

**NOTICE OF DECISION**

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**Applicant:** Puget Sound Energy  
c/o Emily Hagin  
1110 Kentucky Street  
Bellingham, WA 98229

**Request:** Critical Areas/Zoning Variance, PL20-0134  
Shoreline Substantial Development/Variance Permit, PL20-0135  
Administrative Special Use Permit, PL20-0136

**Location:** Southeast shore of Lake Shannon at 6172 Tom Higgins Lane, within  
NE1/4 Sec. 2, T35N, R8E, W.M. Parcel No: P43321

**Land Use Designations:** Shorelines: Rural (Shoreline of Statewide Significance)  
Zoning: Industrial Forest-Natural Resource Lands

**Summary of Proposal:** To improve the existing boat launch ramp, construct new vehicle and  
trailer parking areas, and install a new day use area with vault toilets, a  
picnic shelter, picnic tables, walkways, and information kiosks.

**Public Hearing:** February 10, 2021 via electronic means. Testimony by Planning and  
Development Services (PDS) staff, Applicant’s agent and one member of  
the public.

**Decision/Date:** The application is approved, subject to conditions. February 23, 2021

**Reconsideration/Appeal:** Shorelines: Reconsideration may be requested by filing with PDS within  
5 days of this decision. Appeal is to the Board of County Commissioners  
by filing with PDS within 5 days of this decision, or decision on  
reconsideration if applicable. Zoning: Reconsideration may be requested  
by filing with PDS within 10 days of this decision. Appeal is to the  
Board of County Commissioners by filing with PDS within 14 days of  
this decision, or decision on reconsideration if applicable.

**Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearingexaminer](http://www.skagitcounty.net/hearingexaminer)

## **FINDINGS OF FACT**

1. Puget Sound Energy (PSE) seeks permits to develop a boat ramp and day use park on Lake Shannon, near the town of Concrete.
2. The permits sought are a Critical Areas and Zoning Variance, a Shoreline Substantial Development and Variance Permit, and an Administrative Special Use Permit.
3. The project will be located at 6172 Tom Higgins Lane on the southeast shore of Lake Shannon. The parcel number is P43321. The parcel is within the NE1/4 Sec. 2, T35N, R8E, W.M.
4. Lake Shannon is a reservoir of the PSE Baker River Project. Surrounding areas include public and private forest lands.
5. The site of the proposed boat ramp has been functioning as an informal launching site for many years. The current project will formalize and improve this facility. The project will also provide stormwater management, new truck and trailer parking areas, and an improved day use area with premanufactured vault toilets, a picnic shelter, picnic tables and walkways.
6. The project will fulfill conditions of PSE's recent Federal Energy Commission (FERC) license for the project. It is intended to provide safe public waterfront access meeting States Organization for Boating Access (SOBA) guidelines.
7. While the project's primary purpose is to provide public waterfront access, the boat launch will also serve as the access point for PSE maintenance crews who will use it for woody debris removal, barge loading and administrative functions.
8. The project will shift the boat launch ramp to the west. The ramp will contain a mixture of concrete and gravel surfaces. The ramp area will be excavated, riprap will be placed along the edges for bank stabilization, and pre-cast concrete panels will be installed below water. The new launch ramp will be 60 feet wide. Along the west side it will include a 16-foot-wide concrete portion with a 5-foot gravel shoulder and riprap at the toe. Along the east side will be a 39-foot-wide gravel ramp. Light poles will be added near the boat ramp with the lighting directed downward.
9. Along with grading of the ramp approximately 2,600 cubic yards of fill material will be added. This fill will not create, raise or extend the land. No pilings are proposed.
10. Parking for vehicles and boat trailers will be located near the boat launch and in the new day use area. The day use parking will include an ADA vehicle and trailer stall and two standard ADA stalls. Two fabricated precast concrete ADA accessible vault toilets will be installed.
11. Sidewalks between the parking lot and the picnic area will be paved. Adjacent trails will be of compacted gravel. A 24' by 36' picnic shelter, picnic tables, pedestal grills, charcoal disposal boxes, trash receptacles, dumpsters, information kiosks, signs and landscaping will be provided.
12. Construction is planned to begin this spring with the project to be completed by the end of 2021.
13. The boat launch, parking and day use areas have existed for decades. The boat launch and trailer parking are being formalized to provide stormwater management for the property. The picnic area and overflow parking are located in previously disturbed areas. The site design attempts to take

advantage of the dimensions of historically disturbed flat ground to minimize the impacts of installing the new amenities.

14. To further offset impacts, the project provides for buffer enhancement with native vegetation. The outer edge of each buffer will be identified as a Protected Critical Area (PCA) and signs will be installed to mark buffer edges.

15. The project design will allow for better traffic flow, parking and recreational access without significant disturbance to wetland buffers and forested area. The space required for project elements necessitates placement of the picnic shelter, vault toilet and parking within the applicable shoreline and critical areas setbacks.

16. Stormwater review of the project will be completed with the grading permit application.

17. A cultural resources assessment was performed. The project will have no impact on any listed historical structures or known cultural resources. Should any cultural resources be discovered during project development, the inadvertent discovery protocol will be implemented.

18. Notice of Development Application was published on June 25, 2020. Notification by mail was provided to all property owners within 300 feet of the site. A SEPA checklist was evaluated and a Determination of Non-Significance (DNS) was issued on August 18, 2020. The DNS was not appealed.

19. Just one comment letter was received. It concerned the threat of vandalism to trucks and trailers using the facilities. At the hearing, the project spokesperson noted that the day use area will be gated and closed off during hours of darkness and that there will be increased lighting at the site. PSE will continue working with local law enforcement to provide patrols of the site. The commenter testified that he was satisfied with the project.

20. The Staff evaluated the application in light of the relevant permit requirements and the relevant variance criteria and determined that, as conditioned, the proposal meets the standards for approval. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

21. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over these proceedings. SCC 14,24,140(1)(b), SCC 14.16.900(1), SMP 9.06.

2. The requirements of SEPA have been met.

3. The proposal is consistent with the Shoreline Master Program criteria for granting a Substantial Development Permit. SMP 9.02.

4. The proposal is consistent with the Shoreline Master Program criteria for granting a variance. SMP 10.03(1).

5. The proposal is consistent with the criteria for granting a Critical Areas variance. SCC 14.24.140(3).

6. The proposal is consistent with the criteria for granting a Zoning variance. SCC 14.10.040.
7. The Hearing Examiner is approving the administrative Special Use Permit pursuant to the provision for consolidation of development permit applications. SCC 14.06.060. The proposal is consistent with the criteria for a Special Use Permit. SCC 14.16.900(1)(b)(v).
8. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **CONDITIONS**

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The recommendations of the Critical Areas Study, prepared by HDR and dated March 13, 2020, shall be considered conditions of approval unless modified by the conditions below.
3. The applicant shall submit an as-built site plan of the mitigation plantings and photographs of the installed plants within 30 days of plant installation.
4. All mitigation plants shall maintain a survival rate of 100% following the first year and 80% following years three and five. If the plants do not meet these survival rates, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.
5. The grading permit, BP20-0211, must be issued prior to start of onsite work.
6. A septic permit shall be obtained for the proposed vault toilets.
7. A building permit shall be obtained for the picnic shelter and vault toilet buildings. Construction plans must illustrate compliance with ADA and the I Codes.
8. The applicant shall obtain any other required permits and shall abide by the conditions of same.
9. The applicant shall submit a copy of this decision with all permit applications.
10. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's Office prior to submittal of the building permit application.
11. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (Stormwater Management).
12. The applicant shall comply with all other relevant local and State regulations, including but not limited to, Chapter 14.16 SCC (zoning), Chapter 173-200 and 173-201A WAC (surface and ground water), and Chapter 173-60 WAC (noise).
13. The project shall be commenced within two years of Shoreline permit approval and completed within five years thereof.
14. The Critical Areas Variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.

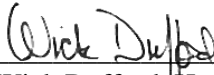
15. If the applicant proposes any modification of this proposal, as approved, it shall notify PDS prior to the start of construction.

16. Failure to comply with any permit condition may result in permit revocation.

**ORDER**

The requested Critical Areas/Zoning Variances (PL20-0134), Shoreline Substantial Development/Variance permits (PL20-0135), and Administrative Special Use permit (PL20-0136) are approved, subject to the conditions set forth above.

**SO ORDERED**, this 23<sup>rd</sup> day of February, 2021.

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicant, County staff, interested parties, February 23, 2021.