



# Kitsap County Hearing Examiner

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36  
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## NOTICE OF HEARING EXAMINER DECISION

December 7, 2011

To: Interested Parties and Parties of Record

RE: Project Name: **Point No Point Boat Launch Facility**  
Applicant: **Washington State Department of Fish & Wildlife  
Kristen Kuykendall, Representative  
600 Capital Way North  
Olympia, WA 98501**  
Application: **North Kitsap County, Commissioner District #1  
Shoreline Substantial Development Permit Administrative  
Conditional Use Permit**  
Case Number: **111110-020 (262501-2-057-1006) LIS#09 86799**

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

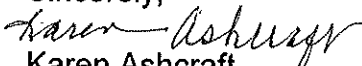
As authorized by Kitsap County Code Section 2.10.120, **REQUESTS FOR RECONSIDERATION** of the Hearing Examiner's Decision in this matter must be filed in writing to the Department of Community Development on or before five (5) business days from the effective date of the Decision. Please note Reconsideration will be administered at an hourly rate of \$84.00, accounted for in quarter-hour increments; a minimum of one (1) hour will be charged for any Reconsideration. The balance of the fee for Reconsideration must be paid prior to issuance of the Decision.

**THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS APPEALED, AS PROVIDED UNDER WASHINGTON LAW AND BY KCC 21.04.120 OF THE KITSAP COUNTY LAND USE AND DEVELOPMENT PROCEDURES**

The complete case file will be available for review at the Department of Community Development, Monday through Thursday, except holidays, 10:00 a.m. to 4:00 p.m. by calling me at (360) 337-4487 for an appointment.

If you have questions, please contact me at (360) 337-4487.

Sincerely,

  
Karen Ashcraft  
Clerk of the Examiner

**NOTICE OF DECISION – POINT NO POINT – SHORELINE SUBSTANTIAL DEVELOPMENT  
PERMIT/ADMINISTRATIVE CONDITIONAL USE PERMIT**

**December 7, 2011**

**Page 2**

C: Washington Department of Fish & Wildlife, Kristen Kuykerdall, Representative, 600  
Capital WY, Olympia, WA 98501  
PND Engineers, Inc., Laura Gurley, 811 First AVE Suite 570, Seattle, WA 98104

Interested Parties:  
See File

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KITSAP COUNTY DEPT. OF  
COMMUNITY DEVELOPMENT

**BEFORE THE HEARING EXAMINER  
FOR KITSAP COUNTY**

In the Matter of the Application of	)	No. 111110-020
	)	
<b>Washington Department of Fish and Wildlife</b>	)	<b>Point No Point Boat Launch</b>
	)	
For Approval of a Shoreline Substantial Development Permit and Administrative Conditional Use Permit.	)	FINDINGS, CONCLUSIONS, AND DECISION

**SUMMARY OF DECISION**

A request for a Shoreline Substantial Development Permit and Administrative Shoreline Conditional Use Permit to demolish and remove an existing boat launch and related above- and below-water structures and install a new boat ramp, paved driveway, staging and parking areas, restroom, water line, and landscaping, at 8708 Point No Point Road NE in Kitsap County, Washington is **APPROVED**, with conditions.

**SUMMARY OF RECORD**

Request:

The Washington Department of Fish and Wildlife requests a Shoreline Substantial Development Permit and Administrative Shoreline Conditional Use Permit to demolish and remove an existing boat launch and related above- and below-water structures and install a new boat ramp, paved driveway, staging and parking areas, restroom, water line, and landscaping, at 8708 Point No Point Road NE, in Kitsap County, Washington.

Hearing Date:

The Hearing Examiner held an open record hearing on the request on November 10, 2011. The Hearing Examiner left the record open until November 14, 2011, to receive a memorandum from County staff on proposed hours of boat launch facility operation.

Testimony:

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

- Dennis Oost, County Planner
- Jeff Smith, County Planner
- Shawn Alire, County Development Engineering
- Sharron Ham
- Tom Nelson
- Tony Witek
- Ray Frederick

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Point No Point SSDP and CUP, No. 111110-020*

Norm Reinhardt  
Raimo Rahkonen  
Ward Hinrichs  
Matt Darnel  
Dori Leckner  
Tom Black  
Ken Griffin  
Michele Culver, Applicant Representative  
Kristen Kuykendall, Applicant Engineer

Exhibits:

The following exhibits were admitted into the record:

1. Revised WA State DFW Topographic Survey, dated May 3, 2006
  - a. Revised WSDFW Site Plan, dated May 3, 2006
2. Technical Memorandum to Louis Klusmeyer, Berger/Abam Engineers Inc from Brian Bieger & Dan Cary/JD White, dated October 20, 2006
3. Letter from Commissioner Chair Garrido to Phil Anderson, Acting Director WDFW, dated February 9, 2009
4. Interested Party Correspondence, dated May 15, 2009
5. Pre-Application Meeting Request, received May 20, 2009
6. Site Location with attachments, dated June 2009
7. Landscape Plan, dated June 2, 2009
8. Pre-Application Meeting Checklist, dated June 11, 2009
9. Written Summary of Pre-Application Meeting, dated June 22, 2009
10. Letter from PUD # 1 to KCHD, dated July 6, 2009
11. Memo from Laura Gurley to KCHD, dated July 15, 2009
12. Bald Eagle Habitat Management Plan, dated August 3, 2009
13. Biological Evaluation, dated November 12, 2009
14. Email from Sheila Hosner, dated November 19, 2009
15. JARPA Application, dated November 30, 2009
16. Application for Concurrency Test, dated November 30, 2009
17. Administrative Conditional Use Permit, dated November 30, 2009
18. Preliminary Drainage Report, dated December 2009
19. Environmental (SEPA) Checklist, dated December 2009
20. Point No Point Plan Set, dated December 9, 2009
21. Notice of Incomplete Application, dated December 10, 2009
22. Addendum to Determination of Nonsignificance, dated December 14, 2011
23. Revised Site Plan, received January 4, 2010
24. Project Summary, received January 4, 2010
25. Point No Point Photographs Existing Conditions, received January 4, 2010
26. Publication Notice in Kitsap Newsgroup, received January 4, 2010
27. Email from David Greetham to SEPA desk at DFW, dated January 11, 2010

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Point No Point SSDP and CUP, No. 111110-020*

28. Letter to Teresa Eturaspe from Port Gamble S'Klallam Tribe, Point No Point Treaty Council and Jamestown S'Klallam Tribe, dated January 11, 2010
29. Letter to Teresa Eturaspe from The Suquamish Tribe, dated January 11, 2010
30. Letter to Teresa Eturaspe from David Greetham, dated January 11, 2010
31. Notice of Complete Application, dated January 14, 2010
32. Request for a Formal Administrative Appeal, dated January 14, 2010
33. (Duplicate of Exhibit #6)
34. Revised Environmental (SEPA) Checklist, dated April 19, 2010
35. Mitigated Determination of Nonsignificance, dated April 19, 2010
36. Notice of Withdrawal of Determination of Nonsignificance, dated April 19, 2010
37. Revised Threshold Determination, dated May 3, 2010
38. Letter from Michele Culver, WSDFW to Commissioner Robert Gelder, dated May 3, 2011
39. Stipulation and Order of Dismissal, Notice of Case Closure, dated May 19, 2011
40. (Item Indexed in Error)
41. Email from Commissioner Robert Gelder, dated July 20, 2011
42. Outline of Anticipated Strategies and Sub-Strategies, dated July 26, 2011
43. Notice of Application and Public Hearing, dated September 19, 2011
44. Email from Marcia & John Proctor to Dennis Oost, dated September 30, 2011
45. Letter from Commissioner Gelder to Dennis Oost, dated October 3, 2011
46. Re-Notice of Public Hearing, dated October 4, 2011
47. Email from Dana Crompton, dated October 4, 2011
48. Notice of Public Hearing, dated October 26, 2011
49. Technical Review Meeting Attendance Sheet, dated October 26, 2011
50. Existing and Proposed Use Summary, undated
51. Greater Hansville Area Values, undated
52. GIS Comp Plan Designation Map, dated October 28, 2011
53. GIS Zoning Designation Map, dated October 28, 2011
54. GIS Building Limitations Map, dated October 28, 2011
55. GIS Aerial Critical Areas Map, dated October 28, 2011
56. Memo from Shawn Alire DE, dated October 26, 2011
57. Notice of Public Hearing, dated October 26, 2011
58. Certification of Public Notice, dated October 27, 2011
59. Affidavit of Posting, dated October 27, 2011
60. Memo from Fire Marshal – ACUP, dated January 28, 2010
61. Memo from Kerrie Crawford KCHD, dated December 21, 2010
62. Staff Report, dated November 2, 2011
63. Power Point Presentation, dated November 10, 2011
64. Revised SEPA Checklist, dated March 2010
65. Revised Site Plan with Attachments, dated January 2010
66. Archaeological Report, Archaeological & Historical Services, Eastern WA University, dated August 16, 2010

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Point No Point SSDP and CUP, No. 111110-020*

67. Memo from Shawn Alire, DE with correct DE Conditions – Ex 56, dated November 10, 2011
68. Memo from Dennis Oost, dated November 10, 2011
69. E-mail from Commissioner Gelder, dated November 10, 2011
70. Title 21.04.035, dated November 10, 2011
71. Photo from Ward Hinrichs, dated November 10, 2011
72. Comments from Matt Parnel, dated November 10, 2011
73. Memo from Dennis Oost – Proposed Hours of Operation, dated November 14, 2011

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. The Washington Department of Fish and Wildlife (WDFW) (Applicant) requests a Shoreline Substantial Development Permit (SSDP) and Administrative Shoreline Conditional Use Permit (ACUP) to demolish and remove an existing boat launch and related above- and below-water structures and install a new boat ramp, paved driveway, staging and parking areas, restroom, water line, and landscaping, at 8708 Point No Point Road NE, in Kitsap County, Washington.<sup>1</sup> *Exhibit 15; Exhibit 17.*
2. Kitsap County (County) determined the application was complete on January 14, 2010. *Exhibit 31.* On September 20, 2011, the County mailed notice of the application to the Applicant, Applicant representative, interested parties, and owners of property within 400 feet of the subject property, and published notice in the *Port Orchard Independent*. On October 5, 2011, the County mailed additional notice of the application to the Applicant, Applicant representative, interested parties, and owners of property within 400 feet of the subject property. The County published notice of the open record hearing associated with the application in the *Port Orchard Independent* on October 26, 2011. On October 27, 2011, the County posted notice of the hearing on the subject property and mailed notice to the Applicant, Applicant representative, interested parties, and owners of property within 400 feet of the subject property. *Exhibit 58.*

#### *State Environmental Policy Act (SEPA)*

3. The Washington State Department of Fish and Wildlife (WDFW) acted as lead agency and analyzed the environmental impacts of the proposal. The WDFW determined that with ten conditions, the proposal would not have a probable significant adverse impact on the environment, and issued a Mitigated Determination of Non-Significance (MDNS) On

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<sup>1</sup> The property subject to the application is identified by Tax Parcel Nos. 222802-2-019-2001. The legal description of the subject property is included with the Washington State Joint Aquatic Resources Permit Application (JARPA) submitted for the proposed project. *Exhibit 15.*

April 19, 2010.<sup>2</sup> The ten conditions concerned restroom location; roadside trailer turn-around; pest control prior to demolition; archaeological monitoring during construction; revision to on-grade concrete access ramp, sheet pile and rip rap armor; access restriction signage; education kiosk; eagle perch installation; archaeological construction monitoring plan; and posting of site-related boat use information. *Exhibit 35; Exhibit 39.*

4. On May 3, 2010, the County submitted comment on the MDNS, expressing concern about traffic, nuisance, and public service impacts of the proposal. *Exhibit 37.* The WDFW did not amend its MDNS. The County filed an appeal of the MDNS with the Washington State Office of Administrative Hearings, Docket No. 2010-FW-0002. To plan for the redevelopment and public use of the subject property, the County and WDFW executed a Memorandum of Understanding (MOU). As a result, the County agreed to dismiss its MDNS appeal. *Exhibit 39.*
5. The WDFW and County executed the MOU on September 6, 2011 and August 22, 2011, respectively. The MOU is intended to guide boat launch and property operation, maintenance, and security. The MOU contains ten sections addressing: pursuit of recreational grant opportunities for boat launch and upland improvements; elements of upland improvements; elements of boat launch improvements; project phasing; additional public hearing in case of substantial permit revision; informing the County of intended demolition of structures on the property; volunteers to keep the property clean; an operation and management agreement for facilities on the property; point of agency contact; and term of the MOU. *Exhibit 45.*

#### *Comprehensive Plan and Zoning*

6. The subject property is designated Parks under the County Comprehensive Plan. *County Comprehensive Plan, Land Use Element, Land Use Map – North (December 2006).* The Parks designation applies to lands that have facilities or are intended for public use. Public schools, wastewater treatment plants, government buildings, water towers, parks and any other publicly owned lands are included in this designation. *Comprehensive Plan, Land Use Element, page 2-34 (December 2006).*

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<sup>2</sup> The Greater Hansville Advisory Council submitted a letter to the WDFW expressing concern about impacts of the proposal on pedestrian safety on surrounding roads, property values, traffic, security, privacy, adequate emergency vehicle access, grounds maintenance, and parking. *Exhibit 4.* The WDFW issued a Determination of Nonsignificance (DNS) for the proposal on December 14, 2009. The County submitted comment, then appealed the DNS. The County voluntarily dismissed the appeal when the WDFW withdrew the DNS and issued its April 19, 2010 MDNS. *Exhibit 39.* In a response to public comments dated March 2010, the Applicant stated the following changes were made to the proposal as a result of public comment: relocation of the restroom from the east property line to a new location south and west, for a distance of approximately 100 feet to the nearest residence; creation of a turnaround area for vehicles with trailers if the gate is locked; pest control prior to demolition; presence of an archaeologist onsite during construction; revision to access ramp design to minimize on-grade concrete near the water; placement of access restriction signage; posting educational environmental information at the on-site kiosk; placement of a wood raptor/bird perch near the beach; performance of an Archaeological Site Review; and posting of site-related boat use information on the Applicant website. *Exhibit 64.*

7. The subject property is located in the County's Parks zoning district. The intent of this zone is to create long-term consistency between the purpose for the purchase of parks and open space properties and the zoning regulations that apply to their development. Parks properties are intended for the development of parks, open space areas and recreational facilities for the benefit of the citizens of Kitsap County. Uses for these properties should be limited to those serving this purpose. *Kitsap County Code (KCC) 17.377.010*. Public recreational facilities are an allowed use within the Parks zoning district with an ACUP. *KCC Table 17.381.040(E)*. *Exhibit 53*.
8. Puget Sound lies adjacent to the north of the subject property. Surrounding property to the west, east, and south is primarily designated Rural Residential under the County Comprehensive Plan, is located within the County's Rural Residential zoning district, and is developed with single-family residences on small lots. Other property to the southwest and southeast is designated Public Facility, and is located within the County's Parks zoning district. Property to the southeast contains a county park. Jeff Smith, County Planner, testified the park is called Lighthouse Park. Dennis Oost, County Planner, testified that other public boat launches are located in the south end of the county. The closest County-owned facility is located at Salsbury Point Park just north of the Hood Canal Bridge. *Exhibit 45; Exhibit 52; Exhibit 53; Exhibit 62, Staff Report, page 3; Testimony of Mr. Smith; Testimony of Mr. Oost*.

*Proposed Use*

9. The subject property is accessed from NE Point No Point Road. Mr. Oost testified that the property used to be operated as a private facility. The property is now owned by WDFW and includes RV parking, beach walking, and access for recreational small craft boating by hand launch. There are 19 RV hook-ups present onsite with electric, water, and septic drainage service. Use of an existing 300 foot long steel-rail boat launch with associated concrete slabs in the ground was terminated due to deterioration in 2001. A small wood dock, boat lift, and creosote timber pilings on the shoreline have also fallen into disrepair. Ten wood-frame structures are also present on the property, including seven small cabins, one single-family residence, one large boat storage building, and a restroom facility. Only the large storage building, restroom facility, and single-family residence are currently in use. A concrete bait pond is also present on the property. A large portion of the property is covered by grass, with a few low shrubs. *Exhibit 18; Exhibit 25; Exhibit 50; Exhibit 65; Testimony of Mr. Oost*.
10. Construction of the proposed use would include the following elements: removal of the existing steel-rail boat launch, cross-bracing, small wood dock, boat lift, and all timber creosote piles; demolition of all upland structures, foundations, concrete slabs; capping or removal of associated utilities; installation of a new, elevated concrete deck, self-service boat ramp supported by steel piles, paved boat trailer staging area, ADA-accessible ramp, drive lanes, and parking spaces for nine vehicles and 20 boat trailers; installation of additional parking areas for 26 vehicles and 16 boat trailers constructed of pervious

pavers; construction of a new, ADA-accessible, pre-manufactured vault toilet building; restoration of beach in the north portion of the property with native plant landscaping; installation of a locking gate at the driveway entrance to the property; installation of a wet pond in the southeast corner of the property for stormwater treatment; and construction of a historical kiosk, kayak/hand launch pathway, and a possible eagle perch near the northeast corner of the property. Mr. Smith testified that the proposed use would contain a total of 96 parking spaces, and that overflow parking is not allowed in the vicinity. *Exhibit 23; Exhibit 50; Testimony of Mr. Smith.*

11. According to the MOU between the Applicant and the County, any grant applications to fund the proposed use will include a new, elevated pre-cast concrete deck with self-service boat ramp; parking areas; pass through lane when the entry gate is opened and turnaround area when closed; restroom facilities; RV accommodations; boat staging areas; fencing; and lighting, all consistent with the SSDP and ACUP application. To the extent the project must differ to be eligible for grant funding, the Applicant and County shall meet to discuss modifying the permit to meet grant requirements. If substantial revision is required, the Applicant shall hold an additional public hearing and obtain public comment. The MOU also states that it is the intent of both parties that a volunteer or group of volunteers help keep the property clean, which may include participation in the Applicant's "Adopt-an-Access" program. The parties will also pursue an operation and management agreement for the facilities on the subject property, subject to any required approval by funding agencies. *Exhibit 45.*
12. Mr. Smith testified to propose that the Applicant work with neighbors of the proposed use to determine specific landscaping approaches. Mr. Smith testified that a minimum 15-percent of the property is required to be devoted to landscaping, and that the Applicant has proposed approximately 46-percent. Mr. Smith added that community comment seemed to focus on the use of small or moderate plantings, retaining natural vegetation where possible, and minimizing lighting to prevent glare from reaching adjacent properties. *Testimony of Mr. Smith.*

*Shoreline Management Act (SMA)*

13. The proposed use would be situated adjacent to the Puget Sound shoreline and within Puget Sound. The proposed boat launch supported by steel piles would extend into the water, past the mean higher high water mark. The County Shoreline Management Master Program (SMP) provides that no substantial development shall be undertaken on shorelines of the state without first obtaining a SSDP. *KCC 22.28.010*. The state Shoreline Management Act (SMA) defines "substantial development" as any development of which the total cost or fair market value exceeds \$5,718, adjusted for inflation every five years, or any development that materially interferes with the normal public use of the water or shorelines of the state. *RCW 90.58.030(3)(e)*. *Exhibit 65.*

14. The primary goal of the SMA is to protect the public interest in the State's shorelines through a coordinated development process. The SMA contemplates protecting against adverse effects to the public health, the land, the vegetation, the wildlife, and the waters, and preserving the public's opportunity to enjoy the physical and aesthetic qualities of the natural shoreline to the greatest extent feasible. Permitted uses in the shorelines must be designed and conducted in a manner to minimize damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. *Revised Code of Washington (RCW) 90.58.020.*
  
15. The purpose of the County Shoreline Management Master Program (SMP) is to guide the future development of the shorelines in Kitsap County in a manner consistent with the Shoreline Management Act. *KCC 22.04.020.* The SMP establishes five shoreline environment designations, policies applicable to each designation, and policies applicable to all shoreline environments. Policies applicable to all shoreline environments encourage uses consistent with the character of the specific shoreline environment. The proposed use would be located adjacent to and within Puget Sound, within the Semi-Rural shoreline environment designation.<sup>3</sup> The purpose of the Semi-Rural environment is to promote use of an area by multiple human uses on a scale between that of the rural and urban environments while still retaining certain aspects of the natural environment. *KCC 22.16.080.a.* For permissible uses within the Semi-Rural environment, environmental modifications should harmonize, when possible, with pre-existing natural conditions; development patterns, specific uses and activities should retain significant existing natural features; active recreational facilities should be encouraged; and development should maintain, preserve, or enhance natural shoreline characteristics to the maximum extent possible with respect to human use. *KCC 22.16.080.c.* Boat launches<sup>4</sup> and recreational facilities are allowed uses within the Semi-Rural shoreline environment subject to a SDP. *KCC 22.28.030; KCC 22.28.090.3.a; KCC 22.28.220.3.a.*
  
16. General policies for boat launches within the Semi-Rural shoreline environment encourage locating community boat launches at grade, when practical, cooperative use of boat launches, and minimizing detrimental effects to natural shore processes. *KCC 22.28.090.2.* General regulations for boat launches require design and location to minimize detrimental effects to natural shore processes and critical habitat area; include a wash-down drainage crypt incorporating oil-water separators for treatment and disposal of wastewater associated with the boat launch; and emphasize joint-use boat launches over single-use launches. *KCC 22.28.090.4.*

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<sup>3</sup> The semi-rural environment is an area where the predominant feature is the modification of the environment by the action of man but which still possesses some rural character. The semi-rural environment is distinguished from the urban environment by having primarily moderate residential uses. *Kitsap County Code (KCC) 22.16.080.b.*

<sup>4</sup> The County SMP defines a "boat launch" as "a sloping ramp, traditionally made of concrete, which may extend into the tidelands, used for the purpose of placing a watercraft in or taking one out of the water." *KCC 22.28.090.1.*

17. General policies for recreational uses within the Semi-Rural shoreline environment encourage minimizing adverse impacts on the environment; retention of publicly owned property that provides shoreline access for public use; prioritizing developments providing recreational uses and public shoreline access; and locating parking areas inland away from the water's edge and beach. *KCC 22.28.220.2*. General regulations for recreational uses require reservation of shoreline recreational areas for water-dependent activities and allow vehicular traffic associated with boat launching. *KCC 22.28.220.4*.
18. In letters dated January 11, 2010, the Port Gamble S'Klallam Tribe, Jamestown S'Klallam Tribe, Point No Point Treaty Council, and the Suquamish Tribe submitted comment on the proposal. The Suquamish Tribe commented that the proposed use would be located in the Tribe's usual and accustomed fishing area. At the time of the letter, the Tribe commented the proposed location was not ideal and the WDFW's DNS determination was questionable. The Tribe also commented that construction would negatively impact fish spawning and eelgrass bed areas and traffic associated with the proposed use would interfere with Tribe fishing activities. The Tribe requested an archaeological assessment of the project area with construction monitoring plan and inadvertent discovery plan. The letter from the Port Gamble S'Klallam Tribe, Jamestown S'Klallam Tribe, and Point No Point Treaty Council voiced similar concerns, and also expressed concern about the proposed use's impacts on juvenile salmon migration and feeding, sediment transport, and stormwater/water quality. Shawn Alire, County Development Engineering, testified that the Tribes' concerns were considered as part of the SEPA review process and during MOU development. *Exhibit 28; Exhibit 29; Testimony of Mr. Alire*.
19. The Applicant prepared a *Monitoring and Unanticipated Human Remains Discovery Plan* for the proposed use, dated August 16, 2010. The Applicant's *Point No Point Boat Launch Biological Evaluation*, dated November 12, 2009, states in-water construction would occur during approved work windows to minimize potential effects on endangered fish and other juvenile salmonid fish. All best management practices (BMPs) and spill controls required by the Washington State Department of Ecology would be used during construction to minimize the possibility of petroleum product or construction debris release. BMPs and spill-control procedures would also be followed during launch operations. According to the *Biological Evaluation*, the following additional measures would also minimize impact on species and habitat: removing existing overwater structure; limiting construction to low tide, dry areas; use of a vibratory hammer; maintaining at least a 30 foot wide buffer between construction activity and existing eelgrass; operating the boat launch during plus tides only to limit impact on eelgrass beds; removing creosote piles and crossbraces; using floating debris or turbidity curtains during removal of existing structures; and planting native vegetation on the beach above the ordinary high water mark. According to the County staff report, the proposed boat launch would be elevated approximately two to three feet above grade to minimize sediment transport impact; 40 percent of the launch would be grated to increase light

penetration into the water; and the launch would be oriented north-south, which would also increase light penetration into the water. After removing the existing boat launch and replacing with the proposed grated deck launch, approximately 5,242 square feet of overwater shading would be removed. Mr. Oost testified that existing eel grass beds would be protected, as the proposed boat launch would stop short of median low water and would not be functional during low tides. Mr. Oost also testified that locating the boat launch at grade rather than two to three feet above grade would interfere with natural sediment transport. *Exhibit 13; Exhibit 62, Staff Report, pages 7 – 8; Exhibit 64; Testimony of Mr. Oost.*

#### *Stormwater and Erosion Control*

20. Stormwater runoff typically drains from the subject property to a low point in the southeast corner of the property, where there is standing water periodically present during the winter months. Stormwater currently discharges into a catch basin along NE Point No Point Road just outside the property. The catch basin conveys stormwater runoff from the property south beneath NE Point No Point Road to a drainage ditch flowing east along the south side of the road. The ditch flows into an existing wetland area, eventually discharging into Puget Sound. Stormwater runoff resulting from construction of the proposed boat launch, concrete sidewalk, ADA boat access ramp, asphalt and reinforced grass parking lot for vehicle and boat trailer parking would be controlled by a biofiltration treatment swale that would be constructed on the property, in combination with a grass lined conveyance channel, catch basins, and HDPE pipe. Onsite permeable gravels and sands would support biofiltration function. The proposed use is exempt from further stormwater quantity control because stormwater runoff from the site directly discharges into a conveyance channel into Puget Sound. *Exhibit 18.*
21. To control erosion and sedimentation that may result from proposed construction, the Applicant would delineate clearing limits prior to construction; install a construction vehicle entrance; and install silt fencing around the property perimeter. During construction, the Applicant would install a six foot high sight-obscuring fence along the east property boundary to provide separation between the proposed use and an adjacent residence. Trees would be installed along the perimeter of the property. *Exhibit 23.*

#### *Utilities and Public Services*

22. The subject property receives water service from Public Utility District No. 1 of Kitsap County, and electric power from Puget Sound Energy. All existing septic tanks on the property would be pumped out and properly abandoned prior to the start of construction. The County Health District reviewed the proposal for construction of a new restroom facility on the property, and determined the proposal was acceptable with two conditions. Conditions require the Applicant to obtain a connection permit for installation of vault toilets, and decommissioning of septic tanks with pump receipt before final connection permit. *Exhibit 10; Exhibit 11; Exhibit 61; Exhibit 62, Staff Report, page 3.*

23. Ken Griffin inquired in an email message if a gate at the entrance to the property would be open to the fishing public. The Kitsap County Fire Marshal's Office reviewed the proposal and commented that the Applicant shall provide a Knox lock or Knox override system for fire department access if an electric gate is installed on the property. *Exhibit 47; Exhibit 60.*

*Public Comment*

24. The County received several letters offering public comment on the proposed use. Many letters were received in support of the proposed boat launch.<sup>5</sup> The County also received letters expressing concern about the proposed use. Marcia and John Proctor, owners of property at 8926 Point No Point Road, along the east boundary of the subject property, expressed concern that the proposed use would result in increased trespassing on surrounding private beaches, inadequate parking planned for vehicles and trailers on the property, and noise from the subject property parking lot late in the evening. An email message from Robert Gelder, County Commissioner, expressed concern that the proposed boat launch not be used by commercial interests because road infrastructure, the proposed facility, and the surrounding neighborhood of residences is not designed to support commercial use. A letter from Gordon and Jan Johnson expressed concern that use of the proposed facility be limited to hand-launched boats to minimize environmental impact, flooding due to inadequate stormwater management, and population growth and maximize safety and shoreline protection. An email message from Judy Roupe, resident of property along the east boundary of the subject property, expressed concern about security and safety impacts of an un-manned and minimally maintained boat launch in a residential neighborhood; flooding impacts resulting from blockages in the drainage pipe from the wetlands to the Puget Sound; pedestrian safety; trespassers over the private beach between the proposed launch and existing County park further to the east; and sediment transport impacts. *Exhibit 4; Exhibit 44.*
25. Sharron Ham, representing Friends of Point No Point Lighthouse Park, testified in support of the proposed use, and requested that the proposed use not include bulkhead construction. Tom Nelson testified in support of the proposed use as a means of supporting local businesses, providing safe boat launching conditions, and raising local

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<sup>5</sup> The County received letters of support from: the Bremerton Sportsmen's Club, the Kitsap Poggie Club, William Mars, Charles Driver, Dorothy Reinhardt, Ken Rathburn, Peter L. Hatch, Steven P. Wilmarth, John Waller, Pat Fuhrer, Jon Lawrence, Thomas Sawtell, "Hans M.", Ron Maier, John Shields, Lynn Hyman, Stephen Hyman, Brad Helder, Barry Olson, Ron Chase, Jim Heins, Paula Monroe, Laurie Wiegenstein, Gary Cramer, Gerry Crum, Ray Frederick, Barry Olson, Todd Schwartz, Bob Malone, Ronald E. Harris, Laurence A. Bucklin, John McCumsey, Matt Tharp, Jeff Cook, Douglas H. Sylvester, James M. Luzzi, Corbin Berentsen, Don Overby, Douglas P. Dixon, Gary Bodine, Jim Chaffee, Don Williams, Louie Morton, Charles Gauthier, Henry Hollis, Merlin R. Self, James A. Goerg, Russ Heagle, Rob Endsley, Robert Gerlach, Maryln Nelson, Karl H. Brackmann, Chad Gillespie, Lisa K. Eckhart, Matt & Tammy Savidge, Norm Reinhardt, George P. Schmidt, Anthony Floor, John D. Risser, Terry Miller, Clark Sheridan, Lee Rose, Dennis Broderson, Ron Williams, John Ahlbin, Richard Larson, Rosalind Williams, Lance Thornton, Dianne Nation, Michael Schiewe, Clint Muns, Gary Halsey, Paul Ronald, Frank Betrozoff, Richard Stoll, David Bowes, Dave Croonquist, Morrell H. Yates, Walter Altenburg, Cory Flatau, Nathan Flatau, Ronald Flatau, Terry J. Wiest, and Matt Parnel. *Exhibit 4; Exhibit 72.*

property values. Tony Witek testified to request that the boat launch operate during early hours to accommodate launching boats before sunrise, in step with common fishing practice. Ray Frederick testified to express safety concerns, as the only safe haven in case of storm is approximately 20 miles away in the Kingston area. Norm Reinhardt, President of the Kitsap Poggie Club, and Raimo Rahkonen, member of the County coastal conservation chapter, Matt Parnel, representing the Northwest Sport Fishing Association, Ward Hinrichs, and Ken Griffin also testified in support of the proposed use. Dori Leckner, who oversees County parks at Point No Point, testified to request that commercial use be prohibited on the subject property. Tom Black testified to express concern about future access. *Testimony of Ms. Ham; Testimony of Mr. Nelson; Testimony of Mr. Witek; Testimony of Mr. Frederick; Testimony of Mr. Reinhardt; Testimony of Mr. Rahkonen; Testimony of Mr. Parnel; Testimony of Mr. Hinrichs; Testimony of Mr. Griffin; Testimony of Ms. Leckner; Testimony of Mr. Black.*

26. Mr. Oost responded that the proposed use would be for public or community use, and any commercial use would be minimized. Mr. Smith responded that the proposed use would provide for pedestrian access to the shoreline and toilet facility, but that sidewalks along the property's Point No Point Road NE property frontage and driveway are not required under County code. Mr. Smith added that signage for the proposed use would not be allowed without a sign permit, that any outside storage on the property would be prohibited, and proposed reinforced grass parking on the property would serve as overflow parking. Mr. Smith also testified that 'no parking' signs are posted along Point No Point Road NE, and that estimated peak hour vehicle trips to the proposed use would not be so many as to require traffic mitigation. *Testimony of Mr. Oost; Testimony of Mr. Smith.*
27. Michele Culver responded for the Applicant that parking would be available on the subject property to members of the public with a state Discover Pass or fishing license permit. Ms. Culver testified that the Applicant will comply with requirements for landscaping and lighting. Ms. Culver also testified that the Applicant currently has no funding to develop the proposed use, though it has applied for 2012 grant funding to fund the entire proposal. Ms. Culver added that the Applicant will continue to confer with Tribes concerning Tribal treaty fishing rights. Ms. Culver also testified that the Applicant accepts and agrees to 400 linear feet of offsite restoration, and views the MOU as an additive component to the SEPA MDNS. *Testimony of Ms. Culver.*
28. Kristen Kuykendall, Applicant Engineer, testified she has been the proposed project engineer since 2001, and that the proposal has undergone a few iterations over that time, including proposals for onsite and offsite mitigation. Ms. Kuykendall testified that the proposed use would be screened from surrounding property by a cedar fence on the east and west boundaries of the subject property. Ms. Kuykendall added that a shorter cyclone fence would be constructed across the south boundary of the subject property, where the front entrance to the use would be located, and screened with vegetation. Ms.

Kuykendall also testified that users of the proposed use would be expected to pack in and pack out any solid waste, as no garbage or recycling containers would be provided.  
*Testimony of Ms. Kuykendall.*

*Staff Recommendation and Proposed Conditions of Approval*

29. Mr. Smith and Mr. Oost testified that County staff recommends approval of the proposed use, with 12 proposed conditions of approval. Mr. Oost testified to propose an additional condition of approval requiring all shoreline construction and operational activities to be implemented as outlined in the Pentac Environmental Monitoring and Conservation Plan dated November 12, 2009 and Archaeological and Historical Services Archaeological Monitoring Plan dated August 16, 2010. *Exhibit 68; Testimony of Mr. Smith; Testimony of Mr. Oost.*
30. A memorandum from County staff dated November 10, 2011 proposed revised conditions of approval concerning stormwater and traffic and roads. The 15 proposed conditions set forth requirements for stormwater quality control and treatment, erosion and sedimentation control; maintenance of storm drainage facilities; traffic concurrency; ADA-accessible sidewalk ramps; landscaping maintenance; adequate entering sight distance; and requirements for any work within the County right-of-way. *Exhibit 56; Exhibit 67.*
31. Ms. Culver testified that the Applicant is committed to addressing concerns about commercial use similar to those expressed by County Commissioner Gelder, and that discussions between the County and Applicant are ongoing. Ms. Culver testified to propose additional conditions of approval that signs be posted on the subject property restricting commercial use, that the Applicant has the option to construct the proposed use in phases, and that there be an operation and maintenance agreement in place addressing those issues, including mitigating impacts on surrounding properties, before development of the proposed use on the property. *Testimony of Ms. Culver.*
32. A memorandum dated November 14, 2011 from Dennis Oost, County Planner, proposes the following two additional conditions of approval:

The Point No Point Boat Launch shall generally be operational from 4:00 A.M. to 10:30 P.M. These operational hours are subject to the negotiations and agreements between the Department of Fish and Wildlife and Kitsap County in developing the Operations and Management Agreement as outlined in the Memorandum of Understanding.

A six foot high solid cedar fence with three rails shall be constructed along each side yard property line to a point parallel to the waterward residence on either side.

*Exhibit 73.*

## CONCLUSIONS

### Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide Shoreline Substantial Development Permit (SSDP) applications as a Type III permit decision. *Kitsap County Code (KCC) Table 21.04.030; KCC 22.08.070.*

The County Department of Community Development Director is authorized to review and approve an administrative conditional use permit as a Type II administrative decision. *KCC 21.04.030.* However, project permit applications shall be consolidated and reviewed by the County in order to integrate the project permit and environmental review process and avoid duplication of the review processes. Consolidated permit processing shall follow the review and approval process of the highest numbered permit type represented among the required permits. For non-legislative actions, Type III is considered the highest and Type I is considered the lowest. Thus, the administrative conditional use permit shall be heard and decided by the Hearing Examiner concurrently with the Shoreline Substantial Development Permit, unless the applicant chooses otherwise. The applicant may determine whether the multiple permit applications shall be processed concurrently or independently, except that the director has the discretion to require a variance, height increase, development standards modification or waiver to be processed concurrently with the associated project permit application. *KCC 21.04.035.*

### *Shoreline Substantial Development Permit*

The Shoreline Management Act (SMA), Chapter 90.58 RCW, provides that no substantial development shall be undertaken on the shoreline of the state without first obtaining a Substantial Development Permit (SSDP). Whether or not a development constitutes a substantial development, a development must comply with the requirements contained in the Shoreline Management Act and the County Shoreline Management Master Program (SMP) and may require other permits or approvals under the County SMP. Permits may be issued with conditions or limitations that assure consistency with the SMA and SMP. *KCC 22.08.010.*

The applicant has the burden of proof to establish that the development is consistent with the act, the SMP, and any other applicable county policies and regulations. Upon consideration of the evidence offered at the public hearing, the Hearing Examiner will issue a decision, containing findings of fact and conclusions describing the manner in which the decision is consistent with the act and the SMP. *KCC 22.08.070.*

### *Shoreline Management Act, Chapter 90.58 RCW*

The Shoreline Management Act is codified at RCW 90.58.020. Applicable policies of RCW 90.58.020 include those to foster “all reasonable and appropriate uses”; protect against adverse effects to the public health, the land and its vegetation and wildlife; and give priority to single family residences and appurtenant structures in authorizing alternations to the natural condition of the shoreline. Permitted shoreline uses must be designed to “minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.” *RCW 90.58.020.*

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Point No Point SSDP and CUP, No. 111110-020*

*Shoreline Management Act Regulations*

The Department of Ecology shoreline regulations are located in Chapters 173-26 and 173-27 of the Washington Administrative Code (WAC). Chapter 173-26 sets forth procedures and guidelines for local adoption of shoreline master programs that are not applicable to the Applicant's permit request. Chapter 173-27 sets forth permitting procedures and permit criteria. The Hearing Examiner reviews the application under the following criteria:

- (1) A substantial development permit shall be granted only when the development is proposed is consistent with:
  - (a) The policies and procedures of the act;
  - (b) The provisions of this regulation; and
  - (c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.
- (2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

*WAC 173-27-150.*

Thus, the Hearing Examiner must review the relevant Kitsap County SMP goals and policies.

*Kitsap County Shoreline Management Master Program (SMP)*

The Kitsap County SMP classifies shorelines into five distinct environments and one sub-environment that provide the framework for implementing shoreline policies and regulatory measures. *KCC 22.04.040*. The subject property is located within the Semi-Rural shoreline environment. The purpose of the semi-rural environment is to promote use of an area by multiple human uses on a scale between that of the rural and urban environments while still retaining certain aspects of the natural environment. *KCC 22.16.080.a*. For permissible uses within the Semi-Rural environment, environmental modifications should harmonize, when possible, with pre-existing natural conditions; development patterns, specific uses and activities should retain significant existing natural features; active recreational facilities should be encouraged; and development should maintain, preserve, or enhance natural shoreline characteristics to the maximum extent possible with respect to human use. *KCC 22.16.080.c*.

*Kitsap County Comprehensive Plan Goals and Policies*

The Kitsap County Comprehensive Plan contains goals and policies to protect sensitive shorelines from the negative impacts of development, including risks to ecology, property, and human health. *Kitsap County Comprehensive Plan, Section 9.4, page 9-3 (December 2006)*.

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Point No Point SSDP and CUP, No. 111110-020*

Comprehensive Plan goals and policies concern conservation and resource protection; shoreline use; water quality; economic development; public access; recreation; history and culture; aesthetics; natural systems; and transportation. *Kitsap County Comprehensive Plan, Section 9.4, pages 9-3 – 9-8.*

#### *Administrative Conditional Use*

The department may approve, approve with conditions, or deny an administrative 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 applicable requirements for the use set forth in this code;
3. The proposal is not materially detrimental to existing or future 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.

The department may impose conditions to ensure the approval criteria are met. If the approval criteria are not met or conditions cannot be imposed to ensure compliance with the approval criteria, the administrative conditional use permit shall be denied. *KCC 17.420.040.*

#### Conclusions Based on Findings

##### *Shoreline Substantial Development Permit*

1. **With conditions, the proposed project would be consistent with the Kitsap County Shoreline Management Master Program (SMP) and other applicable County policies and regulations.** The proposed activity is a replacement of an existing, though dilapidated, water dependent activity. The proposed activity would replace an existing boat launch, dock, creosote piles, foundations, and concrete slabs, and replace with a new deck, boat ramp supported by steel piles, boat trailer staging area, parking, ADA-accessible ramp, drive lanes, toilet, gate, wet pond, kiosk, hand launch pathway, and native plant landscaping. Boat launches and recreational facilities are allowed uses within the Semi-Rural shoreline environment subject to a SDP. As proposed, project design would increase light penetration into the water over existing conditions, would not interfere with shoreline sediment transport, would limit impact on eelgrass beds, and would result in removal of existing creosote piles from the water. Construction of the launch at grade would not be practical, as it would interfere with sediment transport. The launch and associated facility would be for public use, and commercial use would be

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Point No Point SSDP and CUP, No. 111110-020*

minimized. Parking areas for vehicles associated with boat launching would be located inland from the shoreline and beach. In-water construction would occur during approved work windows to minimize potential effects on endangered fish and other juvenile salmonid fish. All best management practices (BMPs) and spill controls required by the Washington State Department of Ecology would be used during construction to minimize the possibility of petroleum product or construction debris release. BMPs and spill-control procedures would also be followed during launch operations. Conditions of approval are necessary to ensure proper stormwater quality control and treatment, erosion and sedimentation control, maintenance of storm drainage facilities, construction of ADA-compliant sidewalk ramps, and compliance with the MOU and monitoring and conservation plan. *Findings 1, 4, 5, 8 – 11, 13 – 21, 24, 26 – 27, 29 – 32.*

- 2. With conditions, the proposed project would be consistent with state Shoreline Management Act policies, guidelines, and rules.** The Department of Ecology shoreline regulations are located in Chapter 173-27 of the Washington Administrative Code (WAC). Chapter 173-27 sets forth permitting procedures and permit criteria. This proposal is being reviewed under the criteria set forth in WAC 173-27-150. These criteria are intended to implement the policies of the SMA, which requires that all shoreline projects be consistent with an approved local Shoreline Master Program. The Applicant submitted a complete SSDP application. The County provided public notice of the SSDP application and associated open record hearing, and opportunity to comment. The Applicant reviewed the environmental checklist and other information on file and determined that, with conditions, the proposed project would not have a probable significant adverse impact on the environment. The Applicant and the County executed a MOU to further resolve concerns about impacts of the proposed use. Conditions are necessary to ensure that the Applicant complies with conditions of the MOU and obtains all required permits. *Findings 1 – 5, 9 – 11, 24, 25, 27, 29 – 32.*

#### *Administrative Conditional Use Permit*

- 1. The proposal is consistent with the Comprehensive Plan.** The subject property is designated Parks under the County Comprehensive Plan, which applies to lands that have facilities or are intended for public use. The proposed use would establish a public boat launch and associated facilities on the subject property, and would minimize commercial use. *Findings 1, 6, 9 – 11, 24, 26, 27.*
- 2. With conditions, the proposal complies with applicable requirements for the use set forth in County code.** The subject property is located within the County's Parks zoning district. The proposed use would be for public or community uses, and public recreational facilities are an allowed use within the Parks zoning district with an ACUP. As proposed, the use would be consistent with general policies and regulations governing boat launches within a Semi-Rural shoreline environment, as project design would minimize detrimental effects to natural shore processes and eelgrass habitat. The use

would also be consistent with general policies governing recreation uses in the Semi-Rural environment, as shoreline access would be provided for public recreational boating use, with associated vehicle traffic. Conditions of approval are necessary to ensure compliance with monitoring and conservation plan and the MOU, which requires development consistent with the SSDP and ACUP application and requires the Applicant and County to execute an operation and management agreement for the proposed facilities. *Findings 1, 7, 9 – 11, 16 – 19, 24, 26, 27, 29, 31.*

3. **With conditions, the proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.** The County received comment in support of the proposed use and comment that expressed concern about the proposed use, primarily about trespassing, Tribal treaty fishing rights, parking, noise, possible commercial use, environmental impact, and security and safety. Pedestrian paths would be constructed on the subject property to access the shoreline and toilet. Outside storage on the property would be prohibited. Reinforced grass parking on the property would serve as overflow parking. Parking is not allowed along Point No Point Road NE. The Applicant will continue to confer with interested Tribes concerning Tribal treaty fishing rights, and develop specific landscaping strategies in consultation with the County and neighboring residents. The MOU states it is the intent of the Applicant and County that a volunteer or group of volunteers help keep the property clean, which may include participation in the Applicant's "Adopt-an-Access" program, in conjunction with an operation and management agreement between the parties. Conditions of approval are necessary to ensure proposed stormwater management facilities are designed and sized appropriately to promote adequate drainage, and that fencing is built to screen the proposed use from adjacent residences to the west and east and delineate the entrance to the proposed facilities. Proposed facilities would be accessed from Point No Point Road NE through a gate. When the gate is closed, a vehicle turnaround area would be provided for use. When the gate is open, drive lanes and parking would be provided for vehicle use. No parking signs would remain posted along the road, and conditions of approval are necessary to ensure there is adequate sight distance for entering and exiting vehicles. Conditions of approval are also necessary to ensure that glare from any lighting is directed away from surrounding residences, and that hours of operation of the facilities are limited to 4:00 A.M. to 10:30 P.M. A maintenance and operation agreement for proposed facilities would be required before development of the proposed use on the subject property. *Findings 1, 9 – 11, 24 – 32.*
  
4. **With conditions, 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.** The proposed boat launch and associated facilities are designed to replace an existing, though dilapidated, boat launch and associated facilities; minimize impact on eelgrass beds in the vicinity; and minimize impact on sediment transport along the shoreline. Fencing would screen the proposed use

from adjacent residences and delineate the entrance to the use. Drive lanes would be provided for vehicle use when the entry gate is open and a vehicle turnaround area for vehicle use when the entry gate is shut. Parking would be constructed inland away from the shoreline and beach. Conditions of approval are necessary to ensure adequate sight distance along Point No Point Road NE for entering and exiting vehicles, and to ensure an adequately-sized and –designed stormwater management facility is constructed to manage stormwater runoff from the proposed use. *Findings 1, 3 – 5, 8 – 11, 18 – 20, 27 – 32.*

### DECISION

Based on the preceding Findings and Conclusions, a request for a Shoreline Substantial Development Permit and Administrative Shoreline Conditional Use Permit to demolish and remove an existing boat launch and related above- and below-water structures and install a new boat ramp, paved driveway, staging and parking areas, restroom, water line, and landscaping, at 8708 Point No Point Road NE, in Kitsap County, Washington, is **APPROVED**, subject to the following conditions:<sup>6</sup>

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 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** effective at the time the Administrative Conditional Use Permit application was deemed complete (January 12, 2010). 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. Should the proponent propose phasing of the project, a phasing plan shall be submitted to Development Engineering for review and approval. The phasing plan shall, at a minimum, address the following items:

Time tables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization of that specific phase.

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<sup>6</sup> This decision includes conditions required to reduce project impacts as well as conditions required to meet County Code standards.

5. 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.
6. 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 Josh Kilmek at 360-407-7451, email [jokl461@ecy.wa.gov](mailto:jokl461@ecy.wa.gov). This permit is required prior to issuance of the SDAP.
7. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permit for this development, the person or person 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 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. At Building Permit application, submit (KCPW Form 16010 for issuance of a Concurrency Certificate, as required by KCC Section 20.04.030 Transportation Concurrency.
10. Wheelchair sidewalk ramps shall conform to the current requirements of the Americans with Disabilities Act per WSDOT standard plans at the time of construction.
11. The property owners shall be responsible for maintenance of all landscaping within the existing right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat map and the accepted construction plans. In addition, Development Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.

12. Submit plans for construction of the road approach between the edge of existing pavement and right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Please denote the design vehicle on the plan set if different than the Kitsap County design vehicle. Existing approaches may need to be improved to meet current standards.
13. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.
14. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of the site access and NE Point No Point Road. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the Kitsap County Road Standards. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.
15. Any work within the County right-of-way shall require a permit to perform work on County right-of-way and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process. The need for and scope of bonding will be determined at that time.
16. Contact the solid waste service provider Waste Management @ (360) 674-3166 for information on implementing the solid waste requirements influenced by the service provider for the project.
17. Provide a Knox lock or Knox override system if the gate is to be electronic for fire department access.
18. WDFW shall adhere to all conditions and agreements of the MOU between Kitsap County and WDFW signed and dated September 6<sup>th</sup>, 2011.
19. An operation and maintenance agreement between WDFW and the County shall be executed before project development on the subject property.
20. A building permit for the vault toilet shall be required from Kitsap County DCD.
21. Signs shall be posted on the subject property restricting commercial use.
22. All shoreline construction and operational activities shall be implemented as outlined in the Pentac Environmental Monitoring and Conservation Plan, dated November 12, 2009

(Exhibit 13) and the Archaeological Monitoring Plan produced by Archaeological and Historical Services, dated August 16, 2010.

23. The Point No Point Boat Launch shall generally be operational from 4:00 A.M. to 10:30 P.M. These operational hours are subject to the negotiations and agreements between the Department of Fish and Wildlife and Kitsap County in developing the Operations and Management Agreement as outlined in the Memorandum of Understanding.
24. A six foot high solid cedar fence with three rails shall be constructed along each side yard property line to a point parallel to the waterward residence on either side.

Decided this 1<sup>st</sup> day of December 2011.



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KIMBERLY A. ALLEN  
Kitsap County Hearing Examiner  
Sound Law Center

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DEC 05 2011

KITSAP COUNTY DEPT. OF  
COMMUNITY DEVELOPMENT