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I. IDENTITY AND INTEREST OF AMICUS

At issue in this case is the validity of a rural clustering program, denominated the Rural Wooded Incentive Program (“RWIP”), adopted by Kitsap County and upheld by the Central Puget Sound Growth Management Hearings Board (the “Board”) under the Growth Management Act (“GMA”). The RWIP allows limited clustering of residential development on certain rural-designated lands in unincorporated Kitsap County.

Amicus Olympic Property Group (“OPG”) is a wholly-owned subsidiary of Pope Resources, which owns approximately 7,000 acres of Rural Wooded-zoned lands in North Kitsap County eligible for clustered development under the RWIP. Approximately 4,000 of these acres comprise a contiguous block of land south of Port Gamble.

These lands, currently zoned for rural residential use at a density of one home per 20 acres, have been used by Pope Resources for more than 150 years to grow and harvest timber. Due to rising land values in North Kitsap County, timber harvesting is no longer the highest and best use of the lands, nor is it economically viable. For this reason, OPG has been evaluating future development options for these lands, including their segregation into 20-acre parcels for residential development as allowed by current zoning.

The RWIP allows 20-acre or larger Rural Wooded parcels to be developed at a density of one house per five acres instead of one house per 20 acres provided that 75% of the land is preserved as permanent open space. For OPG, the largest private landowner in Kitsap County, the RWIP provides an opportunity to strategically cluster development on 25% of its Rural Wooded lands in order to permanently preserve the remaining lands to provide: (1) a series of contiguous regional off-road trails linking other on- and off-road trails and the towns of Port Gamble, Hansville, Kingston, Indianola, Suquamish, and Poulsbo; (2) long-term productive wildlife preserves and corridors linking such preserves, (3) recreational use of these lands by the general public; and (4) the potential to retain a modest timber production economy into the future.

This alternative to segregation of OPG Rural Wooded lands into 20-acre parcels for residential development was conceived by OPG and shared with the public after Kitsap County first adopted the RWIP in 2006. It is commonly known as the “String of Pearls Initiative” because, once implemented through the RWIP, it will link the historic waterfront communities in North Kitsap County (the “pearls”) through a series of permanent, public land and water-based trails, kayak routes, and open space and wildlife corridors (the “string”).

It also has enormous public support among North Kitsap residents, who have been allowed to use OPG's Rural Wooded lands, including the interconnected network of logging roads and trails, for public recreational uses such as hiking, biking, and horse back riding. So important is this proposed project under the RWIP that at a public meeting publicized and conducted by OPG on June 27, 2007, over 525 people attended to express their overwhelmingly enthusiastic support for OPG's plans for creation of large scale wildlife and open space preserves, and a large-scale, community-wide, on- and off-road trail system utilizing the cluster development provisions of the RWIP.

The String of Pearls Initiative cannot be realized, however, without the RWIP adopted by the County and approved by the Board, but now under attack by Appellants in this appeal. Without it, OPG may have to sell off or develop its large holdings of Rural Wooded lands in 20-acre increments for single family residential development, and the opportunity to realize the kind of innovative rural cluster development envisioned by GMA, one that preserves large, interconnected areas of forested lands as permanent open space, trails and wildlife corridors, will forever be lost.

II. STATEMENT OF THE CASE

In addition to facts set forth in the Brief of Respondent Kitsap County, OPG offers the following additional facts¹ regarding OPG's Rural Wooded lands eligible for clustered development under the RWIP:

Approximately 4,000 of the 7,000 acres of OPG's Rural Wooded lands in North Kitsap County eligible for cluster development under the RWIP comprise a large continuous tract of land south of Port Gamble.² These 4,000 contiguous acres, under current zoning, could be segregated into 20-acre lots and sold as such for residential development—up to 200 lots with a single family home on each privately owned lot.³ This cookie-cutter approach to development of these rural residential lands, apparently, is Appellants' vision of the appropriate pattern of rural development and character under the GMA.⁴

The County's, and OPG's, vision is vastly different, utilizing the GMA provisions that allow for innovative techniques such as clustering in order to achieve a variety of rural densities and uses while preserving

¹ As did Kitsap County in its Brief of Respondent, OPG will cite to the record citations (tab numbers) provided by the Growth Management Hearings Board in the Indices and Certifications of the Record, CP 103-108 and CP 258-263. For the Court's convenience, reference to the tab numbers will also include the title of the specific document being cited.

² Tab 76 (Kitsap County's Statement of Actions Taken to Comply (SATC), Ex. 51), attached hereto as Appendix A.

³ Tab 76 (SATC, Ex. 51, North Kitsap Conceptual Trail System Map).

⁴ Opening Brief of Appellants, at 46 (development under a "minimum density of one unit per 20-acre parcel" is a "development pattern fully compatible with rural character").

thousands of acres as open space for active and passive recreation for the public into perpetuity, leaving a lasting legacy for all. RCW 36.70A.070(5). Under the RWIP, the residences on OPG lands could be clustered on 25% of the land, on parcels at least 20 acres in size, with the remaining 75% of the land preserved in permanent open space.⁵ At a rural density of one dwelling unit per five acres, up to 800 homes could be clustered on up to 1,000 of the 4,000 acres, though under the RWIP no single clustered development could exceed 25 residences and no project could exceed 500 contiguous acres.⁶ Because of the flexibility of the RWIP, residential development could be clustered in such a way that the remaining blocks of 3,000 acres of permanent open space could provide for an interconnected and continuous network of recreational trails, public open space, wildlife corridors and wildlife viewing areas linking the historic waterfront communities of North Kitsap County.⁷

This is an example of the “String of Pearls Initiative” envisioned by OPG for its 7,000 acres in North Kitsap County.⁸ The Initiative has strong County and community support—and for good reason, given its potential to create a multitude of innovative economic, environmental, and

⁵ KCC 17.301.080(B). This assumes that OPG can develop under the 5,000-acre limit for Phase I, the only phase allowed at this time under the RWIP.

⁶ KCC 17.301.080(B), (E)(5).

⁷ Tab 76 (SATC, Ex. 51)

⁸ *Id.*

community benefits.⁹ The alternative favored by Appellants, a cookie cutter pattern of 20-acre residential lots on these lands, does not.¹⁰ And while development on OPG lands under the RWIP may exceed the density of the existing 20-acre zoning, it can only do so if 75% of the lands are dedicated as permanent open space.¹¹ In no event, however, would the overall density on OPG lands exceed one dwelling unit per five acres, a “rural, not urban, density,” in the words of the Growth Management Hearings Board, “that is consistent with preserving the rural character.”¹²

After twice remanding the RWIP to the County to address GMA-compliance issues, the Board determined that the County got it right.¹³ According to the Board, the RWIP clustering provisions comply with the GMA and are not clearly erroneous.¹⁴ The Honorable Christine Pomeroy of the Thurston County Superior Court agreed and dismissed Appellants’ appeal.¹⁵

III. ARGUMENT

Appellants raise two issues of concern to OPG, both of which challenge the Board’s determination that the RWIP complies with the

⁹ *Id.*

¹⁰ Opening Brief of Appellants, at 46.

¹¹ RCW 17.301.080(E)(1).

¹² Tab 55 (Board Final Decision and Order), at 36.

¹³ Tab 103 (Order Finding Compliance).

¹⁴ Tabs 55 (Board Final Decision and Order), 89 (Board Order Finding Partial Compliance), and 103 (Order Finding Compliance).

¹⁵ CP 109-117.

GMA: (1) whether the Board committed an error of law by applying a “bright line” rule to uphold rural densities of five dwelling units per acre; and (2) whether substantial evidence supports the Board’s determination that the RWIP preserves rural character.

Appellants’ principal challenges to the RWIP arise from GMA provisions relating to rural development in RCW 36.70A.070(5)(b), which require that counties provide for a “variety of rural densities [and] uses” in their rural element and further provide that “[t]o achieve a variety of rural densities and uses, counties may provide for clustering...and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.”

Using development of OPG’s lands under the RWIP as an example, Appellants claim that the clustering provisions of the RWIP allow densities and uses that impermissibly promote urban growth and are not consistent with rural character. Appellants fail to meet their burden of proof on either claim. And, if anything, development of OPG’s String of Pearls Initiative under the RWIP is further proof that the Board correctly determined that the RWIP complies with the GMA.

A. The Clustering Provisions of the RWIP Accommodate Appropriate Rural Densities and Uses and Are Consistent with Rural Character

While Appellants claim that substantial evidence in the record fails to support that the RWIP will preserve rural character, it is their claims of GMA noncompliance, and not the Board’s determination of compliance, that find no support in the record. In this regard, Appellants’ arguments consist of a litany of repetitive, conclusory and unsupported allegations about the RWIP—that it allows “urban-style subdivision in rural areas,” that it “promotes clear cutting of forests and replaces those portions of the forest with a typical suburban subdivision,” that “[t]his scheme is wholly out of place in a rural setting,” that it “allows developments on the intensity continuum that pass the tipping point and are incompatible with maintaining rural character and keeping urban services at bay,” that the “urban sprawl inherent in the [RWIP]” will become “obvious,” that “it allows perpetuation of urban sprawl in the rural area,” that “it thwarts the GMA’s requirement to preserve rural character,” that “[s]uburban-style subdivisions in Rural Wooded lands impermissibly promote urban growth,” that “the need for urban services will become apparent and

inevitable”¹⁶—as if their mere repetition can somehow raise a GMA noncompliance issue. It does not.

The Board found that the bonus density provisions of the County’s RWIP, which allow rural land zoned for 20-acre lots to achieve a net residential density of one dwelling unit per five acres provided 75% of the land is designated as permanent open space, are not clearly erroneous.¹⁷

According to the Board:

The Board notes that under the most generous option, a 100-acre parcel is allowed up to a maximum of 20 residences, a net residential density of 1 du/5 acres—a rural, not urban, density, that is consistent with preserving rural character. The Board acknowledges that the cluster design of the development appears more dense when viewed in isolation, but it is nonetheless a rural density when viewed in context of the entire parcel.¹⁸

Appellants do not contend that the Board’s determination is not supported by substantial evidence. Instead, they claim that the Board committed legal error in holding that a net residential density of one dwelling unit per five acres is a rural density, consistent with preserving rural character.

¹⁶ Opening Brief of Appellants, at 36, 38, 40, 43-44, 53.

¹⁷ Tab 55 (Board Final Decision and Order), at 36.

¹⁸ *Ibid.*

In support of this claim, Appellants first contend that the Board, without analysis, erroneously applied a “bright line” rule by defining rural density as a maximum of one dwelling unit per five acres.¹⁹ In fact, the Board did no such thing. What the Board concluded is that there is no “inherent error” in the clustering provisions provided for in the RWIP, which “under their most generous option,” would allow a “net residential density of 1 du/5 acres—“a rural, not urban density, that is consistent with preserving the rural character.”²⁰ At no time did the Board state, suggest or imply that a net density of one dwelling per five acres is always an appropriate rural density or that it always preserves rural character, regardless of the specific clustering provisions at issue or the local circumstances involved.

What is confusing about this argument is that Appellants do not even allege let alone cite evidence or authority to suggest that a net residential density of one dwelling unit per five acres is not an appropriate rural density. In fact, in another part of their brief, they seem to concede that such densities “sound rural.”²¹ This is not surprising since in

¹⁹ Appellants cite *Thurston County v. Western Washington Growth Management Hearings Board*, 164 Wn. 2d at 329, 359, 190 P.3d (2008), wherein the Court held: “The GMHB, as a quasi-judicial agency, lacks the power to make bright-line rules regarding rural densities.”

²⁰ Tab 55 (Board Final Decision and Order), at 36.

²¹ Opening Brief of Appellants, at 41.

numerous cases, many of which are quite recent, such densities in rural areas have been upheld as consistent with the GMA.²²

While Appellants also allege that the Board decision lacks analysis of this issue, it is telling that Appellants provide none of their own.

Absent evidence or authority that the net density allowed by the RWIP is not an appropriate rural density under the GMA, one that fails to preserve rural character, and none is provided by Appellants, their allegation that the Board committed error by relying upon a “bright-line” test for rural density finds no support in fact or law.

Failing that, Appellants next take issue with the Board’s calculation of density. They contend that the Board somehow miscalculated the density allowed by the RWIP when it determined that a net residential of one dwelling unit per five acres is an appropriate rural density, one that is consistent with preserving rural character.²³ According to Appellants, the appropriate density calculation is the density of the 25% of the land with the clustered developments, which according to Appellants is an urban, not rural, density. This density calculation is

²² See, e.g. *Thurston County*, 164 Wn.2d at 360 (remanding the “variety of rural densities issue to the Board to determine whether [County erred by] includ[ing] densities *greater than* one dwelling unit per five acres in its rural element.”) (emphasis provided); *Dry Creek Coalition and Futurewise v. Clallam Cnty*, WWGMHB No. 07-2-0018c, Final Decision and Order (April 23, 2008) (upholding, based on current land use patterns, County’s rural density designation of 1 dwelling unit per 5 acres).

²³ Opening Brief of Appellants, at 40.

essential to Appellants' challenge to the RWIP, for nearly all of their claims and allegations of GMA-noncompliance are based on this so-called miscalculation. It is also flat wrong.

The problem with Appellants' density calculation is that it ignores the 75% of the lands that will be preserved as permanent open space under the RWIP. Ignoring undeveloped portions of a project in calculating density renders a density statistic meaningless, and makes no sense from a land use planning perspective. This oversight did not escape the Board's attention:

The Board acknowledges that the clustered design of the development appears more dense when viewed in isolation, but it is nonetheless a rural density when viewed in the context of the entire parcel.²⁴

Appellants' density calculation also ignores the very purpose of clustering, which is to achieve a variety of rural densities by allowing more compact residential development in exchange for preservation of large tracts of rural open space.²⁵ Tellingly, Appellants ignore the fact that this innovative land management technique is expressly authorized and

²⁴ Tab 55 (Board Final Decision and Order), at 36.

²⁵ See, e.g., RCW 36.70A.070(5)(b); see also *See Thurston County*, 164 Wn.2d at 356 n.16 (discussing purposes of Thurston County clustering regulation, intended "to provide for residential development in rural areas in a way that maintains or enhances the county's rural character; is sensitive to the physical characteristics of the site; retains large, undivided parcels of land that provide opportunities for compatible agricultural, forestry and other rural land uses; protects sensitive environmental resources; facilitates creation of open space corridors; and minimizes impacts of road and utility systems.").

promoted by the GMA.²⁶ If the calculation of cluster development density only counted the density of the clusters, and not the remaining property, no cluster development could ever be considered rural, a result plainly inconsistent with the GMA provisions that allow such clustering in rural areas. Such a tortured and nonsensical calculation of cluster development density finds no support in the rural clustering provisions of the GMA.

Thus, contrary to Appellants' claim, there was no miscalculation by the Board in calculating the net residential density allowed by the RWIP. Nor was there any "mathematical sleight-of-hand," or "mathematical sophistry," as Appellants unfairly allege.²⁷ The RWIP allows a density of up to one dwelling unit per five acres if at least 75% of the remaining lands are preserved in permanent open space. This net density of at least one dwelling unit per five acres on RWIP-developed lands is a decidedly rural density and consistent with rural character based on the evidence and record in this case. Appellants have provided no evidence or authority to suggest otherwise, for none exists.

The remainder of Appellants' claims alleging that the RWIP impermissibly promotes urban growth and fails to protect rural character

²⁶ *Id.*; see also Tab 55 (Board Final Decision and Order), at 39 ("[t]he GMA promotes the use of innovative land use management techniques such as clustering...").

²⁷ Opening Brief of Appellants, at 41.

are largely based on Appellants' mistaken calculation of and focus on the density of the clusters allowed by the RWIP. In this regard, they devote a substantial portion of their argument to positing speculative development scenarios assuming a "worst-case," maximum build-out of all ten phases of the 42,108 acres of Rural Wooded lands potentially eligible for cluster development under the RWIP, even though no more than a total of 5,000 acres can be developed in the initial phase of the program, the only phase currently authorized by the RWIP.

In so doing, they ignore the predominant open space dedications that are an integral part of the rural cluster development allowed by the RWIP. They also ignore the substantial, mandatory development standards and limits on cluster developments in the RWIP, including phasing and monitoring provisions, project size parameters, dwelling unit limitations, screening and buffer requirements, open space interconnectivity requirements, as well as additional development standards.²⁸ Further, RWIP developments may not proceed unless a Hearing Examiner finds that a project meets a specific set of decision criteria, including a specific requirement that the development must "demonstrate[] preservation of rural character."²⁹ All of these standards and mandatory requirements are designed to ensure a development pattern

²⁸ KCC 17.301.080(B), (E)(5), (6), (H)(4).

²⁹ KCC 17.301.080(H)(8)

in rural areas that protects rural character and prevents clustering from becoming a predominant land use pattern in the rural area.

Appellants suggest that these mandatory standards and criteria are in fact optional, pointing to the use of the word “encourage” in the RWIP’s statement of purpose and other selected provisions.³⁰ This claim, however, is patently false. Appellant disregards the mandatory nature of these standards by assuming that the Hearing Examiner and County officials administering the RWIP will ignore these requirements.³¹ However, Appellants cannot satisfy their burden of demonstrating error in the Board’s decision with speculation that the County might shirk its duties or act in bad faith. The Board relied on these *mandatory* development standards and criteria in upholding the RWIP. This decision was reasonable and based on substantial evidence, and Appellants have failed to demonstrate otherwise.

What is clear from Appellants’ challenge to the RWIP is that the County’s vision of appropriate rural development is not consistent with their vision, a vision best exemplified by the following statement in their Opening Brief:

To accommodate appropriate rural densities,
the land must retain its ‘rural character’ after

³⁰ See Opening Brief at 50.

³¹ See Opening Brief at 47 (“Subdivision design standards do not protect rural character.”); see also *id.* at 50 (complaining of the word “encourage” in the RWIP).

application of clustering and bonus density provisions. Thus, a cluster of three or four homes might fit into a rural setting. A subdivision of 25 homes does not. It belongs in an urban area.³²

While there is nothing wrong with Appellants' vision for rural development in Kitsap County, it is not theirs that matters. Instead, as both the Legislature and the courts have made abundantly clear, the County has been given the authority and discretion to "foster land use patterns and develop a local vision of rural character[.]"³³ The County has done so in this case, adopting a rural clustering program based on local circumstances to achieve a variety of rural densities. Under the GMA, the County's planning action is entitled to deference.³⁴ Having upheld this action, the Board's decision must be upheld if supported by substantial evidence. Absent evidence that it is not, and none has been provided by Appellants, this Court should uphold the Board's decision on the RWIP.

³² Opening Brief of Appellants, at 38 (emphasis in original).

³³ RCW 36.70A.011; see, e.g., *Thurston County*, 164 Wn.2d at 355 ("A county has a great amount of discretion to employ various techniques to achieve a variety of rural densities.") (citing *Whidbey Envtl. Action Network v. Island County*, 122 Wn. App. 156, 167, 93 P.3d 885 (2004); see also *The Cooper Point Ass'n v. Thurston Cnty*, 108 Wn. App. 429, 444, 31 P.3d 28 (2001) ("Local governments have broad discretion in developing comprehensive plans and development regulations tailored to local circumstances.") (citing *Diehl v. Mason Cnty*, 94 Wash. App. 645, 651, 972 P.2d 543. (1999))).

³⁴ *Thurston County*, 164 Wn.2d at 355, 359-360.

B. OPG's String of Pearls Project Is Permissible Rural Development Under the GMA

Appellants cite development of OPG's Rural Wooded lands under the RWIP as proof that the RWIP impermissibly promotes urban sprawl on Rural Wooded lands in violation of the GMA.³⁵ If anything, OPG's String of Pearls Initiative proposed for its Rural Wooded lands in North Kitsap County is proof of compliance with the GMA.

In alleging otherwise, Appellants again focus erroneously only on the subdivisions of clustered residential lots on 25% of the lands. While these tracts in some instances may resemble large, suburban lots, unlike such lots in urban areas, on Rural Wooded lands they will be separated and surrounded by large blocks of permanent, contiguous open space. In fact, the majority of the Rural Wooded lands, 75% of these lands, will be preserved as permanent open space.

Development under the String of Pearls Initiative will thus preserve rural character consistent with the GMA.³⁶ In Rural Wooded lands developed under the Initiative, "open space, the natural landscape, and vegetation [will] predominate over the built environment."³⁷ Because residential uses will be contained on a quarter of the total land area, the

³⁵ Opening Brief of Appellants at 45-46, 63.

³⁶ See RCW 36.70A.030(15)(a)-(g) (defining "rural character").

³⁷ *Id.* at (15)(a).

areas will “provide visual landscapes that are traditionally found in rural areas and communities, will protect the areas from widely dispersed, “sprawling, low-density development,” and will protect wildlife habitat and natural water flows.³⁸ The Initiative will also preserve opportunities for rural lifestyles, and will not require extension of urban governmental services into the areas.³⁹ In these ways, rural character—as defined by the GMA—will be preserved, as the Board correctly found.⁴⁰

The 4,000-acre block of OPG lands south of Port Gamble best exemplifies the benefits of clustering under the RWIP and its compliance with the goals and requirements of the GMA. If allowed to develop under the RWIP,⁴¹ up to 800 homes could be clustered on up to 1,000 of the 4,000 acres of OPG lands, though under the RWIP no single clustered development could exceed 25 residences and no project could exceed 500 contiguous acres. As required by the RWIP, residential development would be clustered in such a way that the remaining blocks of 3,000 acres of permanent open space would provide the opportunity for an interconnected and continuous network of recreational trails, public open

³⁸ See *id.* at 15(d), (e), (g).

³⁹ See *id.* at 15(b), (f).

⁴⁰ See Tabs 55 and 103.

⁴¹ Under the RWIP, no more than a total of 5,000 acres can be developed in the initial phase of the program, the only phase currently authorized by the RWIP. The String of Pearls example discussed herein assumes that all 4,000 acres of OPG lands can be developed under Phase I of the RWIP.

space, wildlife corridors and wildlife viewing areas linking the historic waterfront communities of North Kitsap County.

The public benefit to the rural areas of OPG's development of these lands under the RWIP is substantial. On the majority of the lands, the 75% of lands permanently preserved as open space, it would provide: (1) a series of contiguous regional off-road trails linking other on- and off-road trails and the towns of Port Gamble, Hansville, Kingston, Indianola, Suquamish, and Poulsbo; (2) long-term productive wildlife preserves and corridors linking such preserves, (3) recreational use of these lands by the general public; and (4) the potential to retain a modest timber production economy into the future.⁴² It is hard to imagine a clustering ordinance that better preserves rural character while providing for a variety of rural densities and uses, as required by the GMA.

Appellants have not alleged any evidence or authority that suggests otherwise. Instead, they argue an alternative that would result in OPG's 4,000-acre block of land subdivided into 200 20-acre residential lots, an alternative favored by no one except Appellants.

Regardless of the wisdom of this alternative, the issue before the Court is whether the Board erred in holding that the RWIP clustering provisions comply with the goals and requirements of the GMA. Clearly

⁴² Tab 76, Ex. 51, attached hereto as Exhibit A (Tabs 7 and 8)

they do, and Appellants have failed to meet their burden of proving otherwise.

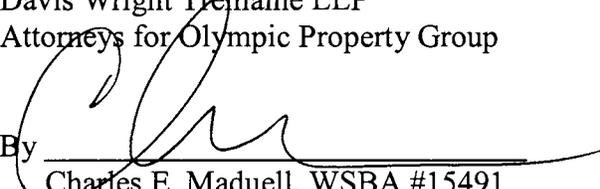
If anything, the String of Pearls Initiative best exemplifies the kinds of innovative techniques like clustering that the GMA authorizes counties to use in order to achieve a variety of rural densities and uses.⁴³ It provides proof and further support for the Board's determination that the RWIP complies with the goals and requirements of the GMA.

IV. CONCLUSION

For the reasons set forth herein, OPG respectfully requests that the Court uphold the Board's decision on the RWIP.

RESPECTFULLY SUBMITTED this 9th day of July, 2009.

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⁴³ See RCW 36.70A.070(5)(b).

APPENDIX



February 11, 2008

Kitsap County Board of Commissioners
614 Division Street
Port Orchard, WA 98366

RE: RWIP Hearing – February 11, 2008

Dear County Commissioners:

For many years owners of large parcels, tribes, environmentalists and others have worked to come up with an innovative concept on land zoned for 20-acre lots. The purpose was to find additional development options for land owners that would lead to innovation and would return some of the value to the land (that in years before could be developed at much higher densities). In December, 2006, the county passed the Rural Wooded Incentive and TDR programs. There was a great deal of compromising on all sides and at the end of the day most people around the table were unsatisfied with the resulting zoning ordinance – so nobody got all they wanted. The ordinance allowed up to 3 additional dwellings per 20 acres if 75% of the land was left out of the development. Pope Resources saw the program as a vehicle for adding value to its land holdings in Kitsap County in a creative way that could also include the benefits of regional public trails, wildlife, and open space corridors. The “String of Pearls” was conceived by OPG and shared with the public *after* the ordinance was adopted.

OPG’s Position

Our position is as follows:

- This legislation has and will continue to foster innovation in land use that can include significant public benefits.
- The legislation should not be modified any more than requested by the state.
- We agree with eliminating the provision that a portion of the open space can be developed after 40 years. OPG has always been willing to make the open space provision permanent.
- Working forestry should be allowed on all open space subject to review of a forest management plan.
- Do NOT require that the 75% open space be give to a public agency. This will reduce our and other landowner’s incentives to utilize this legislation and create the trail and open space network we have envisioned.
- Continue to support the TDR program with the exclusion of the 40-year redevelopment provision.



— Olympic Property Group —
19245 Tenth Avenue Northeast, Poulsbo, WA 98370-7456
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- Eliminate the 500 acre maximum project size provision. OPG believes planning on its 8,000 acres in North Kitsap should not be “piecemealed”.

Attached for your immediate review you will find additional information regarding work that has been performed to date regarding OPG’s String of Pearls concept and trails in North Kitsap:

- OPG’s Vision for Community and Economic Development for North Kitsap County (full length presentation at the end of this packet)
- July 27, 2007 Attendance Photo from Kingston Junior High – North Kitsap Watchable Wildlife and Trails Meeting (528 in attendance)
- Conceptual Trail System Map, dated 1/15/08
- North Kitsap Public Kayak Launch Sites Map, dated 2/4/08
- North Kitsap Regional Trails Committee Organizational Chart, dated 1/17/08
- Paddle Kitsap Event – website copies – dated 2/11/08
- Editorial – Kitsap Sun – County Should Enable Trails Plan, dated February 10, 2008

Also attached please find the additional documents for your review at your convenience:

- Full Length Presentation of OPG’s Vision, dated December 11, 2007
- Port Gamble website regarding trails (temporary site)

Thank you for your consideration.

Sincerely,



Jon Rose
President
Olympic Property Group



A Vision for Community and Economic Development for North Kitsap County

.....

Presented by Olympic Property Group
A Pope Resources Company





NORTH KITSAP CONCEPTUAL TRAIL SYSTEM 1/15/08

Legend

- OPG lands
- DNR lands
- Tribal lands
- Parks
- Wetlands
- Agricultural Community
- Logging roads
- Existing trails
- Conceptual trails
- Proposed trails
- Streams

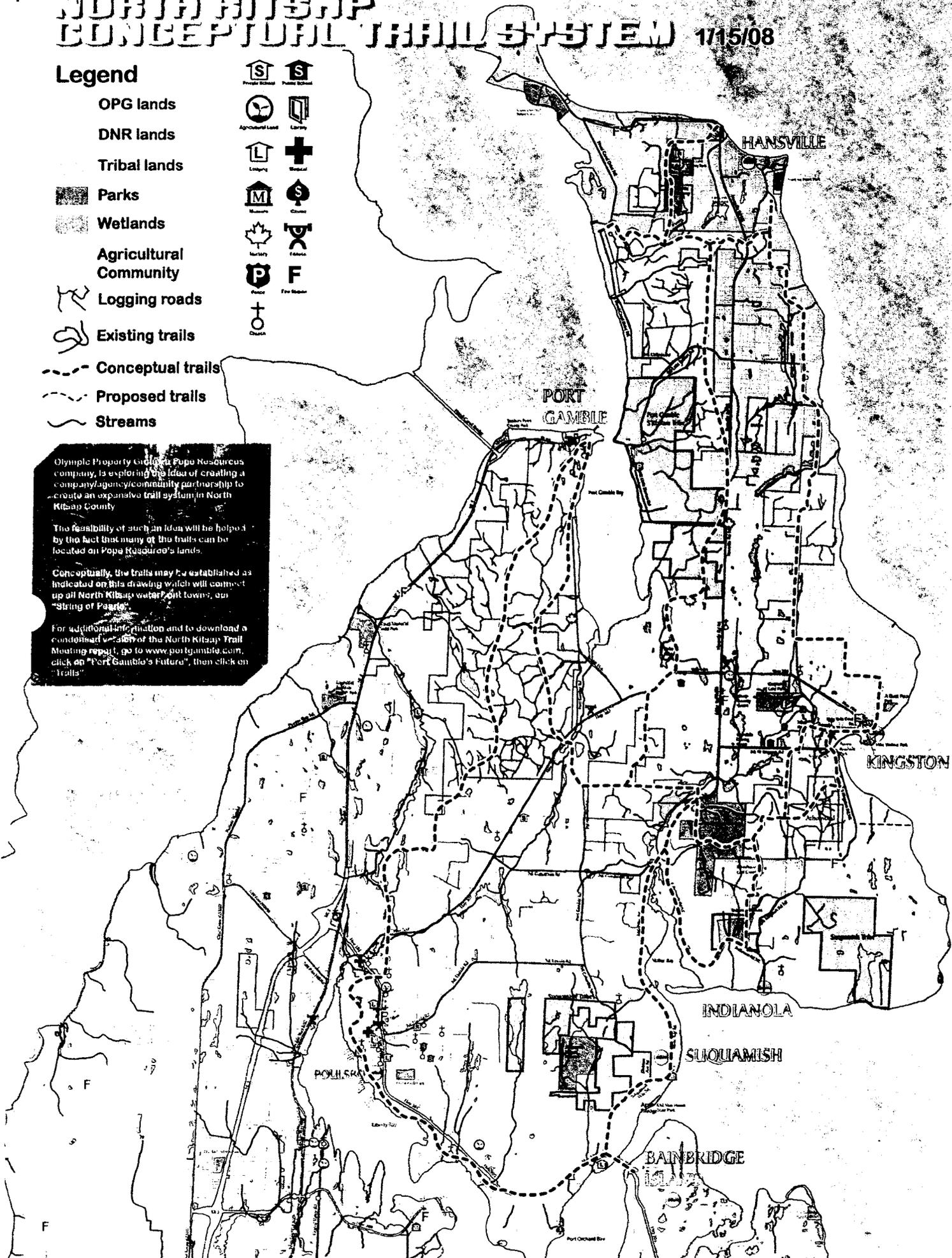


Olympic Property Group, a Pope Resources company, is exploring the idea of creating a company/agency/community partnership to create an expansive trail system in North Kitsap County.

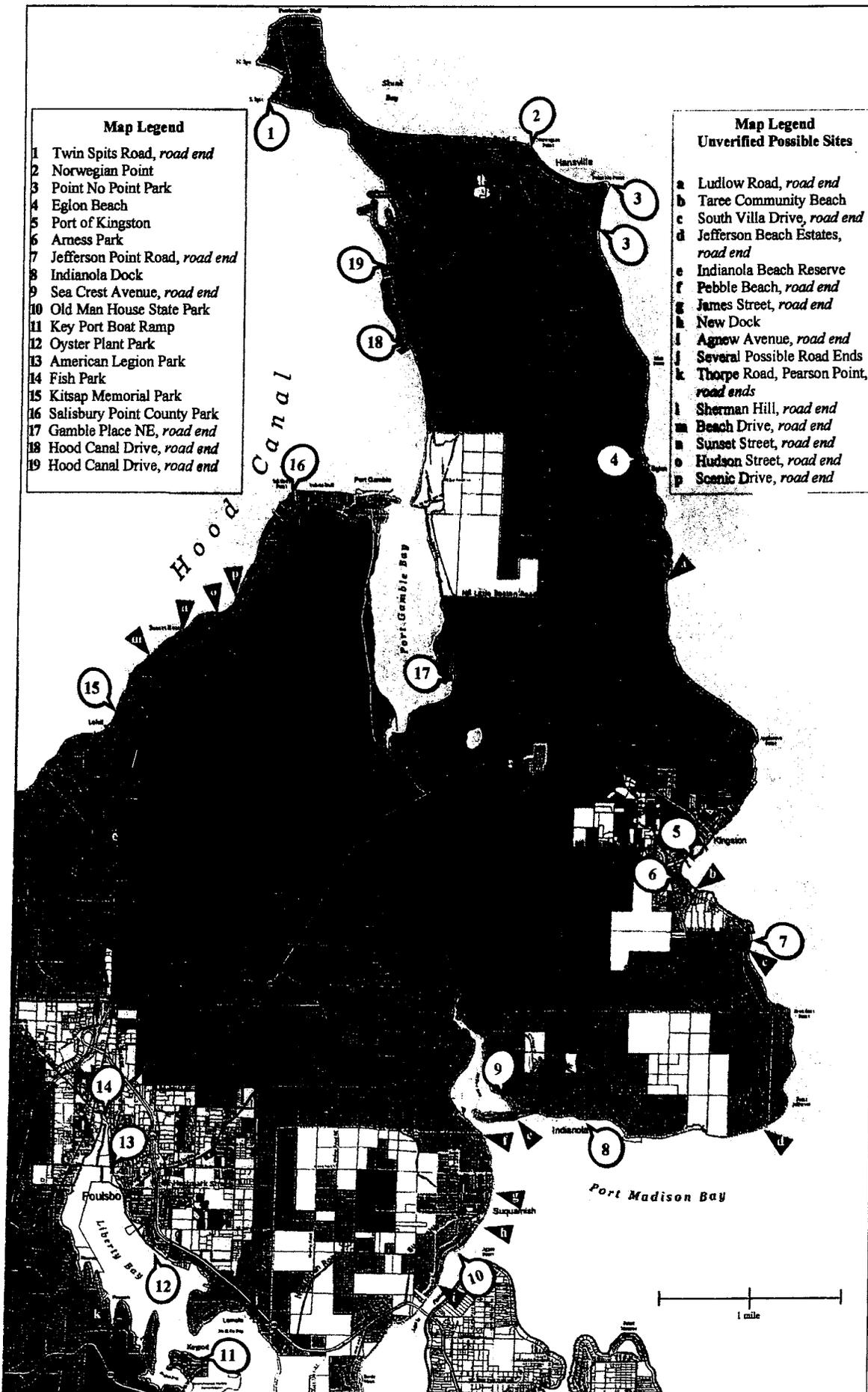
The feasibility of such an idea will be helped by the fact that many of the trails can be located on Pope Resources' lands.

Conceptually, the trails may be established as indicated on this drawing which will connect up all North Kitsap water, dirt towns, an "String of Pearls".

For additional information and to download a condensed version of the North Kitsap Trail Meeting report, go to www.portgamble.com, click on "Port Gamble's Future", then click on "Trails".



North Kitsap Public Kayak Launch Sites



- Map Legend**
- 1 Twin Spits Road, road end
 - 2 Norwegian Point
 - 3 Point No Point Park
 - 4 Eglon Beach
 - 5 Port of Kingston
 - 6 Arness Park
 - 7 Jefferson Point Road, road end
 - 8 Indianola Dock
 - 9 Sea Crest Avenue, road end
 - 10 Old Man House State Park
 - 11 Key Port Boat Ramp
 - 12 Oyster Plant Park
 - 13 American Legion Park
 - 14 Fish Park
 - 15 Kitsap Memorial Park
 - 16 Salisbury Point County Park
 - 17 Gamble Place NE, road end
 - 18 Hood Canal Drive, road end
 - 19 Hood Canal Drive, road end

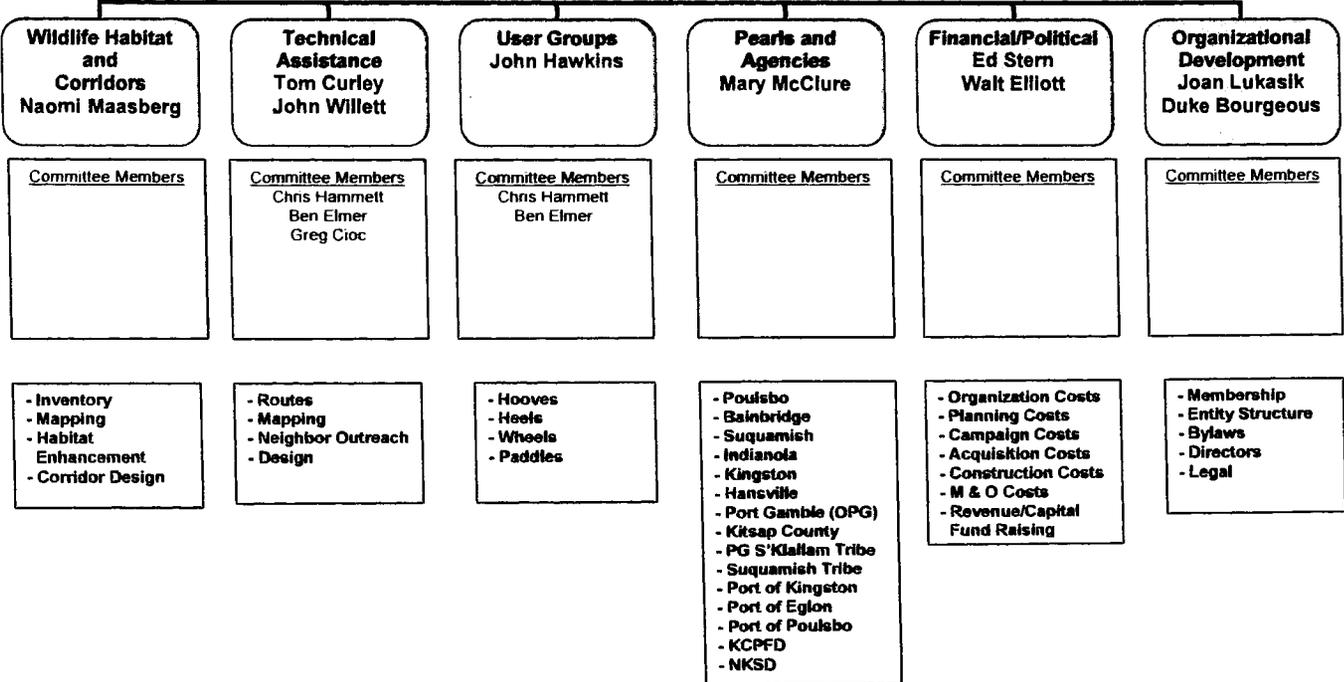
- Map Legend**
Unverified Possible Sites
- a Ludlow Road, road end
 - b Taree Community Beach
 - c South Villa Drive, road end
 - d Jefferson Beach Estates, road end
 - e Indianola Beach Reserve
 - f Pebble Beach, road end
 - g James Street, road end
 - h New Dock
 - i Agnew Avenue, road end
 - j Several Possible Road Ends
 - k Thorpe Road, Pearson Point, road ends
 - l Sherman Hill, road end
 - m Beach Drive, road end
 - n Sunset Street, road end
 - o Hudson Street, road end
 - p Scenic Drive, road end

1 mile

North Kitsap Regional Trails Committee
 Assignments from January 17th, 2008 Meeting – *Main Groups*

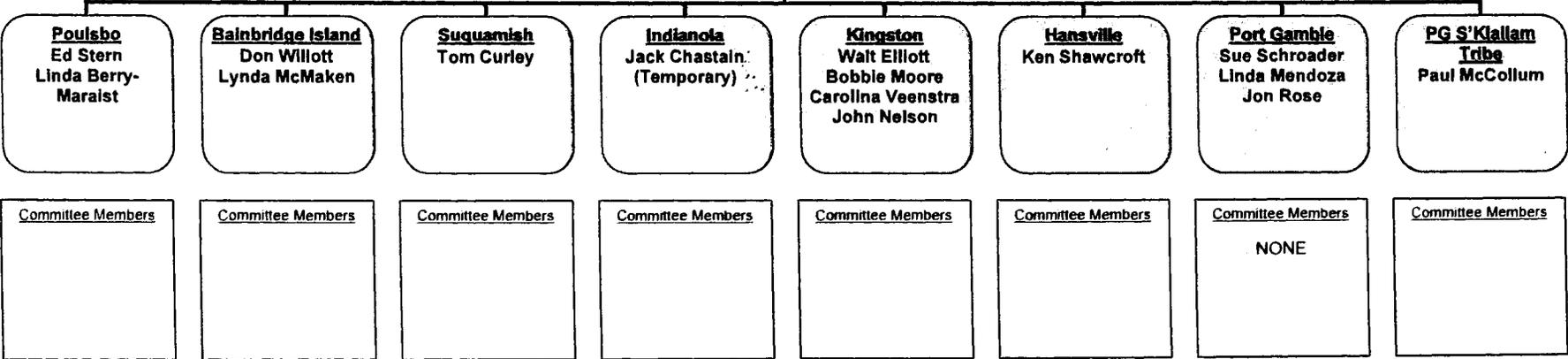
Director
 Jon Rose
 Sue Schroeder
 OPG

Secretary
 Linda Mendoza
 OPG
 (Temporary)



North Kitsap Regional Trails Committee
 Assignments from January 17th, 2008 Meeting – *Trail Research Groups*

Pearls and Agencies
 Mary McClure





Paddle Kitsap Aug 1-2, 2008

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[About PK](#) [FAQ](#) [Training](#) [Newsletter](#) [Volunteer](#) [PK Fund](#) [Sponsors](#)

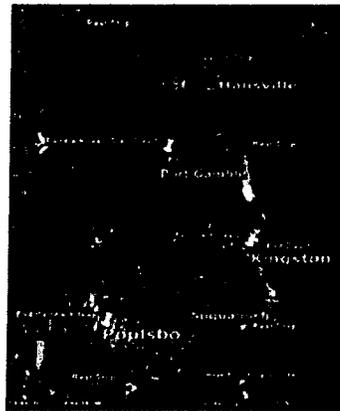
Port Gamble to Poulsbo, WA

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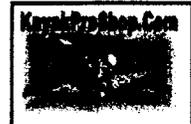


Welcome to paddle Kitsap. Paddle the Pearls of North Kitsap and help establish the North Kitsap water trail.

Paddle Kitsap

Mission Statement

Paddle Kitsap is dedicated to transforming individuals and communities through Paddling. Paddle Kitsap is part of the now forming North Kitsap Trails Association. Paddle Kitsap is providing a portion of the proceeds from this Paddle to the North Kitsap Trails Association for the purpose of preserving and protecting water access in North Kitsap and to create the North Kitsap Water Trail for future generations. Paddle Kitsap recognizes these special places in Kitsap County and supports community development projects towards this end with grants from the proceeds.



February 10, 2008

Kitsap Sun

EDITORIAL: County Should Enable Trails Plan

At a hearing Monday evening, Kitsap County commissioners will be facing choices that can profoundly affect recreational opportunities for Kitsap residents, and the ecology of thousands of acres of forestland.

Olympic Property Group owns about 8,000 mostly wooded acres in North Kitsap. It's largely open for public recreational use, with trails used by hikers, bikers and horseback riders. Historically it's been used for forestry, but because property values have outpaced timber prices, the company must make use of its more lucrative development potential.

Company president Jon Rose said the easiest plan would be to sell the land wholesale, or in 20-acre parcels with one home per lot. But he's proposing a better option. By using the county's Rural Wooded Incentive Program, Olympic Property Group could increase development density on some of the land in exchange for leaving most of it undeveloped.

Specifically, 75 percent of the land would remain open space, benefiting wildlife and thousands of visitors who'd use its trails. On the remaining 25 percent, higher-density development would be allowed, averaging one home per five acres.

However, portions of Kitsap's Rural Wooded Incentive Program were rejected last month by the Central Puget Sound Growth Management Hearings Board. The board endorsed the program's concept, but balked at a stipulation allowing development on some of the open space after 40 years.

In response, the county now is proposing that the land be left undeveloped in perpetuity — but also that forestry be prohibited on it, and the land be given over to public ownership.

Those last two restrictions are potential deal-killers for the trail system plan. And they're unnecessary.

Some property owners, including Olympic Property Group, might well agree to leave the land undeveloped permanently. But it's unreasonable to demand they also turn their property over to public ownership which, incidentally, could remove it from the tax rolls with a subsequent loss of revenues for the county.

Likewise, it doesn't make any sense to prohibit forestry activities on land which already is being used for that purpose, as for well recreational trails and woodlands open to the public. It's also a

well-demonstrated fact that forestry and recreational access can coexist on the same land; our state and national forests come to mind.

Clustering residential development in 25 percent of the total property around Port Gamble would be of major benefit to the ecosystems, since construction of homes, roads, septic systems and other infrastructure would be contained within a relatively small area, rather than spread across thousands of acres in a patchwork of 20-acre parcels. And at an average of one home per 5 acres, the density still would meet "rural" standards.

The Growth Management Hearings Board has agreed to the Rural Wooded Incentive Program concept, and also approved most of the rules for implementing it. It rejected the 40-year limit on development, but likely would accept a permanent prohibition.

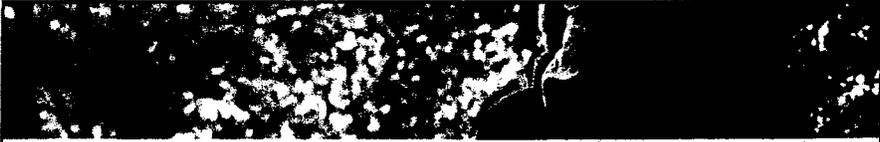
Olympic Property Group has proposed an innovative plan that could be of value to the company and its shareholders — but of even greater benefit to Kitsap County's residents and its environment.

With the hearings board favorably disposed toward the plan, and the company anxious to bring it to fulfillment, it remains for the county to come up with more reasonable conditions that will satisfy both these willing parties. If that doesn't happen, the forestland could be sold off to another party or divided into numerous smaller parcels under private ownership, with a loss of trails and open space for the public and a broader impact on the environment.

This is a unique and golden opportunity for Kitsap County. Its loss would be our loss. Its gain would benefit our generations to come.



© 2007 Kitsap Sun



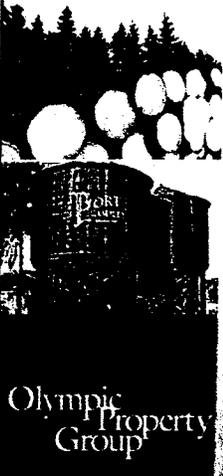
**A Vision for
Community and Economic
Development for North Kitsap County**

Presented by Olympic Property Group
A Pope Resources Company
Revised December 11, 2007



Who We Are and What We Do

- Pope Resources started as Pope & Talbot in Port Gamble in 1853
- Spun off from Pope & Talbot in 1985
- Own and co-own approximately 140,000 acres of timberland



Olympic
Property
Group

A Pope Resources Company






Who We Are and What We Do

- Largest private landowner in Kitsap County
 - 8,000 acres in North Kitsap County
 - 10,000 acres in South Kitsap County
- **Primary business:** Growing and harvesting trees (Olympic Resource Management, ORM)
- **Secondary business:** Adding value through real estate development in part to fund additional timberland acquisitions (Olympic Property Group, OPG)





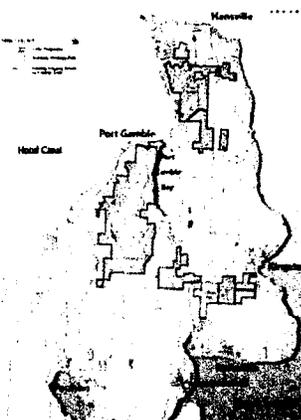

Purpose of Presentation

- The company's North Kitsap (NK) lands are too valuable to be managed solely for timber production
- Need a new long-term plan for the 8,000 acres in NK
 - 1,000 acres in master planned communities
 - 7,000 acres zoned for 20-acre lots
- Will eventually liquidate lands and purchase timberlands elsewhere
- Presentation will discuss three of Olympic Property Group's options and a significant community-wide opportunity associated with Option 3



Olympic Property Group's Development Options

North Kitsap Study Area Exhibit



- Option 1:**
Bulk sale the portfolio in large blocks
- Option 2:**
Break 7,000 acres into 20-acre lots
- Option 3:**
Utilize clustering on 7,000 acres



North Kitsap is Unique



- Surrounded by two distinct bodies of water
- All settlements are waterfront villages
- Unlimited culture and jobs to the east
- Unlimited recreation to the west
- Size is limited, adding to the sense of human scale, community and connectedness
- Acting on a cohesive, regional vision will multiply the community and economic development efforts of each individual community



What Vision Could We Aspire To?

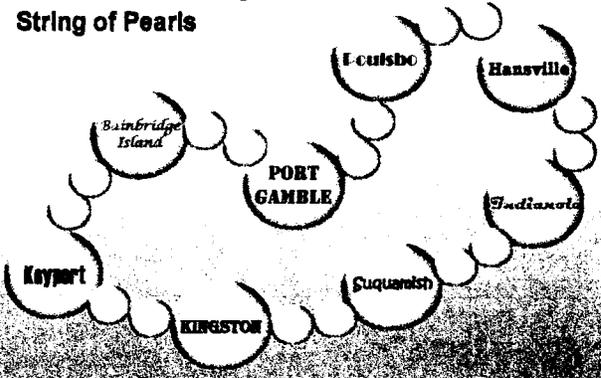
We should model the ultimate **Puget Sound lifestyle**

- Limitless recreational choices and outdoor access **close to home**
- Connect to the land and the Sound by developing strong traditions involving the harvesting of crops and locally caught seafood
- Create exciting, high quality opportunities for life-long learning that equal or exceed those found in more urbanized settings
- Laid back rural landscape punctuated by lively vibrant waterfront villages that preserve their unique character and traditions




Start with a Unifying Concept

North Kitsap as Puget Sound's String of Pearls



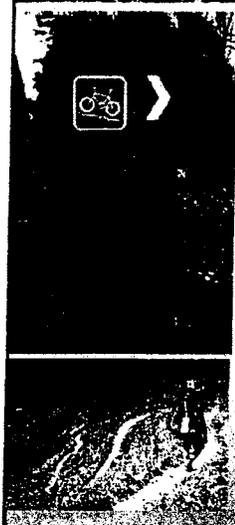





The 7 Elements

1. Trails
2. Wildlife and Open Space
3. Marine and Other Recreation
4. Plants, Farming and Fishing
5. Education and Life-Long Learning
6. Our Waterfront Villages: Polished Pearls
7. Planning, Coordination and Cooperation





Element 1 – Trails

Goal: Unite the "pearls" through a comprehensive system of on and off-road trails

Trails: The #1 Community Amenity

- Connect our waterfront villages through a regional system of off-road, on-road, and water view trails
- Provide a safe place for families to recreate
- Used by all income levels
- Used by all age brackets
- Creates healthy lifestyles and connections to the outdoors



North Kitsap Trail Meeting

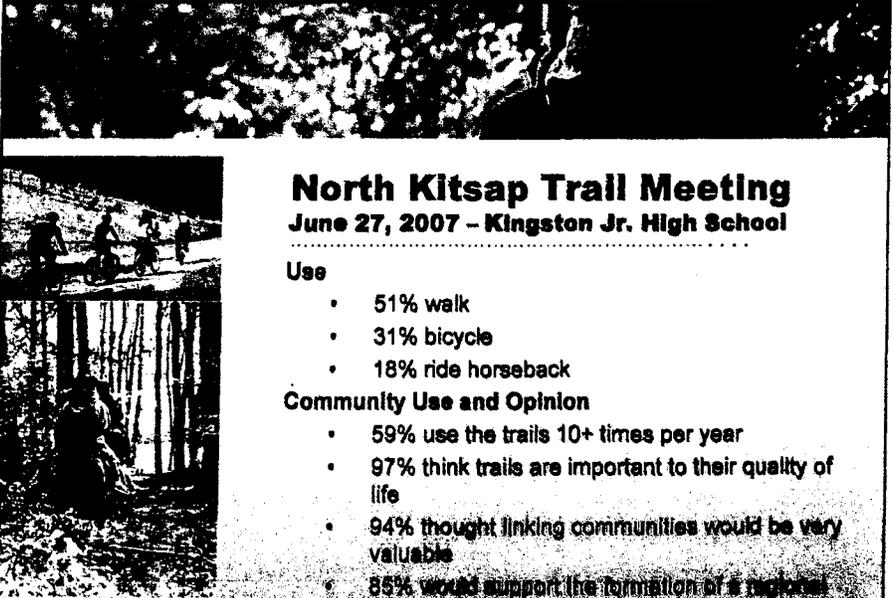
June 27, 2007 - Kingston Jr. High School

Purpose

- To provide OPG feedback on the importance of trail use on Pope Resources lands
- 528 attendees
- 643 questionnaires completed and returned

Location

- 79% from North Kitsap of which 38% were from Poulsbo
- 21% from outside North Kitsap
- 80% use Pope Resources lands
- 10% use other lands



North Kitsap Trail Meeting

June 27, 2007 - Kingston Jr. High School

Use

- 51% walk
- 31% bicycle
- 18% ride horseback

Community Use and Opinion

- 59% use the trails 10+ times per year
- 97% think trails are important to their quality of life
- 94% thought linking communities would be very valuable
- 85% would support the formation of a regional trail district and system

Condensed Trail Report available at www.portgamble.com



Element 2 – Wildlife and Open Space



Goal: *Promote the long-term viability and appreciation of wildlife*

- A regional approach can optimize long-term wildlife viability
- Create permanent large preserves connected through strategically placed "corridors"
- Design for Watchable Wildlife through use of:
 - Grazing meadows
 - Habitat enhancements
 - Nesting boxes and platforms
 - Viewing platforms
- Monitor, inventory and assess existing wildlife resources, including birds and plants



Element 3 – Marine and Other Recreation



Goal: *To Become Puget Sound's Marine Recreational Center to improve the quality of life for residents and to promote tourism*

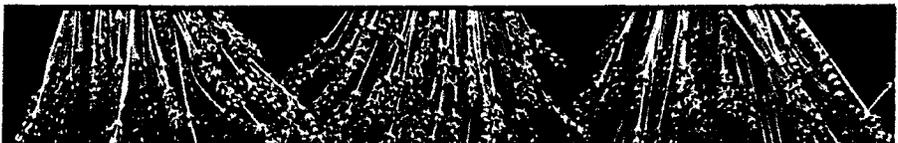
- Kitsap County has more shoreline than any other county in Washington - we should recognize this fact and do our best to make the most of it!
- Boating, fishing, kayaking, tidepools, scuba diving, underwater parks, kite sailing
- Hiking, biking, watchable wildlife, and equestrian
- Airport fields, regional tournaments, golf



Other Recreation – Existing

Certain existing facilities and events add to a resort environment:

- Whitehorse Golf Course
- Clearwater Casino
- The Pointe Casino
- North Kitsap Heritage Park
- Viking Cup
- Chilly Hill
- Many Others



Element 4 – Plants, Farming and Fishing

Goal: Enhance and promote plants, farming and fishing as an integral element to our way of life

Plants

- Existing nurseries (plants are local export)
- Numerous farmers markets, plant sales

Farming

- Preserve important vistas and farms through purchase of development rights

Fishing

- Create one or more "Fisherman's Wharf" experiences
- Find appropriate locations for a local fishing fleet industry and develop a regional brand





Element 4 – Plants, Farming and Fishing

.....

Agricultural Tourism

- Recognize through land-use regulations
- Wineries and vineyards
- Breweries
- Creameries
- Develop a formal gardens or arboretum
- U-pick





Element 5 – Education and Life-Long Learning

.....

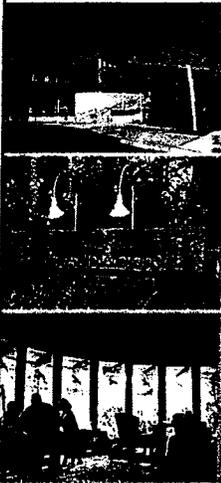
Goal: Create exciting high-quality opportunities for life-long learning that equal or exceed those found in more urbanized settings

- Education and learning is the best tool for a life of continuous renewal and reinvention
- A culture that celebrates learning will turn out the most productive children, and will attract back and into it, the most inquisitive and talented adults
- There are more people "starting over" with second careers and small new businesses than at any time in history



Existing Educational Facilities

- North Kitsap School District
- Bainbridge Island School District
- Olympic College
- Northwest College of Art
- Islandwood
- Bainbridge Graduate Institute
- West Sound Academy
- Stillwater Environmental Learning Center
- Private Elementary
- Northwest Community College




Element 6 – Our Waterfront Villages: Polished Pearls

Goal: Develop each Pearl into a distinctive, shining center of culture

- Clearly articulate distinct community identities
- Showcase unique histories
- Individualized and refreshed logos
- Arrival sequencing
- Restaurants
- A variety of lodging types throughout
- Concerts
- United marketing efforts
- Design standards to create quality





Element 7 – Planning, Coordination & Cooperation

Goal: Create an action team of representatives from each Pearl to create and implement the String of Pearls regional plan

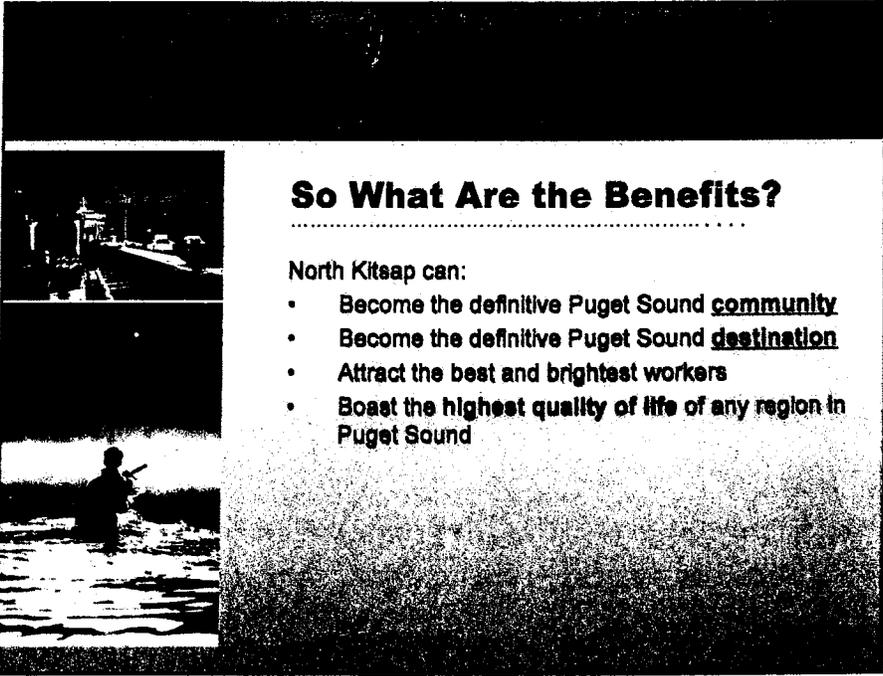
The team recognizes that:

- What's good for one is good for the region
- A regional vision adds power and effectiveness in creating plans and marketing not achievable by individual communities working on their own
- The focus is on action and results



So What's Needed?

- Map out a working strategy with milestones
- Identify willing and enthusiastic partners that will:
 - Make this happen in our lifetime
 - Foresee and forestall the inevitable obstacles
 - Believe in leaving behind a legacy of a great community
- Create the "vehicle" for regional coordination
- Bring it to the community
- Validation by Pope Resources that the clustering option will provide an appropriate economic return and be accepted by the community



So What Are the Benefits?

North Kitsap can:

- Become the definitive Puget Sound community
- Become the definitive Puget Sound destination
- Attract the best and brightest workers
- Boast the highest quality of life of any region in Puget Sound

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North Kitsap Trails - General Information

UPDATED 1/24/08

General Trail Information

Did you know that Olympic Property Group, a Pope Resources Company, allows members of the general public non-motorized access to many of our 8,000 acres of timberland in North Kitsap County?

In support of this activity, we are currently conducting a long-term planning effort for this land to better understand the current and potential future use of our logging roads and trail systems.

While we are pleased to provide community access for hiking, horseback riding and bicycling, we are currently studying the extent of the public's interest in either preserving or expanding use of our trail system in the future. Click on [Existing Pope Resources Logging Roads and Trail Systems map](#) for location information.

North Kitsap Public Trail Meeting

THANKS to all who attended the trail meeting on Wednesday night, June 27, 2007! You added valuable input to our planning efforts and we appreciate the abundant support. We feel that the meeting was successful with an attendance of 528 interested hikers, walkers, bikers and riders.

Your comments were received and we have completed our Trail Report which incorporates all questionnaire results and other meeting highlights. Please click on [Trail Meeting and Questionnaire Results](#) to read our Executive Summary.

Thank you for participating! Additional information will be posted to the web as we work on this project.



Trail Committees

We held the 3rd meeting for the North Kitsap Watchable Wildlife and Trails concept with leaders and agencies on January 17, 2008. We have started the process of setting up committees and groups to find existing trails and future connections on land and sea (Kayak routes), each with a dedicated "Pearl" representative. Our Pearls are Indianola, Kingston, Poulsbo, Hansville, Suquamish, Port Gamble, Bainbridge Island and the Port Gamble S'Klallam Tribe.

We also set up six other committees that will make the trails concept a reality. These committees are as follows:

- Wildlife Habitat and Corridors
- Technical Assistance
- User Groups
- Pearls and Agencies
- Financial
- Organizational Development

If you are interested in any of these committees and want to be involved, please email us at opg@orminc.com and we will give you the contact information for the leader of that group.

You can also go into the next tab under Port Gamble's Future, (NK Trails - Committee Members) to download agendas, minutes, exhibits, maps and other pertinent trail information.

Other Trail-Related Information

Click [Here](#) to see an opinion paper regarding the benefits of trails as written by land planner and designer, Richard Shaw from Design Workshop, Aspen, Colorado.

Click [Here](#) to obtain a copy of the hand-out "The Path To Trails" which depicts our vision of what it would take to get us there!

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portgamble@orminc.com Olympic Property Group PO Box 85 Port Gamble, WA 98364

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North Kitsap Trails - Committee Members

UPDATED 2/4/08

TO ALL WATCHABLE WILDLIFE AND TRAIL GROUP LEADERS

Thank you for attending the Watchable Wildlife and Trails Meeting on January 17, 2008. You provided much needed input and tremendous support for this idea. We hope that you will carry a continued interest and passion for this project.

PEARL TRAIL RESEARCH MAPS

Unmarked Black and White Working Maps

- [Hansville and S'Klallam Tribe Area Map](#)
- [Indianola and Kingston Area Map](#)
- [Port Gamble Area Map](#)
- [Poulsbo and Suquamish Area Map](#)

Area Designated/Marked Black and White Working Maps

- [Hansville Trail Research Map](#)
- [Indianola Trail Research Map](#)
- [Kingston Trail Research Map](#)
- [OPG Area 1 Trail Research Map](#)
- [OPG Area 2 Trail Research Map](#)
- [OPG Area 3 Trail Research Map](#)
- [Port Gamble S'Klallam Tribe Research Map](#)
- [Poulsbo Trail Research Map](#)
- [Suquamish Trail Research Map](#)

MAPS AND EXHIBITS - OTHER

- [Desert to Rainforest Trail Map](#)
- [North Kitsap Regional Map - Black and White - Entire Area](#)
- [North Kitsap Amenity Map](#)
- [North Kitsap Conceptual Trail System Map](#)
- [North Kitsap Public Kayak Launch Sites Map](#)
- [North Kitsap Regional Map with Pearl Trail Research - Designated Areas of Responsibility](#)

GENERAL MEMBERSHIP INFORMATION

- [Membership List](#)
- [Organizational Chart](#)

MEETINGS

MEETING NO. 1 - 10/16/06

[Minutes](#)

MEETING NO. 2 - 4/20/07

[Minutes](#)

MEETING NO. 3 - 1/17/08

[Agenda](#)

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North Kitsap Trails - News Articles

Recent news articles:

1. [Carving Out Trails Across 8,000 Acres of NK Land Getting Consideration](#) - Kitsap Sun - 06/15/07
2. [Public to Weigh in on Open Space](#) - NK Herald - 06/16/07
3. [OPG Trail Proposal Makes Sense](#) - NK Herald - 06/23/07
4. [North Kitsap Trails Plan Applauded](#) - Kitsap Sun - 06/28/07
5. [Creating North Kitsap Version of Central Park](#) - Kitsap Sun - 06/29/07
6. [Trail Plan Comes Through Loud and Clear](#) - NK Herald - 06/30/07
7. [NK Trail System is a Development Worth Pursuing](#) - Kitsap Sun - 07/01/07
8. [OPG's Trail Plan will Benefit North Kitsap](#) - NK Herald - 07/04/07
9. [Thank You!](#) - NK Herald - 07/18/07
10. [Port Gamble Carved to Connect Forest's Marvels](#) - Kitsap Sun - 08/07/07
11. [Survey Reflects Desire for OPG Trail System](#) - NK Herald - 09/12/07
12. [New Land Moves Sound to Canal Trail Project Forward](#) - Kitsap Sun - 12/23/07
13. [Taxes Force County to Amend Hansville Land Purchase](#) - Kitsap Sun - 12/28/07
14. [Greenway Trails Expand: Hood Canal, Sound Linked](#) - NK Herald - 01/05/08
15. [OPG Preparing to Strap on Hiking Boots](#) - NK Herald - 01/23/08
16. [Keeping Momentum Alive on NK Trail Plan](#) - Kitsap Sun - 01/29/08
17. [Keeping Neighbors' Feet Forward on a "Pearl" of a North Kitsap Trail Plan](#) - Kitsap Sun - 01/30/08

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STATE OF WASHINGTON

BY _____
DEPUTY

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

THE SUQUAMISH TRIBE;)	
KITSAP CITIZENS FOR RURAL)	
PRESERVATION; and JERRY)	No. 39017-5-II (Consolidated)
HARLESS,)	
)	DECLARATION OF SERVICE
Appellants,)	
)	
v.)	
)	
CENTRAL PUGET SOUND)	
GROWTH MANAGEMENT)	
HEARINGS BOARD;and KITSAP)	
COUNTY,)	
)	
Respondents.)	

I, Donna S. Spaulding, hereby certify and declare under penalty of perjury under the laws of the State of Washington, that on this 9th day of July, 2009, I served a true and correct copy of the following documents:

1. Amicus Curiae Brief of Olympic Property Group;
2. Motion for Leave to File Amicus Curiae Brief of Olympic Property Group;

ORIGINAL

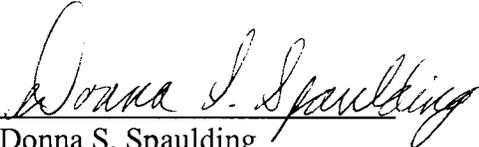
3. Declaration of Charles E. Maduell; and

4. Declaration of Service;

via U.S. Mail to:

Melody L. Allen Office of Tribal Attorney 15838 Sandy Hook Road Suquamish, WA 98392-0498	David A. Bricklin Bricklin Newman Dold, LLP 1001 – 4 th Avenue, Suite 3303 Seattle, WA 98154-1119
Jerry L. Harless P.O. Box 8572 Port Orchard, WA 98366	Martha P. Lutz Office of Attorney General Admin .Law Division P.O. Box 40110 Olympia, WA 98504-0110
Shelley E. Kneip Senior Deputy Prosecuting Attorney 614 Division Street, MS-35A Port Orchard, WA 98366	

EXECUTED this 9th day of July, 2009, at Seattle, Washington.


Donna S. Spaulding

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DIVISION II

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STATE OF WASHINGTON
BY [Signature]
DEPUTY

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

THE SUQUAMISH TRIBE;)	
KITSAP CITIZENS FOR RURAL)	
PRESERVATION; and JERRY)	No. 39017-5-II (Consolidated)
HARLESS,)	
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Appellants,)	SERVICE
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COUNTY,)	
)	
Respondents.)	

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1. Amicus Curiae Brief of Olympic Property Group;
2. Motion for Leave to File Amicus Curiae Brief of Olympic Property Group;

3. Declaration of Charles E. Maduell;
4. Declaration of Service dated July 9, 2009; and
5. Revised Declaration of Service dated July 13, 2009

via U.S. Mail to:

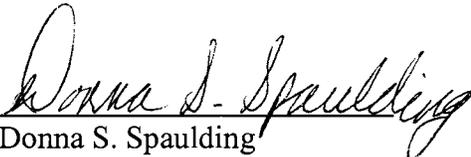
Melody L. Allen
 Office of Tribal Attorney
 18490 Suquamish Way
 Suquamish, WA 98392

and a copy of this Revised Declaration of Service dated July 13, 2009 to
 the following:

via U.S. Mail to:

Shelley E. Kneip Senior Deputy Prosecuting Attorney 614 Division Street, MS-35A Port Orchard, WA 98366	David A. Bricklin Bricklin Newman Dold, LLP 1001 – 4 th Avenue, Suite 3303 Seattle, WA 98154-1119
Jerry L. Harless P.O. Box 8572 Port Orchard, WA 98366	Martha P. Lutz Office of Attorney General Admin .Law Division P.O. Box 40110 Olympia, WA 98504-0110

EXECUTED this 13th day of July, 2009, at Seattle, Washington.


 Donna S. Spaulding