EXAMINER

In the Matter of the Application of)	No. 090226-007
)	
)	Ramirez Landscape
Efrain Ramirez)	Business
)	
)	FINDINGS,
)	CONCLUSIONS,
<u>For Approval of a Conditional Use Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to operate an existing landscape business on property located at 5206 NE See Forever Lane, in Kitsap County, Washington, is **APPROVED**, with conditions.

SUMMARY OF RECORD

Request:

Efrain Ramirez requests a conditional use permit to operate an existing landscaping business on property located at 5206 NE See Forever Lane, in Kitsap County, Washington.

Hearing Date:

The Hearing Examiner held an open record hearing on the request on February 26, 2009. The Hearing Examiner continued the open record hearing until March 12, 2009.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- Meg Sands, County Planner
- Shawn Alire, County Development Engineering
- David Greetham, County Planner
- Don Ursery, County Building Official
- Donald E. Edwards
- Efrain Ramirez
- Nancy Ballew
- J.R. Collier, Jr.

Gerald Kearney, Attorney at Law, represented Robert and Nancy Ballew at the open record hearing.

Exhibits:

The following exhibits were admitted into the record:

Findings, Conclusions, and Decision
Kitsap County Hearing Examiner
Ramirez CUP, No. 090226-007

1. Access Research Information, dated September 21, 1979
2. Surveyor's Map, dated August 12, 1999
3. Notice of Code Violation, dated November 9, 2006
4. Pre-Application Meeting Request, received November 27, 2006
5. Site Plan, received November 27, 2006
6. Pre-Application Conference Confirmation Letter, dated January 26, 2007
7. KC Assessor's Property Report, dated January 26, 2007
8. KC Assessor's Parcel Map, undated
9. GIS Aerial Photograph, dated January 26, 2007
10. GIS Comprehensive Plan Map, dated January 26, 2007
11. GIS Critical Areas Topographic Map, dated January 26, 2007
12. GIS Building Limitations Map, dated January 26, 2007
13. Email message from Robbyn Meyers, sent February 1, 2007
14. Pre-Application Summary Letter, dated July 9, 2007
15. Facsimile from EC Teather, dated December 20, 2007
16. Email message from J.R. Collier, Jr., sent January 4, 2008
17. Email message from Meg Sands, sent January 4, 2008
18. Inactive Letter, dated February 20, 2008
19. Non-traffic Infraction Citation, dated March 13, 2008
20. Letter from EC Teather, dated March 26, 2008
21. Inactive Letter, dated August 14, 2008
22. Email message from Chris Freel, set August 18, 2008
23. Site Plan – See Revised, dated July 17, 2008
 - a. Preliminary Site Drainage Report, dated July 22, 2008
24. KCHD Commercial Building Clearance Application, dated August 22, 2008
25. Floor Plan with Elevations, received August 29, 2008
26. Project Narrative, received August 29, 2008
27. Landscaping Plan, dated August 20, 2008
28. KC Environmental (SEPA) Checklist, dated August 26, 2008
29. Conditional Use Permit Application, received August 29, 2008
30. KCPW Application for Concurrency Test, received August 29, 2008
31. KCPW Application Counter Complete Submittal Checklist, dated August 29, 2008
32. Notice of Complete Application, dated September 25, 2008
33. Notice of Application, dated September 25, 2008
34. Affidavit of Mailing – Notice of Application, dated September 26, 2008
35. Letter from EC Teather, with attached photographs (7), dated October 14, 2008
36. Email message from Nancy Ballew, with attachment, sent October 15, 2008
37. Email message from Meg Sands, sent October 21, 2008
38. Email message from Mike O'Connor, with attachments, sent October 21, 2008
39. Email message from Candy Mursell, sent October 22, 2008
40. Letter from Nicholas Wallace, dated October 29, 2008
41. Email message, with attachment, from Robert and Nancy Ballew, sent November 10, 2008
42. Photographs (33) with Sites Marked on Site Plan, dated November 5, 2008

- a. Correction Note from Chris Freel, dated November 12, 2008
43. Technical Review Meeting Attendance Sheet, dated November 12, 2008
44. Revised Project Narrative, dated November 13, 2008
45. Email message from Candy Mursell, sent November 20, 2008
46. Facsimile from Adam & Goldsworthy Inc, with attachment, dated November 20, 2008
47. Letter from James R. Collier, Jr., with attachment, dated November 30, 2008
48. Email message from Tina Turner, KCDFM, sent December 10, 2008
49. Email message from Sherry Andrus, with attachment, dated December 12, 2008
50. Revised Site Plan, received December 31, 2008
51. Memorandum from Shawn Alire, DE, dated January 21, 2009
52. Email message from Meg Sands, sent January 30, 2009
53. Determination of Nonsignificance, dated February 3, 2009
54. Notice of Public Hearing, dated February 11, 2009
55. Affidavit of Mailing – Notice of Public Hearing, dated February 9, 2009
56. Affidavit of Posting – Photographs (4), dated February 10, 2009
57. Staff Report, dated February 18, 2009
58. Facsimile from Gerald A. Kearney, Attorney at Law, dated February 25, 2009
59. PowerPoint Presentation Slides, dated February 26, 2009
60. Email message from Robert and Nancy Ballew, sent February 27, 2009
61. Email message from Meg Sands, with attachment, sent February 27, 2009
62. Email message from Jeff Brown, Whitely Engineering, sent March 2, 2009
63. Letter from Gerald A. Kearney, Attorney at Law, dated March 2, 2009
64. Email message from Gerald A. Kearney, Attorney at Law, sent March 3, 2009
65. Email message from Meg Sands, sent March 4, 2009
66. Memorandum from David Greetham, dated March 9, 2009
67. Bremerton-Kitsap County Board of Health Ordinance 1999-6, Rules and Regulations for Private and Public Water Supplies, effective May 1, 1999
68. Email message from Meg Sands, sent March 11, 2009
69. Letter from James R. Collier, Jr., dated July 18, 2007
70. Memorandum from Nancy and Robert Ballew, undated

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Efrain Ramirez (Applicant) requests a conditional use permit (CUP) to operate an existing landscaping business on property located at 5206 NE See Forever Lane, in Kitsap County, Washington.¹ *Exhibit 29; Exhibit 57, Staff Report, page 1.*
2. Kitsap County (County) determined the CUP application was complete on September 25, 2008. *Exhibit 32.* The County mailed notice of the application to appropriate local and state agencies, parties of record, and owners of property within 400 feet of the subject property on September 26, 2008. *Exhibit 33; Exhibit 34.* The County mailed notice of the hearing to the Applicant, interested parties, County departments, and owners of property within 400 feet of the subject property on February 9, 2009. *Exhibit 54; Exhibit 55.* The County posted notice of the hearing on the subject property on February 10, 2009. *Exhibit 56.*

Environmental Review (SEPA)

3. The County acted as lead agency and analyzed the environmental impact of the use, as required by the State Environmental Policy Act (SEPA), Ch. 43.21C RCW. The County determined that the use would not have a probable significant adverse impact on the environment, and issued a Determination of Nonsignificance (DNS) on February 3, 2009. *Exhibit 70.* The DNS was not appealed. *Exhibit 53; Exhibit 57, Staff Report, page 2.*

Comprehensive Plan and Zoning

4. Kitsap County Comprehensive Plan (Comprehensive Plan) policies are applicable to operation of a landscaping business on the subject property. Rural and Resource Lands policies allow and encourage home-based cottage-type businesses in rural areas, provided such activities are compatible with the site and surrounding area, and on-site septic systems are used. *Kitsap County Comprehensive Plan, Rural and Resource Lands, Policies RL-7 and RL-14 (December 2006).* Economic Development policies balance business, industry, environmental protection, and recreation; encourage business diversification for living-wage jobs reasonably scaled to community needs; and protect surrounding residential uses from significant

¹ The property subject to the application is identified by Tax Assessor's Parcel Number 082602-2-045-2009. A legal description of the subject property is included with the application. *Exhibit 29.* The Hearing Examiner conducted a site visit to the subject property prior to the close of the open record hearing. At 10:42 A.M. on March 12, 2009, the Hearing Examiner observed the following on the subject property: a truck; a flat bed; a dump truck; a Caterpillar construction vehicle; a trailer; a small Caterpillar construction vehicle; four personal vehicles; two other small construction vehicles; rocks; lawn tools; piles of debris; piles of building material; two or three rolls of chain link fence; and a chain link gate over a dirt driveway connecting to NE See Forever Lane. At the time of the site visit, approximately half the total site appeared to be vegetated, and half cleared.

impacts from increased commercial and industrial development. *Kitsap County Comprehensive Plan, Economic Development, Policies ED-1, ED-5, ED-16, ED-24 (December 2006)*. Transportation policies maintain roadway and intersection sight distance standards; implement access standards for all roadway types; maintain rural design standards to enhance strong rural characteristics and provide adequate safety; and retain native vegetation. *Kitsap County Comprehensive Plan, Transportation, Policies T-25, T-104 (December 2006)*.

5. The subject property is designated Rural Residential (RR) under the Comprehensive Plan. *Kitsap County Comprehensive Plan, Land Use Map – South, Figure 2-2 (December 2006)*. The designation is intended to allow low-density development consistent with rural character and primarily focuses on single-family residential dwellings. The Comprehensive Plan designation is implemented by the County’s Rural Residential zoning district. *Kitsap County Comprehensive Plan, Rural and Resource Lands, page 3-4 (December 2006)*.
6. The subject property is located within the County’s Rural Residential (RR) zoning district. *Exhibit 57, Staff Report, page 2*. The County’s Rural Residential zoning district promotes low-density residential development. *Kitsap County Code (KCC) 17.310.010*. A contractor’s storage yard² is allowed within the RR zone with a CUP. *KCC 17.381.040(E)*. Development within the RR zoning district must adhere to required 50 foot wide front yard setbacks and 20 foot wide side and rear yard setbacks. *KCC 17.382.100*.
7. KCC 17.381.050.A.21 provides:

Outdoor contractor’s storage yards accessory to a primary residence shall be limited to not more than ten heavy equipment vehicles or heavy construction equipment. The use shall be contained outside of required setbacks within a contained yard or storage building. The storage yard and/or building shall be screened from adjacent properties with a screening buffer a minimum of twenty-five feet in width and capable of providing functional screening of the use. Minimum lot size shall be one hundred thousand square feet.

*KCC 17.381.050.A.21.*³

² KCC 17.110.195 defines “contractor’s storage yard” as “a place where heavy equipment, vehicles, construction equipment or any material commonly used in the erection of any structure, is stored or accumulated. Sites that involve current construction of projects with active permits involving the materials on site shall not be considered a contractor’s storage yard.” *KCC 17.110.195*.

³ Meg Sands, County Planner, testified that the CUP application was deemed complete and vested prior to the December 23, 2008 effective date of KCC 17.381.050.A.12; thus, KCC 17.381.050.A.12 does not apply to the CUP request. *Testimony of Ms. Sands*.

Subject Property Existing Conditions

8. The subject property is 4.39 acres in size. A single-family residence is currently located in the east central portion of the subject property, which contains rolling topography sloping from east to west. A paved driveway connects the residence to NE See Forever Lane. The property also contains a cleared area in the south central portion of the property where vehicles are parked. A dirt driveway exists on the property that connects the semi-cleared area to NE See Forever Lane. A shed is also present within the south central portion of the property. *Exhibit 42; Exhibit 59.*
9. The existing residence and cleared area is surrounded on all sides by some vegetation, except for openings for the paved and gravel driveways. The vegetated perimeter thins on either side of the dirt driveway. The vegetated perimeter consists of thin herbaceous shrubs and vines in several places along the south property line. Some areas of vegetation along the north boundary of the subject property and the southeast corner of the property appear almost completely denuded. In other areas, the vegetated perimeter consists of coniferous and deciduous trees with a vegetated understory. There are clear sight lines to NE See Forever Lane through existing vegetation along the south boundary, and clear sight lines to the adjacent property to the north along the north boundary of the subject property. Trucks, construction equipment, piles of debris, and the existing shed are visible from the dirt driveway and from the area east of the driveway along NE See Forever Lane. The existing residence on the subject property is visible from property adjacent to the east. *Exhibit 35; Exhibit 42; Exhibit 52, Staff Report, page 2; Exhibit 50; Exhibit 59.*
10. The Applicant testified that he has cleared vegetation on the subject property up to the fence lines on the property perimeter, replacing approximately 25 percent of vegetation cleared with cedar and cypress trees. The Applicant testified that vegetation cleared consisted of alder trees and berry brambles. The Applicant also testified that fencing around his property consists of barbed wire and posts, with posts spaced every 12 feet. The Applicant added that fencing is used to secure the property against bears, which he has observed in the vicinity of the property. *Testimony of Mr. Ramirez.*

Surrounding Property

11. Property surrounding the subject property is located within the County's Rural Residential zoning district in all directions. Surrounding property is developed with single-family residences, except for undeveloped parcels to the north and south. *Exhibit 57, Staff Report, page 2.*

Access and Traffic

12. The subject property is bounded on the north by a gravel drive extending east from Port Gamble Road NE, a paved County road classified as a rural local access road. The property is bounded on the south by NE See Forever Lane, a paved roadway that

exists within a 50-foot wide private easement⁴ extending east from Port Gamble Road NE. The only access to the subject property from Port Gamble Road NE is through the existing easement. The property adjacent to the west and south of the subject property is owned by Robert and Nancy Ballew, who also own the property encumbered by the easement. . The property adjacent to the west consists of a residential lot. The lot is located along NE See Forever Lane between the subject property and Port Gamble Road NE. *Exhibit 39; Exhibit 42; Exhibit 42.A; Exhibit 45; Exhibit 46; Exhibit 50; Exhibit 57, Staff Report, page 7; Exhibit 58; Exhibit 63.*

13. The document recorded with the County granting the private easement providing access to the subject property states the easement is “an easement for access and utilities over, under, [and] across” the property burdened by the easement. The private easement was recorded on April 17, 1992. Ms. Sands testified that there have been no commercial ventures in the subdivision prior to the Applicant’s CUP request. Mr. Collier testified that Hap Rowley, a grantor of the easement, had said the use of the easement was to be limited to residential use. *Exhibit 1; Testimony of Ms. Sands; Testimony of Mr. Collier.*
14. Shawn Alire, County Development Engineering, testified that the County cannot regulate the private easement, and that the County has no private road standards that would mitigate any impacts caused by the proposed use. Property owned by Robert and Nancy Ballew is burdened by the easement. The easement is governed by a road maintenance agreement. J.R. Collier, Jr., president of the On a Clear Day Homeowners Association, wrote in a letter to the County that the road within the easement is paved to withstand residential use. Photographs submitted by Mr. Collier show multi-directional cracks in the pavement that comprises NE See Forever Lane east of the Applicant’s dirt driveway. Mr. Collier testified that he believes the Applicant caused the damage to the road, and that he mailed the Applicant a letter (Ex. 69) on July 18, 2007 advising the Applicant he would need to repair the damage to the road. The Applicant testified that he has not received a personal request from neighbors to repair the road. The Applicant testified that he has no plans to repair or improve the existing road unless it can be shown the damage was due to his residential or landscaping business use. *Exhibit 1; Exhibit 16; Exhibit 20; Exhibit 35; Exhibit 36; Testimony of Mr. Alire; Statement of Mr. Kearney; Testimony of Mr. Ramirez.*
15. The Road Maintenance Agreement governing use of the easement was recorded August 4, 1992. The Agreement provides that the owner of each lot shall contribute equally, according to each lot owned, to the maintenance and repair of the roadway. The Agreement provides that the lot owners would use the roadway for “normal ingress and egress and utilities purposes relating to the property they own adjacent. Any party making use of said roadway in such a manner or such equipment that does

⁴ The easement is recorded with Kitsap County under recording number A.F. 9302020323. *Exhibit 1.*

significant damage, shall be responsible to repair such damage at their expense.” The Agreement also states “the parties hereto agree to use said roadway for normal ingress and egress purposes relating to the property they own.” The Agreement states that the Agreement “shall be binding on the heirs, successors and assigns of the parties hereto, including all future owners of portions of the previously described tracts.” The parties to the Agreement “recognize and agree that this agreement... shall be appurtenant and shall run with the tracts of land involved.” The Agreement provides that any dispute arising under the agreement “shall be submitted to arbitration by an attorney referred by the Kitsap County Bar Association or any such individual upon whom the disputants can agree.” The Agreement and document granting the private easement for access to the subject property were both executed by the same parties. *Exhibit 1.*

16. The County staff report states that the proposed use would generate approximately 20 average daily vehicle trips to and from the subject property, based on a total of five employees associated with the business. The Applicant testified that he has observed propane delivery trucks and concrete delivery trucks along NE See Forever Lane that are not associated with his residence or his landscaping business. *Exhibit 44; Exhibit 57, Staff Report, page 7; Testimony of Mr. Ramirez.*

Proposed Use

17. The Applicant wishes to continue operation of a landscaping business from the subject property.⁵ The Applicant would construct a new 3,600 square foot, single-story post-and-frame building for storage of equipment associated with the landscaping business. The building would contain metal siding and roofing and a concrete floor, and would be wired for electrical power.⁶ The proposed building would be constructed approximately 50 feet to the north of the south boundary of the subject property. The Applicant testified that the building would be locked in the evening. A 6,300 square foot gravel pad would be constructed at the west side of the proposed building for employee parking, equipment staging and turnaround, and recycling and refuse containers. The proposed building and gravel pad would be constructed adjacent to the east of the existing shed, and to the west of the existing residence. The proposed gravel pad would be connected to the existing dirt driveway for access to NE See Forever Lane. The existing driveway would be expanded to a 20-foot wide gravel driveway. The proposed driveway would be surrounded on both sides by six-foot high solid cedar fencing, extending a minimum of 12 linear feet to the west and east of the driveway. A gate would be placed across the driveway.

⁵ Kitsap County issued an infraction to the Applicant on March 13, 2008, for operating a landscaping business in a residential zone without land use approval. The County staff report states the Applicant chose to apply for a CUP to legalize the existing business rather than cease activity on the subject property. *Exhibit 19; Exhibit 57, Staff Report, page 5.*

⁶ The project narrative submitted by the Applicant states the proposed building would not require sewer, water, or communications utilities, and the building would be unheated. *Exhibit 44.*

Additional vegetation would be planted in a 25-foot wide strip along the south property line, between the existing dirt and residential driveways. The vegetation would consist of two off-set rows of evergreen trees, with other low-height vegetation as required by the County. *Exhibit 44; Exhibit 50; Exhibit 57, Staff Report, page 5; Testimony of Mr. Ramirez.*

18. Equipment stored on-site would include flat bed trucks, dump trucks, excavators, front-end loaders, tractors and trailers, mowers, and other miscellaneous small landscaping equipment. The Applicant testified the business would consist of off-site garden installation and renovation; rock wall installation; pruning; planter installation; irrigation system installation; lawn care; flagstone patio installation; and gravel spreading. The Applicant testified that the proposed business does not involve erecting buildings. Heavy equipment would be kept at job sites, except when stored on the property between landscaping jobs. *Exhibit 44; Exhibit 57, Staff Report, page 5; Testimony of Mr. Ramirez.*
19. The Applicant testified that he uses the subject property as his primary residence, and has lived there for the past five years. The Applicant testified that he maintains his business office within his home. The Applicant testified that he would continue to use the subject property as his primary residence upon approval of the proposed use. *Testimony of Mr. Ramirez.*
20. The Applicant testified that he currently employs three persons in his landscaping business, and employees arrive at the subject property by 7:30 A.M. The Applicant testified that once employees arrive, they park personal vehicles on-site, load equipment needed for landscaping jobs, and depart the site in trucks associated with the business. The Applicant also testified that employees return to the subject property by 7:00 P.M. at the latest to drop off equipment and unload tools. The Applicant added that employees are usually present on the subject property Monday through Friday, with occasional half-days on Saturday. *Exhibit 44; Testimony of Mr. Ramirez.*
21. The project narrative submitted by the Applicant states that typically three to five persons are employed by the Applicant's landscaping business. The narrative states that occasional equipment maintenance would also occur on site. The Applicant testified that vehicle maintenance would likely occur once per year, and would likely consist of engine filter changes or tire changes. *Exhibit 44; Testimony of Mr. Ramirez.*
22. The project narrative submitted by the Applicant states that waste materials associated with the business would normally be disposed of at an approved site at the end of each working day prior to returning to the subject property. The Applicant testified that he transports waste to the landfill. The Applicant added that no Waste Management trucks access the subject property for waste disposal. The narrative

states that excess landscaping materials such as rock aggregates or bark mulch would be temporarily stored on site; the proposed site plan depicts a storage area adjacent to the north of the proposed gravel pad and proposed storage building. The narrative also states that equipment fueling would occur off-site at commercial fueling stations. *Exhibit 44; Testimony of Mr. Ramirez.*

23. The County staff report states that proposed parking spaces would need to be shifted to the north side of the proposed gravel pad, to avoid parking in the front yard of the subject property. KCC 17.435.020.E does not permit parking in the front yard area for the proposed use. *KCC 17.435.020.E; Exhibit 57, Staff Report, pages 7 – 8.*

Public Utilities and Services

24. The Kitsap County Health District (KCHD) issued a Commercial Building Clearance (BC) for the subject property on September 10, 2008. The BC states that the proposed gravel pad and proposed building would be used for equipment and materials storage, and no water or sewer facilities or plumbing is proposed for the building. The County staff report states that the Applicant plans to allow employees to use restrooms within his residence on the subject property if needed during the limited time employees are on the property. The BC states the existing residence on the subject property is served by a well identified as “On A Clear Day #2”.⁷ The residence is served by an existing septic system, with drainfield and reserve drainfield located on the subject property to the west of the existing shed on the property. *Exhibit 24; Exhibit 50; Exhibit 57, Staff Report, pages 3 and 7.*
25. A Water Agreement governs the use of the well serving the subject property. Under the Agreement, the well owner, On A Clear Day Water System, agrees to operate and maintain the well and to supply water to property owners for “one single family residence on owner’s parcel of property” in return for payment of an initial hook-up fee and a monthly service charge by property owners. *Exhibit 58.*
26. The subject property obtains electric service from Puget Sound Energy, police services from the Kitsap County Sheriff, and fire protection services from Fire Protection District No. 10. *Exhibit 57, Staff Report, page 3.*

Drainage and Stormwater Management

27. The subject property is located within a Category II Critical Aquifer Recharge Area.⁸ KCC 19.600 620(16) prohibits “large scale storage or use of pesticides, insecticides,

⁷ A letter from Robert and Nancy Ballew, adjacent property owners, states the subject property is served by a well identified as “Clear Day Well #1”. *Exhibit 60.*

⁸ Category II Critical Aquifer Recharge Areas are areas that provide recharge effects to aquifers that are current or potentially will become potable water supplies and are vulnerable to contamination based on the type of land use activity. These areas include areas of high soil permeability, areas above shallow aquifers, areas above the Vashon Aquifer, and areas with a high concentration of potable water supply wells. *KCC 19.600.610.B.*

herbicides, or fertilizer by commercial or agricultural operations” in a Category II Critical Aquifer Recharge Area. KCC 19.600.620(5) prohibits truck, automobile and combustion engine repair shops in a Category II Critical Aquifer Recharge Area. *KCC 19.600.620(5); KCC 19.600.620(16); Exhibit 66.*

28. Jeff Brown, Applicant Engineer, wrote in an email message that the Applicant would not use or store pesticides or herbicides on the subject property, but would occasionally store small quantities of fertilizer on the property. The small quantities would only be stored for a short duration, and would consist of one or two 50-pound bags of lawn and shrub fertilizer. David Greetham, County Planner, testified that the Applicant would also store one can of gasoline on the subject property for landscaping business use. *Exhibit 62; Testimony of Mr. Greetham.*
29. Don Ursery, County Building Official, testified that the proposed building would not require a dedicated drain because only vehicle maintenance and storage would occur there, rather than vehicle repair. Mr. Ursery testified that vehicle repair includes transfer of vehicle parts. *Testimony of Mr. Ursery.*
30. A memorandum from David Greetham, County Planner, states that based on the email message from Jeff Brown and the testimony of Mr. Ursery, County staff determined that the operation of the proposed business would not require a hydrogeological report and would not conflict with Ch. 19.600 aquifer protection standards, with two conditions proposed by staff. Conditions would require compliance with all KCC 19.600.620 restrictions, and would prohibit washing of vehicles or equipment on the subject property. *Exhibit 66.*
31. The subject property is located on the west slope of a north-south oriented ridge, which forms the drainage divide between Miller Bay to the east, and Thompson/Grover’s Creek to the west. The property lies inside the Thompson/Grover’s Creek watershed. The east portion of the subject property is at the top of the ridge and consists of flat topography. The western third of the property contains slopes up to 10 percent gradient. No off-site water wells or septic facilities are located within 100 feet of the subject property boundaries. *Exhibit 23A.*
32. Surface stormwater runoff flows from the northwest corner of the subject property to an existing ditch along Port Gamble Road NE. The ditch follows Port Gamble Road NE to the north, then follows a culvert under the road northeast into a pasture and under Gunderson Road. Runoff then flows through additional pasture area until draining into Thompson/Grover’s Creek. Mr. Alire testified for the County that a fish hatchery exists on Thompson/Grover’s Creek, but that the proposed stormwater trench infiltration system would meet County requirements for limiting stormwater runoff downstream impact. *Exhibit 23A.*

33. Stormwater runoff from the proposed roof and driveway surfaces would be controlled with a trench infiltration system. A catch basin would be located at the edge of the gravel driveway to store and release runoff to a biofiltration swale in the north central portion of the subject property. The Applicant's stormwater engineer determined that very little or no increased stormwater runoff flow rates would occur upon construction of the proposed building, gravel pad and driveway with the proposed control and release system. *Exhibit 23A; Exhibit 50.*

Public and Staff Comment

34. Letters from Robert and Nancy Ballew express concern that the Applicant would store chemicals or hazardous materials on site for equipment maintenance; express concern about County ability to monitor and enforce code violations and violations of proposed conditions of approval; and express concern about commercial use of a private easement road, increased stormwater runoff, burning of waste materials on the subject property, commercial use of well water by the Applicant, and removal of the vegetative buffer along the subject property perimeter. The Ballew letters recommend that the Applicant apply for County approval of a home business under KCC 17.381.060; express concern about the scope of the proposed business due to business advertising for utility line work, road grading, and curtain and storm drain installation; and question whether the subject property is used as the Applicant's principal residence. The Ballew letters also express concern about noise from landscaping business trucks and outdoor stereo system and about barbed wire fencing out of character with the residential area and potentially harmful to animals owned by the Ballews. A letter from the Ballew's attorney, Gerald Kearney, also expressed concern about commercial use of residential wells. An email message from the Ballews, dated February 27, 2009, states the Ballews do not intend to modify the road maintenance agreement governing the private easement to allow commercial access or use of heavy equipment. *Exhibit 36; Exhibit 41; Exhibit 58; Exhibit 60; Exhibit 70.*
35. A letter from J.R. Collier, Jr., On A Clear Day Homeowners Association President, to the Applicant requests the Applicant remove obstructions from NE See Forever Lane created through tree removal on the subject property. The letter advises that the Applicant would be responsible for any damage caused to NE See Forever Lane by the Applicant's business use of the road. An additional letter from Mr. Collier reports storage of refuse on the subject property. Another letter expresses concern about removal of vegetation and vegetative buffers on the subject property; unsightly and unsafe fencing; damage to NE See Forever Lane through use by heavy equipment; inability of the existing well system to support a business use; and lack of compliance with County code, and recommends denial of the CUP request. *Exhibit 16; Exhibit 47; Exhibit 69.*
36. Email messages from Mike O'Connor, a neighboring property owner, express concern that vegetative buffers have been completely removed in areas along the

north and east boundary of the subject property, and that attempts to replant the buffer area are not in compliance with County code. *Exhibit 37; Exhibit 68.*

37. Letters from E.C. Teather, a neighboring property owner, express concern that the proposed use would be too large in scale to be consistent with a residential neighborhood. The letters also express concern that buffers have been removed on the subject property; that commercial use of NE See Forever Lane is inconsistent with the road agreement governing the road; and that the Applicant has not repaired damage to the road caused by his business, and recommend denial of the CUP request. *Exhibit 15; Exhibit 20; Exhibit 35.*
38. A letter from Nicholas L. Wallace, Attorney at Law, on behalf of David and Candace Wallace, also recommends denial of the CUP request. David and Candace Wallace are residents of property adjacent to the subject property. The letter from Mr. Wallace expresses concern that the proposed use is a commercial business that would be operated in violation of County zoning ordinances, inconsistent with the Rural Residential zone, inconsistent with the County Comprehensive Plan, and inconsistent with surrounding rural residential uses. The letter also expresses concern about noise, odor, and well contamination impacts of the proposed use. *Exhibit 40.*
39. Donald E. Edwards, adjacent property owner to the north, testified that he is not opposed to the proposed use. Mr. Edwards testified that he works from home, and has never experienced excessive noise or traffic. Mr. Edwards also testified that he has observed propane truck and Waste Management truck use of approximately 100 linear feet of NE See Forever Lane, as measured from the intersection with Port Gamble Road NE. Mr. Edwards added that the trucks use NE See Forever Lane as a turn-around. Mr. Edwards also added that the proposed use is obscured from his property by foliage, but that other surrounding properties have no buffer. *Testimony of Mr. Edwards.*
40. Nancy Ballew testified that neighboring property owners would hold her responsible for any damage caused by operation of the proposed use, as the Ballew property is burdened by the easement. Ms. Ballew testified that Waste Management trucks do not use NE See Forever Lane, but drop garbage cans at the intersection with Port Gamble Road NE. *Testimony of Ms. Ballew.*
41. Mr. Collier testified that he regularly observes six people on the subject property who seem to be employed in the Applicant's landscaping business. Mr. Collier testified that a total of 11 residences are currently served by the On A Clear Day well system. *Testimony of Mr. Collier.*
42. Ms. Sands testified for the County that there is no evidence that the use of NE See Forever Lane by the Applicant in his landscaping business has damaged the road.

Ms. Sands testified that existing Waste Management trucks are likely responsible for the damage. *Testimony of Ms. Sands.*

43. Ms. Sands testified that the proposed use meets the KCC 17.110.195 definition of “contractor’s storage yard” because equipment stored on the subject property would be used to establish landscaping, which is required by the County and is considered by the County to be an element of constructing a structure. Ms. Sands testified that KCC 17.110.705 defines “structure” as that which is built or constructed. Ms. Sands also testified that there is a separate application process for a home business. *Testimony of Ms. Sands.*
44. County staff recommended approval of the proposed use with 30 conditions of approval, including stormwater control, traffic and roads, solid waste management, fire protection, limitations on the use, parking, buffers, lighting, and signage. The Applicant testified that he has read and understands proposed conditions of approval with no objections. *Exhibit 57, Staff Report, pages 11 – 13; Testimony of Mr. Ramirez.*

CONCLUSIONS

Jurisdiction

The Kitsap County Hearing Examiner is authorized to hear and decide conditional use permit requests. *Kitsap County Code (KCC) 2.10.070; KCC 17.421.020.A; KCC Table 21.04.030.*

Criteria for Review

The Hearing Examiner may approve, approve with conditions, or deny a conditional use permit. Approval or approval with conditions may be granted only when all the following criteria are met:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with the applicable requirements of this title;
3. The proposal will not be materially detrimental to uses or property in the immediate vicinity; and
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

As a condition of approval, the Hearing Examiner may:

1. Increase requirements in the standards, criteria, or policies established by this title;
2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;

3. Require structural features or equipment essential to serve the same purpose set forth in Chapter 17.382;
4. Include requirements to improve parity with other uses permitted in the same zone protecting them from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The Hearing Examiner may not in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;
5. Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;
7. Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
8. Impose any requirement that will protect the public health, safety, and welfare.

If the approval criteria are not met or conditions cannot be imposed to ensure compliance with the approval criteria, the conditional use permit shall be denied.

KCC 17.421.030.

Conclusions Based on Findings

1. **With conditions, the proposed use would be consistent with the Comprehensive Plan.** Goals and policies of the Comprehensive Plan balance business, industry, environmental protection, and recreation; encourage business diversification for living wage jobs; and protect surrounding residential uses from significant impacts from increased commercial and industrial development. The proposed use would provide for operation of a home-based landscaping business from an outdoor contractor's storage yard in a rural area. Conditions of approval are necessary to ensure that such activities are compatible with the site and surrounding area. *Findings 4-7, 17-23, 44*
2. **The proposed use is permitted within the subject zoning designation and would comply with all of the applicable provisions of KCC Title 17 and all other applicable regulations.** The Applicant's proposed use would include storage of heavy equipment and vehicles on a residential lot within the Rural Residential zone, consistent with the definition of "contractor's storage yard" set forth in KCC 17.110.195. Company vehicles and equipment would be stored on the subject property before morning pick-up and after evening drop-off by employees of the Applicant's landscaping business. No work associated with the landscaping business would be performed on the subject property.

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Ramirez CUP, No. 090226-007*

The County considers landscaping to be an element of erecting a structure which would satisfy the definition of “contractor’s storage yard” set forth in the code. A contractor’s storage yard use is allowed within the Rural Residential zoning district with a conditional use permit (CUP). The subject property is at least 100,000 square feet in size, consistent with KCC Title 17 requirements. Conditions of approval are necessary to ensure that the Applicant may store a combined total of no more than ten vehicles and pieces of heavy equipment on the subject property used in the Applicant’s business; that employee vehicles are not parked within the 50 foot front yard setback; and that a 25 to 50 foot wide rural character perimeter buffer containing two off-set rows of conifers is planted. *Findings 4-7, 17-23, 43-44.*

- 3. With conditions, the use will not be significantly detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood; or be detrimental to or cause injury to neighborhood property and improvements; or be detrimental to the county general welfare.**

The County gave adequate notice of the conditional use permit (CUP) application and opportunity to comment. The County acted as lead agency under SEPA, analyzed the environmental impact of the proposed use, and determined that the proposed use would not have a probable significant adverse impact on the environment.

Kitsap County ordinances provide that those who would operate contractor’s storage yards within Kitsap County’s Rural Residential zoning district must first obtain a conditional use permit (CUP). A CUP may be granted by the Hearing Examiner only when four criteria found within KCC 17.421.030 are met. The Hearing Examiner may impose certain conditions on the use KCC 17.421.030.

In this case, the Hearing Examiner concludes that based on testimony and exhibits admitted during the open record hearing on the request, operating a landscaping business through a contractor’s storage yard on the subject property could be materially detrimental to uses or property in the immediate vicinity but that such impacts can and must be mitigated by the imposition of conditions that will protect the surrounding properties from any adverse impacts arising from Applicant’s proposed use.

Heavy truck traffic and vehicle traffic that exceeds residential property ingress and egress needs may damage a road only built to serve residential needs in a rural residential neighborhood. The Road Maintenance Agreement governing use of NE See Forever Lane restricts road use to “normal ingress and egress and utilities purposes relating to the property” owned by adjacent landowners, and requires that any party making use of the road in such a manner or with such equipment that does significant damage, shall be responsible to repair such damage at their expense. The Road Maintenance Agreement is a private agreement between property owners, and governs a private easement. Though the Hearing Examiner is authorized to impose conditions of approval on the proposed use to meet CUP review criteria, the County code contains no provisions conferring authority

to the Hearing Examiner to alter a private agreement or easement. Neither the Hearing Examiner nor County staff has authority to unilaterally modify or void the Road Maintenance Agreement to allow for use beyond normal ingress and egress relating to the rural residential properties. Moreover, the County does not regulate private easements and has not promulgated private road standards.

The testimony and documentary evidence submitted on the scope of the easement is inconclusive. Thus, a condition of approval is necessary to ensure that the proposed use is not detrimental to the property encumbered by the private easement currently providing access to the subject property. The condition shall require that the Applicant obtain a license from the owner of the property burdened by the easement to use NE See Forever Lane to move his heavy equipment and vehicles from the subject property and to use NE See Forever Lane as an emergency vehicle access. The condition shall also require the Applicant to obtain the written agreement of the other parties to the Road Maintenance Agreement that they will comply with the conditions imposed by the Fire Marshal.

Testimony from the Ballews raised the issue of unwanted noise consisting of music from an outdoor stereo system. Applicant will have to comply with the provisions of KCC 10.28, Noise and will not be permitted to use an outdoor stereo system in connection with his business.

Single-family residential development surrounds the subject property, with the exception of undeveloped parcels to the north and east. Conditions of approval are also necessary to ensure that operating a landscaping business from a contractor's storage yard on the subject property would be compatible with the existing character, appearance, or development of property in the immediate vicinity. Such conditions shall require the Applicant to revegetate the buffers on the perimeter of the subject property and provide fencing along the perimeter of the subject property to screen surrounding properties from visual and safety impacts of the use. *Findings 1-7, 9-16, 34-44.*

- 4. With conditions, the proposed use would be harmonious and compatible with existing and future developments within the land use designation and general area.** A contractor storage yard use is allowed within the Rural Residential zoning district with a conditional use permit (CUP). Traffic generated by the proposed use would be limited to a single round trip to and from the property on weekdays by each of the ten vehicles/pieces of heavy equipment associated with Applicant's landscape business. The conditions limit the hours of operation with a Monday through Friday limitation. The revegetated buffers and fencing will provide a transition between the surrounding residential uses and the subject property. *Findings 11-23, 34-44.*

DECISION

Based upon the above findings, the Hearing Examiner grants the Conditional Use Permit (CUP) request to operate an existing landscape business on property located at 5206 NE See Forever Lane, in Kitsap County, Washington, subject to the following conditions:⁹

1. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
2. The information provided demonstrates this proposal is a *Major Development* as defined in Kitsap County Code Title 12, and as such will require a Site Development Activity Permit (SDAP) from Development Engineering.
3. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 or as amended at the time of SDAP application. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.
4. The water quality BMP shall be sized to provide treatment of the post-developed peak flow rate from the 6-month, 24-hour storm event per the KCSDM Section 6.2.
5. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Charles Gilman at (360) 407-7451, email chgi461@ecy.wa.gov. This permit is required prior to issuance of the SDAP.
6. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Engineering.
7. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not

⁹ This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by County Code.

performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.


8. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.
9. The impervious area accounted for in the overall drainage facilities installed shall be indicated on the face of the final design. Additional impervious surfaces beyond the amount accounted for in the overall drainage facilities shall be mitigated in accordance with Kitsap County Code Title 12.
10. At Building Permit application, submit (KCPW Form 1601) for issuance of a Concurrency Certificate, as required by KCC Section 20.04.030 Transportation Concurrency.
11. All rights of access for adjoining properties currently in existence shall be preserved. Any amendment to the existing easement rights of adjoining property owners shall be properly executed and recorded prior to SDAP or final plat acceptance.
12. Applicant shall obtain a license from the owner of the property burdened by the easement to use NE See Forever Lane to move his heavy equipment and vehicles from the subject property and to use NE See Forever Lane as an emergency vehicle access.
13. Prior to SDAP approval, Waste Management (360) 674-3166 shall be contacted for information on implementing the solid waste/recycling storage requirements influenced by the service provider (e.g. dumpster size and location) for the project. Pay particular attention to the access requirements of collection trucks. Provide documentation from the solid waste/recycling service provider that their requirements for this project have been met. Applicant shall not burn onsite any waste generated by his business.
14. The SDAP submittal shall show that at least 150 square feet of exterior recyclable materials storage space for the project. Describe collection containers and show their locations, method for securing the enclosure gates in an open position and pad dimensions on the civil plans submitted for approval. Details of the enclosure, including interior dimensions, building materials and lighting must be included with the civil plans prior to final approval. These details may be architectural drawings attached to the civil plans.
15. Fire apparatus access roads are required and must be maintained. Any proposed revision to these roads must be submitted to, reviewed and approved by the Kitsap County Fire Marshal's Office. As a condition of approval, Applicant shall obtain written agreement from the other parties to the Road Maintenance Agreement that they will comply with the Fire Marshal's conditions herein and all requirements of the Kitsap County Fire Marshal.
16. If an electronic gate is installed a Knox over ride system is required to be installed for fire department access.

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17. The recipient of any conditional use permit shall file a land use binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. The binder shall be reviewed and approved by the Department of Community Development prior to recording.
18. The contractor's storage yard shall be accessory to the operator's primary residence.
19. The storage or parking of heavy equipment vehicles and heavy construction equipment on the subject property used in the Applicant's business is limited to a combined total of not more than ten.
20. Outside business-related storage is limited to the areas proposed on the site plan (Exhibit 50).
21. All outdoor storage areas shall be fenced or walled to contain the materials or items being stored.
22. All required permits shall be obtained prior to construction and/or occupancy.
23. All building permits shall be subject to impact fees pursuant to the *Kitsap County Code* in effect on the date of a complete building permit application.
24. Occasional equipment maintenance may be performed on site. No maintenance involving fluids (oils, transmission, hydraulics, etc.) shall take place on the subject property.
25. Applicant shall store no hazardous substances onsite. Applicant may store no more than two fifty pound bags of fertilizer onsite and shall not store pesticides or herbicides in any amount onsite.
26. The proposed use shall comply with all restrictions at Kitsap County Code Table 19.600.620, Activities With A Potential Threat to Groundwater.
27. No parking is permitted within the required 50-foot front yard setback.
28. The perimeter of the subject property will be fenced by six-foot high solid cedar fencing. A gate will be placed across the driveway.
29. The applicant shall provide additional landscaping within 90 days of the issuance of the Conditional Use Permit. The additional landscaping shall be installed as described below:
 - a. A 25-foot to 50-foot rural character buffer shall be provided around the perimeter. The buffer shall be planted with 4 foot conifers on ten foot centers staggered in two rows. Enhancement along a portion of the north, east and south property lines with both evergreen trees and shrubs shall be planted to provide the required functional screening.
 - b. The landscape plants shall be maintained to ensure that they remain viable and will provide a functional screening of the site as soon as possible.

30. Artificial outdoor lighting shall be arranged so that the lighting is fully recessed or fully shielded from side view and directed downward and away from adjoining properties. No more than one-foot candle of illumination shall leave the project property boundaries.
31. No outdoor speakers or other music amplification devices shall be used in the conduct of applicant's business on the subject property.
32. Applicant may not use any of the water provided by On A Clear Day Water System for any business purposes, including but not limited to washing of vehicles and filling containers for plant watering. Applicant shall not permit his employees to use the restroom in the residence.
33. Applicant shall obtain any additional permits necessary under Kitsap County Code to operate a business from his home.
34. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated above and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
35. The applicant shall not employ more than 4 additional people in the operation of his business at this location, for a total of 5 employees including the applicant. Hours of operation shall be limited to between 7 am and 7 pm Monday through Friday.
36. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

Decided this 23rd day of March 2009.



KIMBERLY A. ALLEN
Hearing Examiner

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MAR 26 2009

KITSAP COUNTY DEPT. OF
COMMUNITY DEVELOPMENT