

**RE: DCD – Planning Commission George’s Corner County Sponsored Amendment**  
**Planning Commissioner Gonzalez-Harless Letter and Related Documents**

***Note: The Planning Commission has previously received all of these documents, in parts, through various transmittals. Per the Commission’s request, all of the documents have been compiled into this consolidated record.***

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Karanne Gonzalez-Harless  
August 31, 2018

Louisa Garbo  
Kitsap County Department of Community Development  
619 Division Street, MS-36  
Port Orchard, WA 98366

RE: DCD – Planning Commission George’s Corner County sponsored amendment

Ms. Garbo,

During our review and deliberations on the 2018 comprehensive plan update docket, the Planning Commission received information from the Department that has at times been incomplete, inaccurate and false. This is troubling to me, as I’m sure it is to other Commissioners and the public in attendance at our hearings. This undermines the trust relationship that is vital to our working together to provide the Board of County Commissioners with informed and straightforward recommendations.

As a former employee of the Department, transparency and integrity of the public record have always been core values of mine. This is why when I see the Department omitting relevant information from staff reports and answering our questions with what turn out to be false information I have to call it out.

This is in the context of the Planning Commission’s review of the George’s Corner site-specific proposed plan amendment. Initial statements by staff did not fit with my memories of what took place with this property in the 2016 plan update process. The 2018 staff report focused on what had happened in 2004 and included findings about what had changed since then, but said nothing about the 2016 staff report, analysis, findings and conclusions adopted in Ordinance 534-2016 or the complete recommendation for both parcels.

When I researched the 2016 project, I learned that the staff analysis at that time was exactly opposite of what we are being told today and that a very different resolution was recommended, i.e. zoning of Rural Protection on one parcel and Rural Protection



on the residential portion of the other parcel. None of this was addressed in the 2018 staff report. Why does DCD now believe the opposite of what it believed two years ago? Why is the 2016 recommendation not on the table now as an alternative? And why the omission from the procedural history?

Before I looked into this, I was concerned with the fact that this site-specific proposal on the behalf of private landowners was sponsored by the Department with no fees, while others had to pay large fees and hire consultants. It is perfectly acceptable for staff, in a Q & A session, to say “I don’t know, let me get back to you.” What happened instead is that DCD staff made two affirmative statements in response to my questions that turned out to be demonstrably false:

1. I was told that the Department decided to sponsor this project because it bore responsibility for creating a split-zone situation in 2005. But the 2016 staff report includes a finding that the County does not bear responsibility for this action of the landowner.
2. I was told that this had been on the Department’s “radar” for some time and neither of the landowners had requested this change or “been pinging the County,” and had they been, DCD probably would not have sponsored the project. I am familiar with one of the landowners and he has never failed to “ping” the County to request something, usually with success. I obtained, through a public records request, a chain of emails between the landowners and DCD going back since the 2016 update. Both landowners were very much in the game requesting this change and that the County sponsor them.

The irony of all this is that, had the accurate story been told, the project itself would not have been less likely to be approved, but the recommendation would have been better informed. What has suffered is the ability of the Planning Commission to trust and rely on information supplied by the Department, whether in staff reports or in

answers to our questions. I understand that memories are imperfect, and it is possible to make a statement on the record that is true to your memory but turns out to be wrong. I also understand that junior staff will always be reluctant to correct their bosses in public. But in this situation, the facts were well known, and I waited for corrections to the record which never came.

I am not disputing that the county can sponsor an administrative amendment. What I am concerned with is transparency, integrity and the appearance of fairness in every application processed.

In closing I urge the department to withdraw the current application, resubmit a revised application with all relevant information and resubmit it through the public process. The application as it stands is fatally flawed and should not, regardless of a Planning Commission recommendation, go forward to the Board of County Commissioners. My intention is to correct an unfortunate situation and improve the process.

Respectfully,

Karanne Gonzalez-Harless  
South Kitsap Planning Commissioner

Cc Jim Bolger

# **Public Document Request**

**From:** [Karanne Gonzalez-Harless](#)  
**To:** [Peter Best](#)  
**Cc:** [Amanda Walston](#)  
**Subject:** George's Corner LSMIRD boundary adjustment  
**Date:** Monday, July 30, 2018 10:18:20 AM

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Hello Peter,

Thank you for taking my call this morning. I would like a link to or a copy of the following documents.

Rick Bjornson Boundary Line Adjustment, (auditor's file number is fine)

KC Ord. 326-2004

Central Puget Sound Growth Management Hearings Board Decision, (found that one, lucky for you )

KC brief to Central Puget Sound Growth Management Hearings Board

DCD Staff report referenced in that case, (should be in the records index, wherever that mother ship is I do not know)

Email or correspondence including but not limited to the landowner or their representative , Kitsap County and KCD CD regarding the split zone, change of zoning, application process and direction to the department and or staff as to how to process landowners request.

I realize the correspondence request is a public records request. I tried to be precise to make it easier to fill the request.

Thank you for your time is this matter.

Karanne Gonzalez-Harless

**From:** [Nickie Crumb](#)  
**To:** [Karanne Gonzalez-Harless](#)  
**Cc:** [Peter Best](#); [Tarrah Dofelmier](#); [Amanda Walston](#)  
**Subject:** Kitsap County DCD Public Records Request Acknowledgement – Gonzalez Harless  
**Date:** Monday, August 6, 2018 9:55:42 AM

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Karanne,

Thank you for your request for records regarding requested information on George's Corner LAMIRD, received on July 30, 2018 by the Department of Community Development. From our initial search, records have been identified that may be responsive to your request. These records have been produced to you via Amanda Walston and/or Peter Best. Additional records are being ordered, reviewed and prepared for release. We will notify you of the availability of these records no later than September 7, 2018.

Please be aware that some documents within Kitsap County's possession may be protected by intellectual property rights (e.g., copyright) or other property interests held by third parties. Kitsap County makes no warranty or guarantee as to these rights and, by production of any document, does not authorize any action that would violate these rights. You are solely responsible for using any produced documents in accordance with any protected rights. If our agency determines that portions of your request can not be released or that some information needs to be redacted from a specific document, you will be notified about which document and the reason why.

All agencies other than Kitsap County will require that you submit a separate request to their organization. For example, you may want also want to visit the [Kitsap Public Health District](#) who maintains records regarding water, sewer and septic systems or contact the [Washington State Department of Ecology \(DOE\)](#) for records regarding underground storage tanks.

Please feel free to also check the [Kitsap County Assessor's Public Records Search](#) for historical records and the [Kitsap County Auditor's Public Records Search](#) for any recorded documents.

If you have any further questions, please feel free to contact our department at (360) 337-5777.

Sincerely,

*Nickie Crumb, Records Coordinator*

Kitsap County  
Community Development  
360-337-5777



# **Public Document Request**

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## **Response #1**

**From:** [Amanda Walston](#)  
**To:** [Aaron Murphy](#); [Tom Nevins](#); [Kim Allen](#); [Kimberly Allen](#); [Karanne Gonzalez-Harless](#); [Jim Svensson](#); [Richard Shattuck](#); [Gina Buskirk](#); [Gina M. Buskirk](#); [Joe Phillips](#)  
**Subject:** FW: George's Corner LSMIRD boundary adjustment  
**Date:** Tuesday, July 31, 2018 3:21:00 PM  
**Attachments:** [2005 CPSGMHB Final Order.pdf](#)  
[Ordinance 326-2004.pdf](#)  
[Bjarnson BLA-ARN 200404150190.pdf](#)  
[2004 Staff Report - Georges Corner LAMIRD.PDF](#)  
[2003 Staff Report - Georges Corner LAMIRD.PDF](#)

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Attached, please find information requested by Karanne regarding the proposed George's Corner LAMIRD amendment. For the items not provided here, please see Peter's notes below in red regarding actions taken.

Thank you,

**Amanda Walston**

**Clerk of the Hearing Examiner and Planning Commission**

Kitsap County Department of Community Development

(360) 337-5777 ext.3132

619 Division St MS 36

Port Orchard WA 98366

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**From:** Peter Best

**Sent:** Monday, July 30, 2018 5:15 PM

**To:** Amanda Walston

**Cc:** Dave Ward ; Darren Gurnee ; Liz Williams

**Subject:** RE: George's Corner LSMIRD boundary adjustment

Amanda,

See my response below in red. As per our discussion, we will provide the response to all PC members.

Peter

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**From:** Karanne Gonzalez-Harless

**Sent:** Monday, July 30, 2018 10:18 AM

**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>

**Cc:** Amanda Walston <[awalston@co.kitsap.wa.us](mailto:awalston@co.kitsap.wa.us)>

**Subject:** George's Corner LSMIRD boundary adjustment

Hello Peter,

Thank you for taking my call this morning. I would like a link to or a copy of the following documents.

Rick Bjornson Boundary Line Adjustment, (auditor's file number is fine)

Attached

KC Ord. 326-2004

Attached

Central Puget Sound Growth Management Hearings Board Decision, (found that one, lucky for you )

Attached

KC brief to Central Puget Sound Growth Management Hearings Board

Requesting from the Prosecuting Attorney's office and will provide when available

DCD Staff report referenced in that case, (should be in the records index, wherever that mother ship is I do not know)

2003 Staff report related to the George's Corner matter (referenced as Index #24122 in the FDO) is attached

The 2004 staff report (supporting the process for Ordinance 326-2004) is also attached

Email or correspondence including but not limited to the landowner or their representative , Kitsap County and KCD CD regarding the split zone, change of zoning, application process and direction to the department and or staff as to how to process landowners request.

Will provide when available

I realize the correspondence request is a public records request. I tried to be precise to make it easier to fill the request.

Thank you for your time is this matter.

Karanne Gonzalez-Harless



1000 FRIENDS OF WASHINGTON, *et al.*,  
and JERRY HARLESS, *pro se*,  
  
Petitioners,  
  
v.  
  
KITSAP COUNTY,  
  
Respondent, and  
  
RICHARD BJARNSON,  
  
Intervenor, and  
  
OVERTON & ASSOCIATES, *et al.*,  
  
*Amici Curiae*

*Petitioners 1000 Friends of Washington and Kitsap Citizens for Responsible Planning (together **Futurewise**<sup>1</sup>) and pro se Petitioner Jerry Harless (**Harless**) challenged Kitsap County's adoption of Ordinance No. 326-2004, amending the Comprehensive Plan, and Resolution No. 158-2004, providing an addendum to the 2002 Buildable Lands Analysis Report (**BLR**) for "reasonable measures." Harless also challenged Kitsap County for failure to act to conduct the review of Urban Growth area designations and densities required by RCW 36.70A.130(3).*

<sup>1</sup> Because 1000 Friends of Washington has changed its name to Futurewise, the name Futurewise is used throughout this decision to refer to these Petitioners.

*Futurewise did not challenge the designation, but objected to the “logical outer boundary” established for the area and contended that Kitsap County had failed to adopt measures to minimize and contain the commercial area. The Board found that the Petitioners **had not met their burden** of proof and **dismissed** this issue.*

*By Resolution No. 158-2004, Kitsap County adopted a list of “reasonable measures” already implemented by the County to increase densities in urban areas. The Resolution further committed Kitsap County to consideration of additional measures already outlined by County staff. The Board concurred with Kitsap County that this action constituted threshold compliance with RCW 36.70A.215, particularly in light of the requirement for annual monitoring of these measures and their efficacy.<sup>2</sup> The Board concluded that Petitioners **had not met their burden** of proof and **dismissed** these issues.*

*Ordinance No. 326-2004 constituted both an annual amendment to the Kitsap County Comprehensive Plan allowed under RCW 36.70A.130(2) and the periodic Plan “update” or “compliance review” required by RCW 36.70A.130(1) and (4). Petitioner Harless challenged Kitsap County’s failure to act to conduct the review of urban growth area (UGA) designations and densities required by RCW 36.70A.130(3). Kitsap County disputed the deadline. The Board reviewed the legislative history of the relevant statutory timelines and found that Kitsap County **failed to act** within the required ten years when it did not review its UGA designations and densities by December 1, 2004. The Board entered an **order of non-compliance – failure to act** - and established a compliance schedule.*

## **I. BACKGROUND<sup>3</sup>**

On October 25, 2004, Kitsap County adopted Ordinance No. 326-2004, amending the Comprehensive Plan, and Resolution No. 158-2004, providing an addendum to the 2002 buildable lands analysis report. Notice of adoption was published on October 30, 2004.

On December 28, 2004, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review from 1000 Friends of Washington and Kitsap Citizens for Responsible Planning (**Petitioners** or **Futurewise**). The matter was assigned Case No. 04-3-0030, and is hereafter referred to as *1000 Friends/KCRP*, while these petitioners are referred to as Futurewise. The Futurewise PFR challenges Kitsap County’s (**Respondent** or the **County**) adoption of Ordinance No. 326-2004 and Resolution No. 158-2004 as noncompliant with various provisions of the Growth Management Act (**GMA** or **Act**).

On December 30, 2004, the Board received a PFR from Jerry Harless, (**Petitioner** or **Harless**). The matter was assigned Case No. 04-3-0031. Harless challenges the County’s adoption of Ordinance No. 326-2004. Harless also challenges the County’s

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<sup>2</sup> RCW 36.70A.125(4)

<sup>3</sup> See Appendix A for the complete procedural history in this matter.

failure to act to adopt “reasonable measures” and to review and revise its urban growth areas (**UGAs**).

### *Prehearing Conference and Consolidation*

In January, 2005, the Board received notices of appearance on behalf of the various parties, issued a Notice of Hearing and Potential Consolidation (Jan. 5, 2005), and received the County’s Preliminary Index to the Record. The Board conducted the Prehearing Conference on January 31, 2005 and issued a Prehearing Order and Order of Consolidation (**PHO**) (Feb. 1, 2005) consolidating the PFRs as **CPSGMHB Consolidated Case No. 04-3-0031c**, hereafter referred to as *1000 Friends/KCRP v. Kitsap County*. The Prehearing Order set forth the legal issues to be decided as Legal Issues 1-4, submitted in the 1000 Friends/KCRP PFR, and Legal Issues 5-8, submitted in the Harless PFR. Both the schedule and the legal issues were modified during the subsequent motions practice.

### *Motions*

Motion to Supplement. Petitioner Harless submitted a Motion to Supplement the Record (Feb. 15, 2005) with nine attachments. Kitsap County filed a response (Feb. 28, 2005) and Harless filed a rebuttal (March 7, 2005). The Board’s March 15, 2005, Order on Motions, at 8, allowed supplementation of the record with three of the documents requested by Harless. (Attachments D, E, and F, now **Supp. Ex. Nos. 1, 2, and 3.**)

Amicus Motion. On February 17, 2005, the Board received a Motion to Appear as *Amici Curiae* from Overton & Associates, Alpine Evergreen Company, Inc., and Olympic Property Group (**Overton** or **Amicus**) requesting permission to brief the question whether GMA Section 215(4) limits “reasonable measures” to requirements for urban lands. Without objection from any party, the motion was granted in the Board’s Order on Motions (March 15, 2005).

Motion to Dismiss Harless – Timeliness. On February 17, 2005, the Board received “Kitsap County’s Motion to Dismiss Legal Issues 5, 7 and 8”, accompanied by an Affidavit of Publication affirming the publication of notice of adoption of Ordinance 326-2004 on October 30, 2004. Legal Issues 5, 7 and 8, submitted in the Harless PFR, challenge Ordinance 326-2004. Kitsap’s Motion to Dismiss was based on the untimely filing of the Harless PFR, which was filed December 30, 2004, on the 61<sup>st</sup> day after publication. Harless did not contest the County’s motion.

On its own motion, the Board considered whether Harless’ Legal Issue No. 6, concerning “reasonable measures” and review of the County’s UGAs, was also time-barred. The Board issued its Order to Supplement the Record (Feb. 24, 2005), requiring Kitsap County to submit an affidavit of publication of Resolution No. 158-2004, which concerned “reasonable measures”. The County’s response indicated that notice of adoption of Resolution 158-2004 was not separately published, but the resolution was incorporated by reference in the notice of adoption of Ordinance 326-2004.

On March 15, 2005, the Board issued its Order on Motions, Dismissing Harless Petition, Ruling on Supplementation and Granting Amicus (**Order on Motions**). The Order on Motions granted Kitsap County's Motion to Dismiss Harless Legal Issues 5, 7 and 8 as untimely. The Order further dismissed Legal Issue 6 on the ground that, though posited as a "failure to act" challenge, Legal Issue 6 in fact asserts the non-compliance of various County actions with GMA requirements, and as to those actions, the challenge is untimely or otherwise barred.

Petitioner Harless submitted a timely Request for Reconsideration and Motion to Intervene, requesting reconsideration of the Board's order dismissing Legal Issue 6 and, alternatively, requesting status as an intervenor with regard to Legal Issues 2, 3 and 4 as petitioned by Futurewise. By order dated March 21, 2005, the Board granted intervention and shortened time to respond to the motion for reconsideration, receiving Kitsap's response on March 28, 2005.

On March 31, 2005, the Board issued its Order on Reconsideration, reinstating Harless' PFR as to the UGA component of Legal Issue No. 6 and revising the briefing schedule for that issue. The Board determined that RCW 36.70A.130(3) requires Kitsap County to review and revise its UGAs by December 1, 2004, and Kitsap acknowledges it has not done so; therefore Harless' failure-to-act challenge is timely.

Intervention. On April 5, 2005, the Board received a Motion to Intervene by Richard Bjarnson, a property owner in the area affected by Legal Issue No. 1. Without objection from any party, the motion was granted in the Board's April 12, 2005, Order on Intervention, which limited Bjarnson's participation to support of Kitsap County on Legal Issue No. 1.

### *Briefing and Hearing on the Merits*

Prehearing briefing was timely filed as follows:

- Futurewise's and Kitsap Citizens for Responsible Planning's Prehearing Brief (**Futurewise PHB**)
- Intervenor Harless' Prehearing Brief [Legal Issues 2, 3 and 4] (**Harless PHB 2,3,4**)
- Respondent's Prehearing Brief (**County Response**)
- Respondent [Intervenor] Bjarnson's Prehearing Brief (**Bjarnson**).
- Prehearing Brief of *Amici Curiae* Overton, et al., (**Overton**).
- Intervenor Harless' Reply Brief of Issues 2, 3 and 4 (**Harless Reply 2,3,4**).
- Futurewise and KCRP's Prehearing Reply Brief (**Futurewise Reply**).
- Petitioner Harless' Prehearing Brief of Legal Issue No.6 (**Harless PHB 6**).
- Kitsap County's Prehearing Brief Concerning Issue No. 6 (**County Response 6**).
- Intervenor [sic] Harless' Reply Brief Regarding Issue 6 (**Harless Reply 6**).

The Board conducted the Hearing on the Merits at the Board's offices on May 2, 2005. Board members Margaret A. Pageler, presiding officer, Bruce C. Laing, and Edward G McGuire were present for the Board. Petitioners Futurewise and Kitsap Citizens for

Responsible Planning were represented by John Zilavy, accompanied by co-counsel Simi Jain, and KCRP members Charlie Burrow and Tom Donnelly. Petitioner-Intervenor Jerry Harless appeared *pro se*. Respondent Kitsap County was represented by Kitsap County Deputy Prosecutor Shelley Kneip, accompanied by Lisa Nickel and Angie Silva. Intervenor Bjarnson was represented by Bill Broughton and *Amicus* Overton was represented by Elaine Spencer. Katie Askew of Byers & Anderson, Inc. provided court reporting services. The Board subsequently ordered a transcript of the HOM which was received on June 8, 2005, and is cited herein as **HOM**.

The Board's Final Decision and Order was issued on June 28, 2005.

## **II. PRESUMPTION OF VALIDITY, BURDEN OF PROOF AND STANDARD OF REVIEW**

Petitioners challenge Kitsap County's adoption of Ordinance No. 326-2004, amending the Comprehensive Plan and Map for 2004 and amending the Kitsap County Zoning Code and Map, and Resolution No. 158-2004, Providing an Addendum to the Buildable Lands Report for Reasonable Measures. Pursuant to RCW 36.70A.320(1), County Ordinance No. 326-2004 and Resolution No. 158-2004 are presumed valid upon adoption.

The burden is on Petitioners, Futurewise, Kitsap Citizens for Responsible Planning and Jerry Harless, to demonstrate that the actions taken by the County are not in compliance with the requirements of the GMA. RCW 36.70A.320(2).

Pursuant to RCW 36.70A.320(3), the Board "shall find compliance unless it determines that the action taken by the county is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of [the GMA]." For the Board to find Kitsap County's actions clearly erroneous, the Board must be "left with the firm and definite conviction that a mistake has been made." *Dep't of Ecology v. PUD 1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

Pursuant to RCW 36.70A.3201 the Board will grant deference to Kitsap County in how it plans for growth, consistent with the goals and requirements of the GMA. The State Supreme Court's most recent delineation of this required deference states: "We hold that deference to county planning actions that are consistent with the goals and requirements of the GMA ... cedes only when it is shown that a county's planning action is in fact a 'clearly erroneous' application of the GMA." *Quadrant Corporation, et al., v. State of Washington Growth Management Hearings Board*, \_\_ Wn2d \_\_, 110 P.3d 1132, 2005 WL 1037145 (May 5, 2005), at 10. The *Quadrant* decision affirms prior State Supreme Court rulings that "Local discretion is bounded, however, by the goals and requirements of the GMA." *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543, 561, 14 P.3d 133 (2000). Division II of the Court of Appeals further clarified, "Consistent with *King County*, and notwithstanding the 'deference' language of RCW 36.70A.3201, the Board acts properly when it foregoes deference to a county's plan that is not 'consistent with the requirements and goals of the GMA.'"

*Cooper Point Association v. Thurston County*, 108 Wn.App. 429, 444, 31 P.3<sup>rd</sup> 28 (2001); affirmed *Thurston County v. Western Washington Growth Management Hearings Board*, 148 Wn.2d 1, 15, 57 P.3<sup>rd</sup> 1156 (2002) and cited with approval in *Quadrant, supra*, fn. 7, at 5.

The scope of the Board's review is limited to determining whether a jurisdiction has achieved compliance with the GMA with respect to those issues presented in a timely petition for review. RCW 36.70A.290. This Final Decision and Order does not extend to unchallenged elements of Kitsap County's ordinance or plan, which are presumed valid as a matter of law.

### **III. BOARD JURISDICTION, PRELIMINARY MATTERS AND PREFATORY NOTE**

#### **A. BOARD JURISDICTION**

The Board finds that the PFR filed by Petitioners Futurewise and Kitsap Citizens for Responsible Planning was timely filed, pursuant to RCW 36.70A.290. The PFR filed by Petitioner Jerry Harless was untimely with respect to challenges to Ordinance No. 326-2004 and Resolution No.158-2004, but timely with respect to the challenge contained in Legal Issue 6 of "failure to act" to review the County's urban growth areas.

Petitioners Futurewise, Kitsap Citizens for Responsible Planning and Jerry Harless have standing to appear before the Board, pursuant to RCW 36.70A.280(2), and Richard Bjarnson may appear as an intervenor, pursuant to WAC 242-02-270. Pursuant to WAC 242-02-280, Overton & Associates, *et al.*, are granted *amicus* status and may provide briefing *amici curiae* with respect to Legal Issue Nos. 2 and 3, to the extent these issues may implicate "appropriate planning and development regulations for the rural area." Order on Motions (March 15, 2005), at 8.

Pursuant to RCW 36.70A.280(1)(a), the Board has subject matter jurisdiction over the challenged ordinance and resolution, which amend Kitsap County's comprehensive plan and provide an appendix to its buildable lands report.

#### **B. PRELIMINARY MATTERS**

At the outset of the Hearing on the Merits, the Presiding Officer indicated that the Board would defer to the written decision and order (FDO) its rulings as to admission of exhibits submitted with the briefs that were not previously identified as part of the record or by Motion to Supplement the Record.

- Harless PHB attaches Ordinance No. 93-1983, the Kitsap County 1983 Zoning Code. The Board takes official notice of this County ordinance pursuant to WAC 242-02-660(4).



- County Response attaches Exhibit A, a Court of Appeals decision concerning post-1990 development at George's Corner. The Board takes official notice of Washington court decisions pursuant to WAC 242-02-660(2).
- County Response attaches Exhibits B and E, sections of the Kitsap County zoning code, and Exhibit D, excerpts from adopted sub-area plans [Index 25559]. The Board takes official notice of County enactments pursuant to WAC 242-02-660(4).
- County Response attaches Exhibit C, the CTED Buildable Lands Program Guidelines, which was omitted from the County Index. County Response, at 17. County Response 6 attaches Exhibit A, a CTED document titled "Frequently Asked Questions Regarding GMA Updates," stating that the County relied on this guidance in its actions herein. The Board finds that **these guidelines are not agency rules or adopted standards** that may be noticed by the Board pursuant to WAC 242-02-660(2). However, the Board will admit the guidelines: they were apparently in the record before the County, have not been objected to by any party, and may be of assistance to the Board in its deliberations on the issues in this case. RCW 36.70A.290(4).

At the Hearing on the Merits both Futurewise and Kitsap County made use of an enlarged colored copy of Map 2, Index No. 24122, which Respondent supplied for illustrative purposes. As the map was merely a duplicate of material in the record, the presiding officer did not mark it as an exhibit.

On May 4, 2005, the Board received, by memorandum from Shelley Kneip, Kitsap County's response to information requested by the Board at the Hearing on the Merits regarding the zoning requirements for park-and-ride lots. The memorandum also attached a supplement to County Response, Exhibit B, consisting of relevant portions of the Kitsap County zoning code inadvertently omitted in the County Response.

On May 13, 2005, the Board received Kitsap County's Statement of Additional Authority with an attached copy of the Supreme Court's decision in *Quadrant Corp. v. CPSGMHB*, \_\_\_Wn2d \_\_\_, 110 P.3d 1132, 2005 WL 1037145 (May 5, 2005). On May 16, 2005, the Board received Harless' Response to County Statement of Additional Authority. Pursuant to WAC 242-02-660(2), the Board takes official notice of judicial decisions of the state courts.

### C. PREFATORY NOTE

These consolidated cases involve three sets of issues, each with its particular grouping of parties. This Final Decision and Order addresses the issues in the order set forth below. Each section sets forth the action being challenged, the positions of the parties, and the Board's conclusions.

- Legal Issue No. 1 concerns George's Corner LAMIRD [Limited Area of More Intensive Rural Development], designated in Ordinance No. 326-2004. The

parties to this issue are Petitioners Futurewise, Respondent Kitsap County, and Bjarnson as Intervenor on the side of the County.

- Legal Issue Nos. 2 and 3 concern “reasonable measures” and challenge Resolution No.158-2004. The parties to this issue are Petitioners Futurewise, Harless as Intervenor on the side of Futurewise, and Respondent Kitsap County. *Amicus* Overton provides a brief urging the Board to support the County’s action.
- Legal Issue No. 6,<sup>4</sup> as revised in the Order on Reconsideration (March 31, 2005), challenges Kitsap County’s failure to act to review and update its UGA designations by December 1, 2004. The parties to this issue are Petitioner Harless and Respondent Kitsap County.
- Legal Issue No. 4 asks the Board to invalidate Ordinance No. 326-2004 and Resolution No. 158-2004. This request for invalidity is discussed last.

#### **IV. LEGAL ISSUES AND DISCUSSION**

##### **A. LEGAL ISSUE NO. 1**

###### **Legal Issue No. 1.**

*Does adoption of Ordinance 326-2004, establishing the George’s Corner LAMIRD, fail to comply with RCW 36.70A.020(1), RCW 36.70A.020(2) and RCW36.70A.070(5) when the LAMIRD contains predominantly land that was undeveloped in 1990, is not circumscribed by a logical outer boundary, fails to include measures to minimize and contain existing areas of more intense development and otherwise fails to comply with GMA LAMIRD requirements?*

###### **The Challenged Action and the Parties**

The County’s 2004 Comprehensive Plan revision, Ordinance No. 326-2004, designated the crossroads known as George’s Corner as a Limited Area of More Intensive Rural Development (**LAMIRD**). George’s Corner is located 1.5 miles from Kingston at the intersection of Hansville Road and State Route 104. Index 26999, at 2. These two arterials provide primary accessibility to the entire North Kitsap Region – Kingston, Hansville, Port Gamble, Indianola, the Hood Canal Bridge, and the Kingston Ferry terminal. Index 24122, at 7. Historically the southwest corner of this crossroads has contained a gas station/convenience store serving the local area and the traveling public. Index 26999, at 2. Prior to the adoption of the 1994 Kitsap County Comprehensive Plan, the other three corners were designated as rural residential. In the late 1980’s an Unclassified Use Permit was issued that allowed a small industrial park to be developed

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<sup>4</sup> The Board **dismissed** Petitioner Harless’ Legal Issue Nos. 5, 6, 7, and 8 as untimely in its Order on Motions (March 15, 2005) and subsequently **reinstated and restated** Legal Issue No. 6 in its Order on Reconsideration (March 31, 2005).



in the northeast quadrant one lot removed from the corner. In the early 1990s, additional rezones allowed a large-scale supermarket (Albertson's), bank, video rental store and other businesses to be constructed at the northeast corner. In 1994, all four corners were zoned Commercial, but with the invalidation of the 1994 Kitsap County Comprehensive Plan, the zoning for the vacant parcels was removed. Only two parcels with existing vested commercial developments were recognized in the 1998 Comprehensive Plan. *Id.*

Designation of the George's Corner LAMIRD was proposed in the 1998 Kitsap County Comprehensive Rural Appendix Issue Paper (at p. A-294). In 2003, County staff prepared a staff report [Index 24122] further analyzing the George's Corner intersection. The staff made findings identifying the pre-1990 built environment as consisting of the gas station/minimart and the three non-residential buildings in the strip adjacent to Albertson's. The staff found that the Albertson's site "was constructed after the 1990 cutoff date and therefore can't be used as justification for determining the LOB [logical outer boundary.] However, it can be viewed as infill development between the two existing developed parcels noted above." Index 24122, at 7.

The staff suggested using the natural contours of the land to define and limit the LAMIRD. "The non-built or natural environment can provide useful assistance in delineating a LOB." Index 24122, at 7. "This intersection area is considered a plateau region, with delineated drainage basins and headwaters for Grover's Creek (ESA listed stream) and Gamble Creek located on the east and west respectively. These areas can easily be depicted on the CAO [critical areas ordinance] map and include identifiable features such as wetlands, hydric soils, open water and forest cover (aerial photos)." Index 24122, at 4. The staff report concludes with two options: a LAMIRD recognizing only pre-1990 development, or a LAMIRD recognizing both pre-1990 and post-1990 "infill" development, with natural features providing additional delimitation. Index 24122, at 10. The staff report provides this caveat: "These recommendations can be viewed as a calculated risk, because the overall intent of the 1997 amendment to GMA allowing the designation of LAMIRDs was to recognize historical (pre-GMA) developments that were not considered rural in nature. However, the County can't undo what has already taken place, [i.e., the Albertson's development], but can utilize the guidelines established under the Growth Management Act to minimize the future impacts to the rural areas of Kitsap County." Index 24122, at 9.

Ordinance No. 326-2004 designates George's Corner as a Limited Area of More Intensive Rural Development. All four corners of the intersection are included and are now zoned Neighborhood Commercial. The "logical outer boundary" (**LOB**) is defined by the topography of the area. A boundary line adjustment to the Bjarnson property, conformed to the topography, was required by the County to contain the size of the LAMIRD. Neighborhood Commercial development standards will not allow new construction at the scale of the present Albertson's. Ordinance No. 326-2004, at 8.

The status of the four corners of the crossroads is as follows:

- Southwest corner. The gas station/minimart, with permits and historic commercial zoning, predates 1990. Also predating 1990 was a tackle shop on the Hansen property just south of the minimart. County Response, Index 27041.
- Northeast corner. The pre-1990 development in this quadrant consists of small manufacturing and storage buildings on three parcels that are not located at the corner, do not abut the highway, and are accessed from a separate road to the highway. Futurewise Reply, at 3. The primary development here is the post-1990 bank, video rental store and large suburban grocery store. The north lot of the LAMIRD is a Kitsap Transit park-and-ride lot. HOM, at 15-16.
- Southeast corner. An amendment approved in the 2001 Comprehensive Plan Amendment Process changed the Plan and zoning designations of the southeast corner [North Sound Bank property] from Rural Residential to Neighborhood Commercial at the request of a local bank. Index 26999, at 2. This property is vacant, Futurewise Reply, at 3, but a conditional use permit has been applied for to build a drugstore. HOM, at 16.
- Northwest corner. Approximately 13.5 acres of vacant property at the northwest corner of the intersection is owned by Richard Bjarnson who applied for commercial zoning in 2003. The County required a boundary line adjustment dividing the property, recognizing wetlands that bisect the land, and rezoning 5.8 acres as Neighborhood Commercial. Index 26999, at 2; Ordinance 326-2004, at 9.

The George's Corner LAMIRD provisions of Ordinance 326-2004 are challenged by Futurewise and Kitsap Citizens for Responsible Planning.<sup>5</sup> Petitioners do not object to designation of a LAMIRD at this location but argue that the "logical outer boundary" (LOB) drawn by the County does not comply with GMA requirements and that the County has not taken the required actions to "minimize and contain" development. Property owner Richard Bjarnson intervened in support of the County's action.

### **Applicable Law**

**RCW 36.70A.070(5)(d)**, added to the GMA in 1997, allows Counties to recognize small pockets of more intensive pre-GMA development in rural areas. The LAMIRD at issue in this case is a Type I LAMIRD (i.e., RCW 36.70A.070(5)(d)(i)).

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

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<sup>5</sup> Harless is neither a petitioner nor an intervenor with respect to the George's Corner issue. The Overton *amicus* does not go to this issue.

(i) Rural development consisting of the *infill, development, or redevelopment of existing* commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or *crossroads developments*.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment . . . must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);<sup>6</sup>

. . . .

(iv) A county shall adopt *measures to minimize and contain the existing areas or uses of more intensive rural development*, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are *clearly identifiable and contained* and where there is a logical *boundary delineated predominately by the built environment*, but that *may also include undeveloped lands if limited* as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address

(A) the need to preserve the character of existing natural neighborhoods and communities,

(B) *physical boundaries such as* bodies of water, streets and highways, and *land forms and contours*,

(C) the prevention of abnormally irregular boundaries, and

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<sup>6</sup> The second sentence of (C) was added in a legislative amendment in 2004. Laws of 2004, ch. 196.

(D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, *an existing area or existing use is one that was in existence: (A) On July 1, 1990 . . . .*

Emphasis supplied.

### **Discussion and Analysis**

#### **Positions of the Parties**

Petitioners (here Futurewise and KCRP) contend that, while George's Corner is an example of rural crossroads development that may appropriately be designated as a Limited Area of More Intensive Rural Development, the County has failed to comply with the GMA LAMIRD requirements in two respects. The Petitioners claim, first, that the LAMIRD is not contained within a *logical outer boundary* delineated predominantly by the 1990 built environment, and second, that the County hasn't adopted measures to *minimize and contain* future more-intensive development.

Petitioners assert that the statutory standard for a LAMIRD logical outer boundary (**LOB**) is that it must be "delineated predominantly by the [1990] built environment." RCW 36.70A.070(5)(d). Petitioners note that in 1990 only the southwest corner of the intersection and a strip of three small parcels some distance removed from the northeast corner contained commercial development. In fact, "only one of these parcels existing in 1990 is on the corner of the George's Corner intersection." Futurewise Reply at 3.

Petitioners contend that the 1997 amendment to GMA that allowed designation of LAMIRDs was designed to provide grandfathering of pre-GMA rural industrial nodes and neighborhood services, not to set up *new commercial areas* in competition with urban centers.<sup>7</sup> Therefore, Petitioners assert, the specific legislative identification of the 1990 "built environment" as the basis for delimiting the logical outer boundary of a LAMIRD precludes the County from using the post-1990 Albertson's complex as a factor in defining this area. Futurewise PHB, at 8.

Petitioners further contend that adding two large vacant parcels to the proposed LAMIRD on the southeast and northwest corners means the node will no longer be "delineated predominantly by the [pre-1990] built environment," as required by .070(5)(d)(iv). Futurewise PHB, at 10-11. These undeveloped lots – Bjarnson's 5 acres and North Sound Bank's 4 acres - go beyond what may be legitimately characterized as infill, according to Petitioners. *Id.*

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<sup>7</sup> Commercial development at George's Corner has been a concern to the Kingston Steering Committee and local residents because of its competition with businesses in downtown Kingston. Index 26999, at 2.

Petitioners also object to the expansive George's Corner LAMIRD designated by the County because it is not "principally designed to serve the existing and projected rural population" as required by .070(5)(d)(1)(B). They contend that the County has not enacted regulations to ensure that "any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the [pre-1990] existing uses" as required by .070(5)(d)(i)(C). Futurewise PHB, at 12-13.

Kitsap County responds that George's Corner LAMIRD is GMA-compliant, having first been identified by the County as a possible LAMIRD in a 1998 Rural Issue Paper Appendix to the Kitsap County Comprehensive Plan. Index #20539. As of 2002, two of the four corners of the intersection had commercial development, and a third (North Sound Bank) was zoned Commercial. Index #24412, Attachment 3, Map "George's Corner 2002 Comprehensive Plan Designations." The Board of County Commissioners considered a LAMIRD designation for the intersection in 2003, but deferred the matter for a study of the logical outer boundary and for appropriate staff and public review. Ordinance 311-2003 ,at 8 (Core Document).

The County recites the extensive staff study and public review that ensued (County Response, at 6), and states that the LAMIRD boundary decision was the result of "appropriate and reasoned consideration." *Id.* While Futurewise relies largely on the requirement that LAMIRDs must be "delineated predominantly by the built environment," Kitsap points out that the *next phrase* of the statute reads: "but that may also include undeveloped lands if limited as provided in this subsection." RCW 36.70A.070(5)(d)(iv).

Kitsap points to this Board's acknowledgement of infill development in *Bremerton, et al., v. Kitsap County*, CPSGMHB No. 95-3-0039c coordinated with No. 97-3-0024c, Finding of Noncompliance and Determination of Invalidity in *Bremerton* and Order Dismissing *Port Gamble* (Sept. 8, 1997), at 24.

[W]hile some accommodation may be made for infill of certain "existing areas" of more intense development in the rural area, that infill is to be "minimized" and "contained" within a "logical outer boundary."

Kitsap argues that it is "logical" to include all four corners in a "crossroads" LAMIRD. Excluding the two undeveloped corners of the crossroads, the County posits, would produce an "abnormally irregular boundary," contrary to one of the criteria of .070(5)(d)(iv). County Response, at 8. The County staff study resulted in a recommendation that the outer boundaries of the commercial area should be based on topographical features, consistent with one of the boundary criteria addressing "physical boundaries such as bodies of water . . . and land forms and contours." Using the creeks and drainages on the east and west sides of the intersections as boundaries serves the additional purposes of protecting critical areas and buffering the crossroads development from rural uses, according to the County. County Response, Index 24412, at 10. The County points out that Bjarnson, one of the property owners, was required to make boundary line adjustments so that the property included in the commercial area was limited to the plateau-side of the affected wetlands. County Response, at 10.

Kitsap next addresses the provisions it has enacted to ensure that future development at George's Corner is consistent with pre-1990 uses and development scale and that it is principally designed to serve the rural population. *Id.* at 14-15. The County points to the purpose of the Neighborhood Commercial zoning designation:

These commercial centers occur on smaller sites and are intended to provide for the quick stop shopping needs for the immediate neighborhood in which they are located. New centers should be based upon demonstrated need and shall be compatible with a residential setting.

KCC 17.355.010.A. County Response, Ex. B.<sup>8</sup> Commercial uses in the NC zone are limited to retail stores and services of less than 25,000 square feet, general office of less than 5,000 square feet and neighborhood-serving businesses such as banking, real estate, laundry, farm and garden supplies - all requiring either site plan review or conditional use permits. *Id.* These permit reviews, the County asserts, will ensure compatibility of use and scale of development at the intersection. County Response, at 14.

Finally, the County responds to Petitioners' argument that the LAMIRD here should be downsized because only 10% of the County's commercial development is occurring in cities. The County asserts that, in fact, 77% of commercial growth in the County is occurring within urban growth areas, much of it in the unincorporated urban area of Silverdale. County Response, at 15.

Intervenor Bjarnson supports the County's delineation of the logical outer boundary by citing the facts relating to his own property. He states that many adjacent property owners petitioned to have their land included in the George's Corner LAMIRD, and that by rejecting most of these requests, "the County demonstrated it is effectively controlling low-density sprawl." Bjarnson, at 5. The County's use of natural features to define and limit the commercial development is logical and permanent, Bjarnson argues. Bjarnson, at 4.

[T]he boundary as it now exists is constrained by natural features and sensitive areas. In addition, George's Corner does not have sewer service and development is constrained even within the area approved for more intensive development by the health district in approval of any on-site septic treatment design.

The limitations placed upon this area by Kitsap County were quite clever. The County required Respondent Bjarnson to adjust the boundaries of the two parcels he owned on the southwest corner to make the parcel included within the area of intense rural development smaller. The County also requires Respondent Bjarnson to dedicate a portion of this smaller parcel as open space creating effective protection and preservation of existing

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<sup>8</sup> Additional relevant portions of Exhibit B are provided with the County's May 4, 2005, post-hearing memorandum. *Supra*, at 7.



wetlands. . . . [B]y situating the boundaries of this area as it did, critical areas would be better protected and preserved.

*Id.* at 4-5 (citations to Index 24122 omitted).

### Board Discussion

In order to find Kitsap County out of compliance with the Growth Management Act, the Board must be “left with the firm and definite conviction that a mistake has been made.” The Board is not persuaded by Petitioners here.

Kitsap County identified George’s Corner as a potential LAMIRD in its 1998 Comprehensive Plan “Rural Appendix Issue Paper.” The County took several years to study the designation. County staff carefully considered and documented a range of alternatives for a “logical outer boundary,” issuing a staff report that candidly acknowledged uncertainty about application of the GMA standards to the various options. Index 24122, at 9.

The County chose to use the physical contours of the land and the presence of wetlands to define the boundary of the LAMIRD. Consistent with .070(5)(d)(iv)(B), this is likely to result in permanent boundaries that are less subject to pressures for commercial expansion and sprawl. The wetlands and critical areas may help buffer the commercial uses from the surrounding rural lands. The County required a lot-line adjustment on the Bjarnson property to further contain the LAMIRD.

While the Board appreciates Petitioners’ objection to the size of the LAMIRD and to the scale of the post-GMA Albertson’s development, particularly within just 1.5 miles of the Kingston UGA, the Board cannot say that the LAMIRD boundary adopted by the County is clearly erroneous. The inclusion of vacant parcels and allowance for infill development and redevelopment is expressly permitted in the statute. The “logical outer boundary” delineation described in RCW 36.70A.070(5)(d)(iv) reads: “Existing areas are those that are clearly identifiable and contained and where there is a logical outer boundary delineated predominately by the built environment, but that *may also include undeveloped lands* if limited as provided in this subsection.” In 2004, the legislature amended RCW 36.70A.070(5)(d)(i)(C), which requires that new development or redevelopment be consistent in “size, scale, use, or intensity” with the [pre-1990] character of the area, by adding: “Development and redevelopment may include *changes in use from vacant land* ... so long as the new use conforms to the requirements of this subsection (5).” Emphasis supplied.

In *Hensley & McVittie v. Snohomish County*, CPSGMHB No. 01-3-0004c consolidated with 02-3-0004, Order Finding Compliance in *Hensley IV* and Final Decision and Order in *Hensley V* (June 17, 2002), this Board approved the logical outer boundaries of two commercial nodes in rural Snohomish County. The Board said:

The “Built Environment” map depicts: 1) commercial areas or uses in existence in July of 1990; 2) permitted or vested commercial uses prior to 1990; 3) permitted or vested uses between 1990 and 2000; and 4)

institutional use. The areas are *all clearly identifiable and contained* within the two nodes delineated in the Clearview LAMIRDs by Ordinance No. 01-133. . . . Further, as anticipated and allowed by .070(5)(d)(i) and (iv), the two LOBs [logical outer boundaries] appropriately include undeveloped land for infill development or redevelopment of existing commercial areas and uses within the LOBs. The areas included within the LOBs are *minimized and contained within* the LOBs.

*Id.* at 15 (emphasis supplied).

Ordinance No. 326-2004 states: “The Planning Commission recommended that ... the property within the [George’s Corner] LAMIRD LOB should be designated Neighborhood Commercial in order to retain the rural character of the surrounding neighborhood. .... The Board of Commissioners finds that proposed commercial uses in the George’s Corner LAMIRD should be the types of commercial uses principally designed to serve the rural community. Any development or redevelopment within the George’s Corner LAMIRD shall be consistent with the character of the existing area in terms of building size, scale, use or intensity.” *Id.* at 8.

Kitsap’s zoning regulations for the Neighborhood Commercial zone will ensure that infill development and redevelopment (a) is designed to meet the needs of existing rural residents and (b) is of a scale more appropriate to the rural character than the suburban grocery store now on the site. The Board finds that the George’s Corner LAMIRD designation includes “measures to minimize and contain the existing areas or uses” as required by .070(5)(d)(iv).

Petitioners have not persuaded the Board that the County’s logical outer boundary for the George’s Corner LAMIRD or the measures to contain it (*i.e.*, the zoning regulations for the LAMIRD) are clearly erroneous.

### **Conclusion**

The Board concludes that Petitioners have **failed to meet their burden of proof** that the George’s Corner LAMIRD is noncompliant with RCW 36.70A.020(1), RCW 36.70A.020(2), or RCW 36.70A.070(5). The Board acknowledges the concerns of Petitioners regarding application of the statutory criteria to the delineation of the logical outer boundary for the George’s Corner LAMIRD, but the Board is not left with a firm and definite conviction that a mistake has been made. Legal Issue No. 1 is **dismissed**.

## **B. LEGAL ISSUE NOS. 2 AND 3**

### **Legal Issue No. 2.**

*Does adoption of Resolution 158-2004 fail to comply with RCW 36.70A.020(1), RCW 36.70A.020(2) and RCW 36.70A.215 when a buildable lands report shows an inconsistency between the county’s comprehensive plan, development regulations and on-the-ground development that has occurred since the adoption of the comprehensive*



*plan and development regulations and the Resolution fails to adopt and implement measures reasonably likely to increase consistency as required by the GMA?*

Legal Issue No. 3.

*Did Kitsap County fail to adopt and implement measures reasonably likely to address the inconsistency between the County's comprehensive plan and development regulations and on the ground development that has occurred since their adoption when the County is required under RCW 36.70A.215 and RCW 36.70A.130 to adopt such reasonable measures no later than December 1, 2004?*

**The Challenged Action and the Parties**

In tandem with adoption of Ordinance No. 326-2004, Kitsap County adopted Resolution No. 158-2004 "Providing an Addendum to the Buildable Lands Analysis Report for Reasonable Measures." The Resolution lists a number of actions previously taken by Kitsap County intended to promote growth and density within urban areas and adopts the list as an addendum to the Kitsap County 2002 Buildable Lands Report (**BLR**).

Kitsap County's 2002 Buildable Lands Report had highlighted excessive sprawl-type development in rural Kitsap County as inconsistent with the County's goals.<sup>9</sup> The GMA requires that counties identify and implement measures "reasonably likely to increase consistency" between development trends indicated by the buildable lands analysis and the goals and policies of county GMA plans.

Resolution 326-2004 recites the impetus for its adoption as follows: Kitsap County prepared its required Buildable Lands Report in August 2002, analyzing development data and identifying a process to monitor development to "ensure that the Urban Growth Areas (UGAs) are being developed at urban densities." Resolution, at 1. The BLR failed to include a list of "reasonable measures" to increase growth and density in urban areas. However, the County had intended to supplement the BLR with such a list during its 2004 comprehensive plan review. *Id.*

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<sup>9</sup>The BLR states:

Residential development has been active in Kitsap County between 1995 and 1999, with a *slight majority of all new residential permits issued in the rural unincorporated area.* [A chart indicates 55% of the residential units permitted are outside UGAs and cities.] . . . In terms of land area, the *vast majority of new residential land consumed is in the jurisdiction of rural unincorporated Kitsap County.* [A chart indicates 81.9% of the residential acres permitted are outside UGAs or cities.] . . . In rural unincorporated Kitsap County, development *densities average approximately 1 unit per acre*, which represents a midpoint between extremely rural and urban style densities. One development constraint is the large number of smaller, non conforming lots of record. Until these parcels are fully absorbed, the County may face obstacles in directing new growth toward urban areas.

BLR, Executive Summary, at 7-8, (emphasis supplied) [Core Document].

The Resolution recites that on August 9, 2004, the Board issued its decision in *City of Bremerton, Suquamish Tribe, et al. v. Kitsap County (Bremerton II)*, CPSGMHB No. 04-3-0009c, Final Decision and Order (Aug. 9, 2004), in which the Board noted that Kitsap County had not identified a list of reasonable measures and that reasonable measures should be adopted and implemented no later than December 1, 2004.<sup>10</sup>

The Resolution states that the County since 1995 has adopted a number of measures intended to promote growth and density in urban areas, including new development regulations, sub-area plans, and revisions to its comprehensive plan. The County states its intention to “work to identify additional means to direct growth to the urban growth areas other than expanding UGAs.” *Id.*

Petitioners challenge the Resolution as non-compliant with the GMA requirements for reasonable measures. The parties to this issue are Petitioners Futurewise and Kitsap Citizens for Responsible Planning, Jerry Harless as Intervenor on the side of Futurewise, and Respondent Kitsap County. Overton provides an *amicus* brief urging the Board to support the County’s action.

### **Applicable Law**

**RCW 36.70A.215**, added to the Growth Management Act in 1997, sets up a review and evaluation program to ensure the achievement of urban densities in urban growth areas consistent with the goals of the GMA and with adopted plan objectives. Section 215 (emphasis supplied) provides as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, county-wide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities *shall consider information from other appropriate jurisdictions* and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the county-wide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

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<sup>10</sup> In *Bremerton II*, with respect to Buildable Lands and Reasonable Measures, the Board concluded: The Board concludes that the County’s BLR demonstrates inconsistencies between the development that has occurred in the County and what is envisioned by the GMA and the County’s CPP and Plan. The Act, as interpreted by this Board in *FEARN*, requires the County to implement reasonable measures no later than December 1, 2004.

*Id.* at 55.

(b) *Identify reasonable measures*, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) *Encompass land uses and activities both within and outside of urban growth areas* and provide for annual *collection of data on urban and rural land uses*, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection every five years as provided in subsection (3) of this section. The first evaluation shall be completed not later than September 1, 2002. The county and its cities may establish in the county-wide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the county-wide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the county-wide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the county-wide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land

needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the county-wide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, *the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period.* If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to county-wide planning policies to increase consistency. *The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.*

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the county-wide planning policies and the comprehensive plans and development regulations of the counties and cities.

### **Discussion and Analysis**

#### **Positions of the Parties**

Futurewise states that the need for “reasonable measures” was established in *Bremerton II*, where the Board identified significant discrepancies between on-the-ground development patterns in Kitsap County and the growth patterns envisioned in the County’s Comprehensive Plan. Futurewise PHB, at 15-16. The County’s 2002 Buildable Lands Report (**BLR**) documented excessive growth in rural areas of the County (sprawl) and insufficient compact urban development. *Id. citing* BLR, at 7-8.

Futurewise argues that the County must address the high rate of growth in its rural area. Futurewise PHB, at 20. The County can’t escape its obligation to cure these inconsistencies simply by blaming pre-GMA rural platting, Futurewise contends; it must affirmatively develop strategies reasonably likely to alter the pattern of sprawl. *Id.*

Futurewise points out that the Kitsap County Comprehensive Plan calls for using the BLR to track rural as well as urban growth and to adopt measures to curb sprawl:

**RL-3** Kitsap County will use the land monitoring and evaluation program established to help implement the Kitsap County Comprehensive Plan to track the type, location, amount and rate of *growth in the rural area*. Growth will be evaluated to ensure that it is consistent with Kitsap County Comprehensive Plan assumptions and policies. Based on the *findings of this monitoring*, Kitsap County will consider the need to further evaluate or limit the amount or rate of growth in the rural area or to *modify its development regulations to ensure* that rural character is maintained and *that urban growth does not occur in the rural area*.

## **IMPLEMENTATION STRATEGIES AND PROGRAMS**

### **1. Rural Capacity and Lot Aggregation**

Kitsap County recognizes the substantial number of existing lots located in the designated rural area as a result of past practices. Existing capacity is significantly greater than the rural target population allocation for the twenty-year planning period. Kitsap County *will research and evaluate possible incentives* that could be used to *encourage the aggregation of existing small lots* in the rural area. Kitsap County will review this information in the context of actions that may be considered pursuant to RL-3.

Index #25559, Kitsap County Comprehensive Plan, amended Dec. 8, 2003, at 67.

Futurewise argues that none of the County's adopted measures listed in the Resolution is directed toward dealing with the documented excessive rural growth despite the specific direction in RL-3. Futurewise PHB, at 21-22. Futurewise notes that a number of the development regulations listed in Resolution 158-2004 actually were adopted *prior* to the Buildable Lands Report and clearly are not working; thus they are not "reasonably likely" to cure inconsistencies between actual development patterns and GMA plans. *Id.* at 19.

Harless as Intervenor reiterates that Kitsap's Buildable Lands Report documents inconsistencies between on-the-ground growth patterns in the county and the patterns envisioned in the GMA, Countywide Planning Policies, County Comprehensive Plan and development regulations. In this context, Harless asserts, merely listing a set of existing and pre-GMA development regulations does not amount to identifying and implementing measures reasonably likely to produce a change. Harless PHB 2,3,4, at 15. Harless reviews each of the 18 provisions<sup>11</sup> listed in the matrix attached to Resolution 326-2004

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<sup>11</sup> The following adopted and implemented measures are charted in a matrix attached to the Resolution: 1. Encourage accessory dwelling units in single-family zones. 2. Allow clustered residential development. 3. Allow duplexes. 4. Allow town houses and condominiums in single-family zones. 5. Encourage development of urban centers and urban villages. 6. Encourage mixed use development. 7. Create annexation plans. 8. Affordable and manufactured housing development/zoning. 9. Urban amenities. 10. Targeted capital facilities investments. 11. Master planning for large parcel development. 12. Interim development standards. 13. Encourage transportation-efficient land use. 14. Density bonuses in the UGA. 15. Increase allowable residential densities. 16. Urban growth management agreements. 17. Critical

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and argues that none of them is new or significant. *Id.* at 16-24. These old development regulations, he contends, do not satisfy the action-forcing requirement of Section .215(4).

Measures that *could* produce tangible results in the next five years, he asserts, include (1) providing adequate urban services within UGAs, (2) prohibiting platting within the UGA at less than a 4-unit-per-acre urban density, and (3) reducing rural density through TDRs [transfer of development rights], lot aggregation, differential impact fees, and similar strategies. *Id.* at 10; Harless Reply 2,3,4, at 6.

Harless rejects the theory that reasonable measures should be limited to urban area policies and regulations. Harless PHB 2,3,4, at 14. He points out that Section .215(2)(a) requires analysis of growth patterns both inside and outside of the UGA, and he argues that Section .215(4) requires reasonable measures regardless of whether UGA expansion is proposed. *Id.* Similarly, he notes, the Kitsap County Comprehensive Plan [RL-3] directs the BLR program to address rural growth.

Harless points to recent County staff reports prepared in connection with the County's parallel process to update Countywide Planning Policies. Supp. Ex. 1, 2, and 3. Those staff reports show that the inconsistent on-the-ground growth patterns have persisted, and are even worse than what was reflected in the 2002 Buildable Lands Report. Harless Reply 2,3,4, at 10. Harless states that County staff recommended new approaches to reduce the problem of nonconforming rural lots, but these measures were rejected by the county commissioners. *Id.*; see Index 27103, 27370, and 27143.

The County responds by arguing that Section 215 only applies to urban growth and growth within the UGA, not to rural growth. County Response, at 17-19. The County reads Section 215(4) to limit "reasonable measures" to the three evaluation factors of subsection 3, which all focus on *urban* densities. *Id.* No reasonable measures are required if BLR inconsistencies occur in the *rural* area, according to the County. The County's problem is pre-platted small lots in the rural area where there are vested rights to develop at pre-GMA levels; Kitsap argues that it cannot eliminate the small rural lots that create the core problem. *Id.* at 25.

Kitsap states that it has addressed urban densities through cluster provisions and other density enhancements in its UGA expansions and sub-area plans. *Id.* at 22. The 2004 UGA expansions, the County points out, are for commercial/industrial growth, not housing. *Id.* at 25. As to residential density, the County *lowered* the target split for rural/urban growth in its Countywide Planning Policies to address the problem of inconsistencies between its targeted and actual growth. *Id.* at 19; Ordinance 327-2004, Attachment A, at 14 [Core Document]. Beyond that, the County argues that the recent staff reports relied on by Petitioners, Supp. Ex. 1, 2, and 3, are worth very little because

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services near homes, jobs, and transit. 18. Transit-oriented development. [Note: Some of these measures only apply within specific sub-areas.]



they do not include development in the incorporated cities, only in unincorporated urban growth areas.<sup>12</sup> *Id.* at 28-29.

*Amicus* Overton focuses on the rural/urban issue and complains that petitioners seek to prevent reasonable use of rural lands. Overton, at 1-2. The cities of Kitsap County, *amicus* alleges, are primarily at fault for the imbalance in growth trends, because the cities have not made the urban areas attractive to developers. *Id.* at 5, 13. Overton argues that Section 215(4) limits “reasonable measures” to conflicts between comprehensive plans and the subsection 215(3) factors, all of which point to *urban* development. According to Overton, there are no statutory requirements for “reasonable measures” with respect to excessive development of *rural* lands. *Id.* at 15-16.

### Board Discussion

The Board’s analysis must begin with a brief review of *City of Bremerton, Suquamish Tribe, et al. v. Kitsap County (Bremerton II)*, CPSGMHB No. 04-3-0009c, Final Decision and Order (Aug. 9, 2004). In that case, Suquamish Tribe, et al., challenged Kitsap County for expanding its urban growth areas despite the finding in the 2002 Buildable Lands Report that sufficient capacity remains within existing UGAs to accommodate projected growth. *Bremerton II*, at 48. Suquamish noted (a) the continued location of a majority of population growth outside the designated Urban Growth Areas of Kitsap County, (b) continued residential development at urban densities in Kitsap County rural areas, and (c) urban densities not being achieved in the urban areas. These development patterns are inconsistent with Countywide Planning Policies and with the goals and policies of Kitsap’s Comprehensive Plan. Suquamish contended that Kitsap County had failed to act, as required by RCW 36.70A.215, to implement measures reasonably likely to increase the consistency between on-the-ground development and the goals and policies of the Comprehensive Plan. *Id.*

The Board in *Bremerton II* agreed with Suquamish that the Kitsap Buildable Lands Report had identified development patterns inconsistent with the GMA, the Countywide Planning Policies, and its Comprehensive Plan. *Id.* at 54. “The BLR identifies inconsistencies, therefore the County must *not only identify* reasonable measures, *but take action to implement* them as required by RCW 36.70A.215(4).” *Id.* (emphasis added). However, the Board disallowed the Suquamish failure-to-act challenge based on an earlier ruling that “the outside limit for a local government to adopt reasonable measures to avoid the need to adjust the UGA is the December 1, 2004 deadline established in .130(4).” *FEARN v. City of Bothell*, CPSGMHB Case No. 04-3-006c, Order on Motions (May 20, 2004), at 8. The Board concluded that a failure-to-act challenge would not be ripe unless the statutory deadline for review and update of comprehensive plans – December 1, 2004 – passed without action. *Bremerton II*, at 55.

It is undisputed that Kitsap County adopted Resolution No. 158-2004 prior to the December 1, 2004 statutory deadline and that the Resolution added the identified and

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<sup>12</sup> The Board notes that the County Commissioners requested these staff reports and relied on the information provided by the reports in amending the Countywide Planning Policies in November, 2004.

already-implemented measures to the Buildable Lands Report. This action is consistent with the Board's Final Decision and Order in *Bremerton II*.

However, Petitioners Futurewise and Intervenor Harless contend that the County's identified "reasonable measures" do not meet the substantive requirements of the GMA. Harless reviews each of the 18 listed measures and argues that none are reasonably likely to reverse the pattern of rural sprawl and urban under-development. Petitioners assert that the County should have adopted the measures proposed by County staff and reviewed by the Planning Commission. These measures, summarized in Appendix B, attached, were identified by Kitsap County for possible future analysis, public process and implementation. Index 27143, at 15-25. Some of these measures overlap items in the Resolution 158-2004 list. Specific measures to cure sprawl in rural areas are included.

The Board is not persuaded that Kitsap has failed to comply with the GMA. RCW 36.70A.215(4) and (5) is quite clear about the method for determining the substantive efficacy of measures adopted and implemented under the "reasonable measures" requirement. Subsection (4) provides: "The county and its cities *shall annually monitor the measures* adopted under this subsection *to determine their effect* and may revise or rescind them as appropriate." Subsection (5) requires the Department of Community, Trade and Economic Development to compile a list of methods used by counties and cities and to submit to the legislature, by December 31, 2007, "a report *analyzing the effectiveness* of the activities described in this section in achieving the goals envisioned by the county-wide planning policies and the comprehensive plans and development regulations of the counties and cities."

If Kitsap County's adopted measures are insufficient, as these challengers allege, the annual monitoring will demonstrate the failure and the County will be obligated to take corrective action.<sup>13</sup> Moreover, if more effective strategies are not adopted, CTED's 2007 report will bring the failure to the attention of the legislature.

Significantly, Resolution No. 158-2004 commits Kitsap County to consider *additional measures*:

2. In addition to those reasonable measures that the County has already adopted and implemented, ... Kitsap County staff should begin the process of identifying additional reasonable measures the Board of County Commissioners should consider adopting and implementing.

The Resolution recognizes that the density regulations itemized in the attachment are a first step, and states: "as Kitsap County continues to plan under GMA, it will work to identify additional means to direct growth to the urban growth areas other than expanding UGAs." *Id.* at 1; *see also* Ordinance 326-2004, at 13-14. The additional measures identified by County staff and reviewed by the Planning Commission in 2004 are a likely

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<sup>13</sup> None of the parties identified any County reports evaluating or monitoring the reasonable measures the County has in place; they do not indicate, for example, how many ADUs have been added, or to what extent clustering or density bonuses have been actually been used to decrease land consumption.



next step. Index 27143, at 15-25 [Appendix B, *infra* at 44-45]. In light of the more recent staff reports (Supp. Ex. 1, 2, and 3), showing persistent patterns of sprawl into the rural area and underdevelopment in urban areas, Kitsap will need to intensify its efforts, in cooperation with its cities, to redirect growth to urban areas.

The GMA gives counties ample discretion to adopt and implement a more varied array of measures than the urban development regulations listed in Resolution 158-2004, including measures to refocus development away from rural to urban lands. Measures to reduce rural density, such as TDRs and lot aggregation, should be on the table. Kitsap's Comprehensive Plan Policy RL-3, *supra* at 21, mandates that the County evaluate *rural* growth patterns for consistency with the plan and "research and evaluate possible incentives" for rural lot aggregation. Kitsap County can take advantage of the success and failures of other Central Puget Sound counties in implementing such strategies. Indeed, RCW 36.70A.215(1) provides at the outset: "In developing and implementing the review and evaluation program,... the county ... *shall consider* information from other appropriate jurisdictions." (Emphasis supplied.)

*Amicus* Overton misreads the GMA with the argument that reasonable measures should only address urban, not rural, development patterns. The review and evaluation program established by RCW 36.70A.215(2) is required to "encompass land uses and activities *both within and outside of urban growth areas* and provide for annual collection of data on *urban and rural* land uses, development, critical areas and capital facilities." Emphasis supplied. The legislature reasonably intended, when adopting this language, that counties and cities use the data collected concerning *rural* development to inform the strategies they would implement to increase the consistency of their growth plans.

RCW 36.70A.215(2)(d) recognizes that other "reasonable measures" might involve changes to Countywide Planning Policies and calls for "the amendment of the county-wide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section."<sup>14</sup> Subsection (4) provides: "If necessary, a county and its cities ... shall adopt amendments to county-wide planning policies to increase consistency." Options for consideration have been identified by County staff and by Petitioners, and again, the experience of other counties may be instructive.<sup>15</sup>

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<sup>14</sup> Kitsap County's response to the updated data in Supp. Ex. 1, 2, and 3 was to amend its County-wide Planning Policies in 2004 to incorporate a planning target more closely approximating the existing pattern of rural sprawl, rather than amending its policies to increase the consistency of actual growth with its planning targets. County Response, at 19; Harless 2,3,4 Reply, at 7-8. However, the County-wide Planning Policies are not before the Board in this proceeding.

<sup>15</sup> Measures might be on the table, for example, amending the CPPs to require higher density along transit routes in cities and unincorporated urban areas; establishing minimum densities for subdivisions in both cities and the unincorporated urban area; modifying sub-area planning to disallow UGA expansion; requiring UGA expansion to be offset by contraction elsewhere; requiring that all UGA adjustments be considered on a county-wide basis (e.g., discontinue sub-area and ad hoc site-specific UGA expansions); rolling population targets forward every ten years, as required by the GMA, rather than every five years; 04331c 1000 Friends KCRP FDO.doc (June 28, 2005)

The Board finds and concludes that Petitioners have not met their burden of proving that Resolution 158-2004 is clearly erroneous. It is an appropriate beginning, especially in light of the County's acknowledgement of its intent to do more, subject to the time needed for public process.

### **Conclusion**

The Board concludes that Petitioners Futurewise and Intervenor Harless **have not met their burden** of proving that Kitsap County failed to act to identify and implement reasonable measures to increase the consistency between its plan and on-the-ground development. The efficacy of the measures identified and implemented by the County will be determined through annual monitoring by the County and its cities, as required by RCW 36.70A.215(4), with revisions as appropriate. Legal Issue Nos. 2 and 3 are **dismissed**.

### **C. LEGAL ISSUE NO. 6**

#### **Legal Issue No. 6.**<sup>16</sup>

*The effects of Ordinance 326-2004 notwithstanding, did Kitsap County fail to comply with RCW 36.70A.130 when it did not review and revise its Urban Growth Areas (UGAs) to accommodate forecast and allocated growth over the succeeding twenty years?*

#### **The Challenged Action and the Parties**

The Growth Management Act recognizes that land use planning is not static. Provisions and timelines for required periodic review and update are located in various sections of the Act. RCW 36.70A.130 sets out requirements for annual comprehensive plan amendments in Section .130(2), for more-comprehensive "updates" of plans and development regulations (critical areas ordinances in particular) in Sections .130(1) and (4), and for review of urban growth area designations and densities in Section .130(3).

Kitsap County Ordinance No. 326-2004 is subtitled "Amending the Comprehensive Plan and Map for 2004 and Making Corresponding Amendments to the Kitsap County Zoning Code and Map." The Ordinance recites that it is enacted pursuant to County procedures

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targeting capital facilities and amenities to support urban density. Appendix B, at 44-45; Harless Reply 2,3,4, at 16.

<sup>16</sup> The Board **dismissed** Petitioner Harless' Legal Issue Nos. 5, 6, 7, and 8 as untimely in its Order on Motions (March 15, 2005) and subsequently **reinstated and restated** Legal Issue No. 6 in its Order on Reconsideration (March 31, 2005). Legal Issue No. 6 was originally stated in Harless' PFR as follows: *The effects of Ordinance 326-2004 notwithstanding, did Kitsap County fail to comply with RCW 36.70A.110, RCW 36.70A.115, RCW 36.70A.130 and RCW 36.70A.215 and fail to be guided by RCW 36.70A.020(1) and (2) when it did not implement measures reasonably likely to increase consistency with its plan targets (i.e., increase the proportion of growth locating in UGAs, increase urban densities and decrease rural densities) and did not review and revise its Urban Growth Areas (UGAs) to accommodate forecast and allocated growth over the succeeding twenty years?*

for annual review and possible amendment of the plan, particularly to “provide an opportunity for the public to propose amendments.” *Id.* at 1. This *annual* amendment process is authorized by RCW 36.70A.130(2).

The Ordinance further recites that it is enacted pursuant to the “compliance review” [update] requirements of RCW 36.40A.130(1) and the December 1, 2004, deadline of .130(4). *Id.* at 2, 12-13.

While Ordinance 326-2004 was adopted to comply with the compliance review [update] requirements of RCW 36.70A.130(1) and (4) - [and with the annual review of RCW 36.70A.130(2)] – it does not address the scheduled review of *urban growth areas*, required at least every ten years under RCW 36.70A.130(3).

Petitioner Harless challenges Kitsap County’s failure to act to conduct the Subsection (3) review of its urban growth area designations and densities.<sup>17</sup> Kitsap County contends that Harless’ petition is not ripe and must be dismissed because Kitsap County was not required to undertake the Subsection (3) review in 2004.

The issue before the board is – “Whether the GMA required Kitsap County to conduct the .130(3) urban growth area review no later than 2004?” [*i.e.*, Is this a failure to act as Petitioner Harless alleges?]

### **Applicable Law**

**RCW 36.70A.130 – Comprehensive plans- Review – Amendments** - lays out the processes and schedules for review and amendment of county and city plans and development regulations and urban growth area designations and densities.

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. A county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. . . . Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore. The review and evaluation required by this subsection *may be combined with the review required by subsection (3) of this section*. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population

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<sup>17</sup> Futurewise, Kitsap Citizens for Responsible Planning, Bjarnson, and Overton are not parties nor participants with respect to this issue.

allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(b) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section. . . .

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. . . .

(3) Each county that designates urban growth areas under RCW 36.70A.110 *shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area.* In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, *shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period.* The review required by this subsection *may be combined with the review and evaluation required by RCW 36.70A.215.* [*Supra*, at 18]

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. The schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

(a) *On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties.*

## Discussion and Analysis

### Positions of the Parties

Petitioner Harless starts from the RCW 36.70A.130(3) requirement that a county review and reassess its Urban Growth Areas (UGAs) “at least every ten years” in light of updated 20-year population forecasts. “This is the periodic update that extends the twenty-year GMA planning period established in RCW 36.70A.110 from the original 1992-2012 another ten years to 2022, based upon a revised [2002] OFM population forecast and an updated countywide land capacity analysis.” Harless PHB 6, at 1. Kitsap has not done its 10-year UGA review. Kitsap updated its population targets in November, 2004, based on OFM 2002 population forecasts, but did not review its Urban Growth Area. Harless PHB, at 5; Ordinance 327-2004 [Core Document] amending Countywide Planning Policies.

Harless argues that the December 1, 2004 deadline for updating comprehensive plans [RCW 36.70A.130(4)] must be read in the light of RCW 36.70A.040(3) which set the initial requirements for GMA planning. Counties initially subject to GMA planning were required to (a) adopt county-wide planning policies, (b) designate and protect critical areas and natural resource lands, (c) designate urban growth areas, and (d) adopt comprehensive plans and consistent development regulations “on or before July 1, 1994.”<sup>18</sup> Harless PHB 6, at 7-8. These provisions create the essential statutory context for the UGA review required by RCW 36.70A.130(3). *Id.* at 11.

Harless argues that measuring the UGA review period from the date of a tardy county’s adoption or from the date when a non-compliant county finally brought its initial plan into GMA compliance would defeat an unambiguous legislative scheme and interfere with necessary city/county coordination. Harless PHB 6, at 12. Harless also contends that Kitsap’s failure to timely review its UGAs perpetuates piecemeal sub-area urban expansions and ad-hoc response to site-specific UGA amendment requests; these practices promote sprawl and undermine growth management goals. *Id.* at 13-15.

The County responds that its interpretation of the statutory deadline is reasonable. Kitsap reasons that the requirement to review UGA designations every ten years should run from 1998, the date Kitsap adopted a GMA-compliant plan and urban growth areas, or from 1999, the year the Board lifted its Order of Invalidity for Kitsap’s plan. Thus, Kitsap’s UGA update will not be due until 2008 or 2009. County Response 6, at 4.

Kitsap notes that its interpretation is consistent with a 2002 CTED bulletin titled “Frequently Asked Questions Regarding GMA Updates” (FAQ).<sup>19</sup> *Id.*, Exhibit A. Kitsap

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<sup>18</sup> Harless reasons that the provisions of Section 130(1)(a) and (3) that say “reviews may be combined” merely deal with the July 1/December 1 discrepancy; i.e., the UGA review of .130(3), required “at least every ten years” following the statutory start date of July 1, 1994, may be undertaken by December 1, 2004, concurrent with the comprehensive plan update required by .130(1) and (4).

<sup>19</sup> CTED’s FAQ advised: “If ... a final UGA is challenged in a petition to a growth management hearings board, the starting date for calculating the ten-year deadline may be reset depending on the outcome of review by the board. Where the board has invalidated a comprehensive plan provision or development

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argues that the Subsection (4) language requiring review every seven years and the Subsection (3) language requiring review every ten years cannot be reconciled, and so its reliance on CTED is reasonable. County Response 6, at 7.

In reply, Harless contends that the County's reading of .130 conflicts with both .040 and with .110. Kitsap cannot claim surprise, Harless argues, because other Central Puget Sound counties and cities have reviewed their UGAs in consideration of the 2004 deadline. Harless Reply 6, at 2; Harless PHB 6, at 12.

According to Harless, Kitsap County is asking for a unique exception to the GMA planning schedule, which neither the Board nor CTED can grant. CTED technical bulletins are not the law, Harless points out, citing Board precedents,<sup>20</sup> and in this FAQ, CTED acknowledged that its advice was merely its own "logical interpretation" of a statutory provision that "does not specify a starting date for calculating the ten-year deadline." Harless Reply 6, at 4; *see* Ex. A to County Response 6.

The purpose of .030(3) UGA review, Harless submits, is to roll the 20-year planning period forward for an additional ten years "to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period" [RCW 36.70A.130(3)]; the Board's Order of Validity did not "reset that clock." Harless points out that Kitsap's first plan and UGA designation, as rewritten in 1998 and declared valid in 1999, was still a plan based on OFM's 1992 population forecast and designed to accommodate population projections for 1992-2012. That planning now needs to be rolled forward, based on OFM 2002 numbers, to cover the period 2002-2022. Kitsap adopted the extended population forecast in its 2004 CPP amendments [Harless PHB 6, at 5; Ordinance 327-2004] but has not done the land capacity analysis and review necessary to re-size its urban growth areas. Delaying the County's ten-year UGA update until 2008 or 2009, Harless argues, would contradict the RCW 36.70A.110 requirement for a twenty-year plan. Harless Reply 6, at 3-4.

### Board Discussion

The requirement that urban growth should be directed to designated urban growth areas is one of the main organizing principles of the GMA's approach to managing growth. "The Act contains five core substantive mandates. . . . *First*, new growth must be concentrated in Urban Growth Areas (UGAs). . . ." <sup>21</sup> Richard L. Settle, *Washington's Growth*

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regulation affecting UGAs, the starting date for calculating the ten year deadline period should begin to run when the board files its order lifting invalidity in response to actions taken by the county." County Response 6, Ex. A, at 5.

<sup>20</sup> *Citing King County v. Snohomish County*, CPSGMHB Case No. 03-3-0011 Order on Reconsideration and Clarification (Dec. 15, 2003), at 4; *Bear Creek*, CPSGMHB Case No. 95-3-0008c, Order on Supreme Court Remand (June 15, 2000).

<sup>21</sup> "The required concentration of population in urban growth areas and the reciprocal prohibition of development at urban, or even suburban, densities in rural areas are the Act's two most central and pervasive goals. . . . By concentrating population in tightly limited UGAs, public facilities and services can be more efficiently provided, natural resource industries and environmentally critical areas can be protected, and options for future development can be preserved." *Id.* at 48.



*Management Revolution Goes to Court*, 23 Seattle University Law Review 5, at 12 (1999), emphasis supplied.

The GMA requires counties to “include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period.” RCW 36.70A.110(2). Counties are required to base the size of UGAs and development allowed within them on the Office of Financial Management (OFM) twenty-year population projections. RCW 36.70A.120; *Diehl v. Mason County*, 94 Wash. App. 645, 653, 972 P.2d 543 (1999). “At least every ten years,” the UGA designation process must be repeated for the succeeding twenty-year period, based on the most-recent OFM twenty-year forecast. RCW 36.70A.130(3).

The Board has reviewed the legislative history of the relevant GMA deadlines and the UGA review provision of RCW 36.70A.130(3), to determine *when* Kitsap County’s .130(3) UGA review must be done.

The Growth Management Act was adopted in 1990.<sup>22</sup>

- Section 4(3) of S.H.B. 2929 [codified as RCW 36.70A.040] required the fastest growing counties [including Kitsap County among the four Central Puget Sound counties] to adopt compliant comprehensive plans by July 1, 1993.
- Section 12 [.120] required development regulations implementing the new comprehensive plans to be adopted within one year, or by July 1, 1994.<sup>23</sup>
- Section 11 [.110] required the counties planning under the Act [including Kitsap County – a Central Puget Sound county] to designate urban growth areas. No deadline was specified here.
- Section 13(1) [.130(1)] called for “continuing evaluation and review” of adopted comprehensive land use plans and development regulations;
- Section 13(2) [.130(2)] provided that amendments should be considered no more frequently than once a year;
- Section 13(3) [.130(3)] required a review of urban growth areas at least every ten years. Set forth in full, the subsection provided:

(3) Each county that designates urban growth areas under section 11 of this act shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the

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<sup>22</sup> S.H.B. 2929; Laws of 1990, 1<sup>st</sup> Ex. Sess., ch. 17.

<sup>23</sup> Development regulations to protect resource lands and critical areas were to be adopted by September 1, 1991, with the provision that they might be amended to insure consistency when comprehensive plans and development regulations were subsequently adopted (July 1, 1993 and July 1, 1994). Section 6 [.060].



incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period.

Thus for Kitsap County, like all Central Puget Sound counties and cities, the original legislative scheme required GMA Plans to be adopted by **July 1, 1993** and implementing regulations to be adopted by **July 1, 1994**. Although county designation of UGAs was required, **when** was not clearly specified [arguably by July 1, 1993 if in the Plan or July 1, 1994 if in development regulations]. Nonetheless, the designated UGA was required to be reviewed at least every ten-years. *The only change to .130(3) since 1990 has been the addition in 1997 of a sentence allowing UGA review to be combined with the reviews and updates required by the Buildable Lands Review process established in that year and codified in RCW 36.70A.215.*

The **1991** legislative session<sup>24</sup> made no changes to the “at least every ten year” schedule for review of UGAs.

- Section 2 [.210] added a requirement for development of county-wide planning policies, with a deadline of September 1, 1992. This was to include policies to implement the UGA requirements of RCW 36.70A.011.
- Some flexibility was added to the schedule for comprehensive plan adoption; new section 15 (.045) allowed CTED to extend the comprehensive plan deadline for jurisdictions by not more than 180 days past the statutory due date in order to “facilitate expeditious review and interjurisdictional coordination.”

In **1993**, the legislature summarized the requirements for counties required to plan under GMA [including Kitsap County, a Central Puget Sound county] in its revision to RCW 36.70A.040(3).<sup>25</sup> The inserted language specified the actions to be taken by GMA counties and cities, *amending some deadlines*. Actions required are: (1) adoption of countywide planning policies per RCW 36.70A.210<sup>26</sup>; (2) designation and protection of critical areas and natural resource lands, under RCW 36.70A.170 and .060; (3) designation of UGAs pursuant to RCW 36.70A.110; and (4) adoption of comprehensive

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<sup>24</sup> Laws of 1991, 1<sup>st</sup> Ex. Sess., ch. 32.

<sup>25</sup> Laws of 1993, 1<sup>st</sup> Sp. Sess., ch. 6, §1(3).

<sup>26</sup> The 1993 legislation amended the deadline for countywide planning policy adoption from September 1, 1991 to July 1, 1992. Section 4 [.210].

plans and implementing development regulations by **July 1, 1994** (with a clause allowing a six month extension for development regulations upon notice to CTED).

Significantly, RCW 36.70A.110, the UGA section, was amended to require GMA counties to adopt regulations designating interim urban growth areas by October 1, 1993, and final UGAs at the time of adoption of comprehensive plans, i.e., July 1, 1994.<sup>27</sup> However, no change was made to the requirement to review UGAs at least every ten years.

This basic framework has persisted, despite almost annual amendments to the GMA. *Comprehensive plans, including Final UGA designations, were to be adopted by July 1, 1994, and UGAs were to be reviewed at least every ten years.* Thus, the GMA required Kitsap County to adopt its Plan, including its designated UGAs, by July 1, 1994. Kitsap's UGA review could be not later than 10 years – July 1, 2004.

The **1994** legislative session responded to the Regulatory Reform Task Force Recommendations.<sup>28</sup> No changes were made to the July 1, 1994, deadline for adopting comprehensive plans and UGAs or the requirement for UGA ten-year review.

The **1995** legislative session added detail and exceptions to the public process and annual review provisions of RCW 36.70A.130(2) but retained the July 1, 1994, deadline for comprehensive plan adoptions and the requirement for review of UGAs at least every ten years.<sup>29</sup>

The **1997** legislative session added the Buildable Lands Review provisions codified as RCW 36.70A.215.<sup>30</sup>

- The first Buildable Lands Report (**BLR**) deadline was set at September 1, 2002, with annual monitoring and additional evaluation reports every five years.
- Section .130(1), requiring continuing review and evaluation of plans, was amended to add: “Not later than September 1, 2002, and at least every five years thereafter, a county or city shall take action to review, and if needed, revise its comprehensive land use plan and development regulations to ensure that the plan and regulations are in compliance with the requirements of this chapter. The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section.”
- Section .130(3), the ten-year UGA review, was also amended with the addition of the sentence: “The review required by this subsection may be combined with the review and evaluation required by section 25 [RCW 36.70A.215] of this act.”

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<sup>27</sup> Laws of 1993, 1<sup>st</sup> Sp. Sess., ch. 6, §2(4).

<sup>28</sup> Laws of 1994, ch. 249.

<sup>29</sup> Laws of 1995, ch. 347, §106.

<sup>30</sup> Laws of 1997, ch. 429, §10.

Together, the **1997** amendments **required**: 1) evaluation of on-the-ground development trends on a five-year cycle beginning September 2002 [.215]; and 2) a compliance review of comprehensive plans and development regulations on a five-year cycle also beginning September 2002 [.130(1)].

The **1997** amendments **allowed**: 1) the .130(1) compliance review to be combined with the .215 BLR review – or – they could be prepared separately, either way they were both still due in September of 2002; and 2) the .130(3) “at least every ten year UGA review” could be combined with the BLR. Thus, at its discretion, a Central Puget Sound county, including Kitsap County, could include its .130(3) UGA review with the September 2002 BLR report – or – prepare it separately in 2004 [*i.e. ten years after the 1994 plan deadline*].

From 1997 to 2002, counties could conduct three separate evaluations, with two due in 2002 and one in 2004, or counties could combine all three evaluations for 2002. [*i.e. conducting the .130(3) UGA evaluation early – at least every ten years.*]

The GMA was amended in **1998** and **2000**, with no relevant changes to these sections.<sup>31</sup>

In **2002** the required compliance reviews of RCW 36.70A.130(1) were again modified by the legislature.<sup>32</sup>

- The September, 2002, deadline for compliance reviews was deleted, and a new schedule was enacted as Subsection (4).
- A sentence was added to subsection (1) specifying that the compliance review “shall include ... consideration of critical area ordinances and ... an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.”
- Subsection (2), which requires public process and annual amendments, was amended to clarify that the compliance reviews of subsection (1) would now be called “updates” and would be governed by the schedule in subsection (4).
- Subsection (4) set a new schedule for compliance reviews, with Central Puget Sound, including Kitsap County, comprehensive plan “updates” **due December 1, 2004.**
- The provision of .130(1) allowing the newly-scheduled “updates” or compliance reviews to be combined with the .130(3) UGA reviews was retained, as was the .130(3) sentence allowing UGA reviews to be combined with BLR’s.

Thus, the significant review schedule adjustments legislatively enacted in 2002 made virtually<sup>33</sup> no change to the “at least every ten year” UGA review requirement. In fact, it

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<sup>31</sup> Laws of 1998, ch. 171; Laws of 2000, ch. 36.

<sup>32</sup> Laws of 2002, ch. 320, §1.

reinforced the logic of the underlying scheme of UGA reviews no more than 10 years after initial required adoption of Central Puget Sound jurisdiction comprehensive plans – including Kitsap County.

The GMA was amended again in the **2003, 2004 and 2005**, with no changes relevant to this analysis.<sup>34</sup>

**The Board finds that in the course of almost-annual amendments to the GMA from 1990 to 2005, there has been no change in the timetable for UGA reviews. Central Puget Sound counties and cities were required to adopt their county-wide planning policies, comprehensive plans, and development regulations and establish their urban growth areas by July 1994 and review their UGAs comprehensively “at least every ten years” thereafter.**

**The Board further finds that the legislature has amended GMA deadlines from time to time, expressly allowing CTED to grant certain specific extensions, in recognition of the complexity of analysis and public process that may be involved, but there has been no such statutory extension or authority granted to CTED concerning the required UGA review.**

**Therefore, the Board concludes that the Act required Kitsap County to conduct its .130(3) UGA review by no later than December 1, 2004.<sup>35</sup>**

There are important policy reasons for a consistent timeline for UGA review. Cities and counties need to coordinate their planning for urban growth, and allowing the dates for review cycles to begin when plans are brought into GMA compliance would quickly result in the kind of “uncoordinated and unplanned” land use that GMA was enacted to prevent. RCW 36.70A.010. “It is in the public interest that ... local governments ... cooperate and coordinate with one another in comprehensive land use planning.” *Id.* Allowing tardy or non-compliant plans to “reset the clock” undermines that coordination.

The UGA review cycle also fits well with the OFM population forecasts and the buildable lands review cycle. The population forecasts are based on the census data available early each decade. The buildable lands review and evaluation program is on a five-year cycle, beginning in 2002 and every five years thereafter, to assess actual development trends in a county and its cities. RCW 36.70A.215(2)(b). This leads

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<sup>33</sup> The GMA deadline for adopting Plans, including final UGAs, was July 1, 1994. Ten years later is July 1, 2004. The 2002 amendments arguably added 6 months to this review since December 1, 2004 is the new deadline.

<sup>34</sup> Laws of 2003, ch. 299; Laws of 2004, ch. 206; Laws of 2005, ch. 423.

<sup>35</sup> As the Board stated in *Bremerton II*, Order on Reconsideration (Sept. 16, 2004), at 8: “The Board reads RCW 36.70A.130 to require that on or before December 1, 2004 (.130(4)(a)), Kitsap County’s planning cycle must be brought into the GMA sequence, using OFM’s most recent ten-year population forecast, (.130(1)(a)), evaluating its UGA boundaries and densities (.130(3)), and applying BLR findings to its UGA decisions (.130(3) and .215).”

logically into an assessment of the appropriate sizing of the Urban Growth Area. Urban Growth Area review “may be combined with” the buildable lands review. RCW 36.70A.130(3).

The Board finds and concludes that Kitsap County was required to review its Urban Growth Areas, pursuant to RCW 36.70A.130(3), within ten years after 1994, the statutory deadline for adopting its Plan and UGAs. Kitsap acknowledges that it has not conducted the UGA analysis and disputes the deadline. The Board finds that Kitsap County has **failed to act** to review its UGAs. The Board finds and concludes that Kitsap County **has not complied** with RCW 36.70A.130(3).

### **Findings of Fact and Conclusions of Law**

The Board finds and concludes:

1. In the course of almost-annual amendments to the GMA, there has been no change in the timetable for UGA reviews. Central Puget Sound counties and cities were required to adopt their county-wide planning policies, comprehensive plans, and development regulations and establish their urban growth areas by July 1994 and review their UGAs comprehensively “at least every ten years” thereafter.
2. RCW 36.70A.130(3) required Kitsap County to “review, at least every ten years, its designated urban growth area or areas and the densities permitted within both the incorporated and unincorporated portions of each urban growth area” and to revise its designation of urban growth areas and permitted densities “to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period.”
3. Kitsap County’s urban growth areas were initially required to be adopted on July 1, 1994, pursuant to RCW 36.70A.110(5) and RCW 36.70A.040(3); therefore the review of urban growth areas mandated by RCW 36.70A.130(3) was to have been completed by Kitsap County by no later than December 1, 2004.
4. The legislature has amended GMA deadlines from time to time, allowing CTED to grant specific extensions, in recognition of the complexity of analysis and public process that may be involved, but there has been no such statutory extension or authority granted to CTED concerning the required UGA review.
5. The Growth Management Act contains no provision allowing CTED to extend or adjust the UGA review deadlines established by RCW 36.70A.130(3).
6. Kitsap County acknowledges that it **did not** review its urban growth areas in 2004 and does not intend to conduct that review until 2008 or 2009. *See* Kitsap Response 6, at 4.

7. Therefore, given the statutory timeframe established in the GMA for UGA review, and Kitsap County's acknowledged non-action, the Board will enter a **Finding of Noncompliance – Failure to Act** [regarding Kitsap County's review of its urban growth areas as required by RCW 36.70A.130(3).
8. Kitsap County **failed to act** in reviewing its designated urban growth areas and the densities permitted within both the incorporated and unincorporated portion of each urban growth area, pursuant to RCW 36.70A.130(3); therefore, the Board will set forth a compliance schedule within which the County shall take the required action to review and revise, as necessary, its urban growth areas.

### **Conclusion**

Kitsap County **has not complied** with RCW 36.70A.130(3) in that the County has **failed to act** to review its Urban Growth Areas within ten years of the statutory date for adoption of UGAs. The Board enters an **order of non-compliance**. Given the complexity of the review required, the Board extends the compliance schedule until June 30, 2006.

### **D. INVALIDITY**

The Board has previously held that a request for invalidity is a prayer for relief and, as such, does not need to be framed in the PFR as a legal issue. *See King County v. Snohomish County*, CPSGMHB Case No. 03-3-0011, Final Decision and Order, (Oct. 13, 2003) at 18. Nevertheless, Petitioners pose Legal Issue No 4 as a request for Invalidity if the County is found noncompliant with any of the allegations made in the Petitioners' Legal Issues:

#### Legal Issue No. 4.

*Does the County's adoption of Ordinance 326-2004 and Resolution 158-2004 and the County's failure to adopt reasonable measures per RCW 36.70A.215 substantially interfere with the goals of the GMA such that these actions should be held invalid by this Hearings Board?*

### **Applicable Law**

**RCW 36.70A.302** provides:

- (1) A board may determine that part or all of a comprehensive plan or development regulation are invalid if the board:
  - (a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;
  - (b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and



- (c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.
- (2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

### **Findings of Fact and Conclusions of Law**

In its discussion of Petitioners' Legal Issues 1, 2 and 3, *supra*, the Board found that these Petitioners had failed to carry their burden of proof and Legal Issues 1, 2 and 3 were **dismissed**. There was no finding of noncompliance and a remand. Therefore, the Board need not, and can not, consider Petitioners' request for invalidity.

### **V. ORDER**

Based upon review of the Petitions for Review, the GMA and the legislative history of relevant portions of the GMA, prior Orders of this Board and the other Growth Management Hearings Boards, case law, the briefs and exhibits submitted by the parties, having considered the arguments of the parties, and having deliberated on the matter, the Board ORDERS:

- Petitioners have **not met their burden of proof** with respect to Legal Issue Nos. 1, 2, 3 and 4. **Legal Issue Nos. 1, 2, 3 and 4 are dismissed.**
- Kitsap County has **failed to act** to review and revise its designated urban growth areas and **has not complied** with the requirements of RCW 36.70A.130(3) regarding urban growth areas. Therefore, Kitsap County is directed to take the necessary legislative action to comply with the review and revision requirements of RCW 36.70A.130(3) for its urban growth areas according to the following compliance schedule:
- RCW 36.70A.300(3)b) allows the Board to extend the 180-day compliance schedule for a noncompliant jurisdiction if the Board determines that the case is one of unusual scope or complexity. **The Board finds that Kitsap County's UGA review will be a complex task**; therefore, Kitsap County shall adhere to the following "extended" compliance schedule:
  1. By no later than **June 30, 2006**, Kitsap County shall take appropriate legislative action to comply with the review and revision requirements of RCW 36.70A.130(3) for its urban growth area designations and permitted urban densities.



2. By no later than **July 14, 2006**, Kitsap County shall file with the Board an original and four copies of the legislative enactment(s) adopted by Kitsap County to comply with RCW 36.70A.130(3) along with a statement of how the enactments comply with RCW 36.70A.130 (**compliance statement**). The County shall simultaneously serve a copy of the legislative enactment(s) and compliance statement on Petitioner Harless.
3. By no later than **July 28, 2006**, Petitioner Harless *may* file with the Board a Petitioner's Response to the County's compliance statement and the legislative enactments. Petitioner shall simultaneously serve a copy of such comment on the County.
4. Pursuant to RCW 36.70A.330(1), the Board hereby schedules the Compliance Hearing in this matter for **10:00 a.m. August 7, 2006** at the Board's offices. [The only matter at issue at this compliance proceeding will be whether Kitsap County enacted the required review and revision to its urban growth areas and permitted urban densities. The substance of those legislative designations and enactments will **not** be part of the compliance proceeding in this case – CPSGMHB Case No. 04-3-0031c, *1000 Friends/KCRP v. Kitsap County*. Any challenges to the substance of those enactments must be brought through a timely filed petition for review.]

If Kitsap County takes the required legislative action prior to the June 30, 2006 deadline set forth in this Order, the County may file a motion with the Board requesting an adjustment to this compliance schedule.

So ORDERED this 28<sup>th</sup> day of June 2005.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Margaret A. Pageler  
Board Member

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Edward G. McGuire, AICP  
Board Member

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Bruce C. Laing, FAICP  
Board Member

Note: This order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.

## APPENDIX – A

### Chronological Procedural History of CPSGMHB Case No. 04-3-0031c

On December 28, 2004, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) with three exhibits from 1000 Friends of Washington<sup>36</sup> and Kitsap Citizens for Responsible Planning (**Petitioners** or **1000 Friends/KCRP**). The matter was assigned Case No. 04-3-0030, and is hereafter referred to as *1000 Friends/KCRP*. Board member Margaret Pageler is the Presiding Officer (**PO**) for this matter. Petitioners challenge Kitsap County's (**Respondent** or the **County**) adoption of Ordinance No. 326-2004 [amending the Comprehensive Plan] and Resolution No. 158-2004 [providing an addendum to the buildable lands analysis report] as noncompliant with various provisions of the Growth Management Act (**GMA** or **Act**).

On December 30, 2004, the Board received a PFR from Jerry Harless, (**Petitioner** or **Harless**). The matter was assigned Case No. 04-3-0031. Harless challenges the County's adoption of Ordinance No. 326-2004 [amending the Comprehensive Plan]. Harless also challenges the County's failure to act to adopt "reasonable measures" and to review and revise its UGAs. The basis for the challenge is noncompliance with various provisions of the GMA.

On January 4, 2005, the Board received Notices of Appearance in Case No. 04-3-0030 and -0031 on behalf of Kitsap County from Deputy Prosecuting Attorneys Shelley E. Kneip and Lisa J. Nickel, Deputy Prosecuting Attorneys in the Kitsap County Prosecuting Attorney's Office.

On January 5, 2005, the Board issued a Notice of Hearing and Potential Consolidation for 1000 Friends/KCRP and Harless III, setting a Prehearing Conference and a tentative case schedule.

On January 13, 2005, the Board received a Notice of Association of Simi Jain as co-counsel for 1000 Friends of Washington, requesting to be designated as the attorney for petitioners in Case No. 04-3-0030.

On January 28, 2005, the Board received the County's Preliminary Index to the Record.

On January 31, 2005, at 10:00 a.m., the Board conducted the Prehearing Conference at the Union Bank of California Building, 5<sup>th</sup> Floor Conference Room, 900 Fourth Avenue, Seattle. Board member Margaret Pageler, Presiding Officer in this matter, conducted the conference, with Board members Bruce Laing and Ed McGuire in attendance. Petitioners 1000 Friends of Washington and KCRP were represented by attorneys John Zilavy and Simi Jain. Tom Donnelly of KCRP also attended. Petitioner Jerry Harless was present *pro se*. Kitsap County was represented by its attorneys Shelley Kneip and Lisa Nickel and by County Planner Angie Silva. Attorney Lawrence A. Costich, Graham & Dunn, attended on behalf of potential intervenors.

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<sup>36</sup> 1000 Friends of Washington has changed its name to Futurewise.

At the Prehearing Conference, the Board indicated to the parties its intention to consolidate the cases pursuant to RCW 36.70A.290(5). The parties concurred. The Board discussed with the parties the possibility of settling or mediating their dispute to eliminate or narrow the issues. The Board reviewed its procedures for the hearing, including the composition and filing of the Index to the record below; exhibits, core documents, and supplemental exhibits; dispositive motions; the Legal Issues to be decided; and a Final Schedule.

On February 1, 2005, the Board issued a Prehearing Order and Order of Consolidation consolidating the PFRs as **CPSGMHB Consolidated Case No. 04-3-0031c**, hereafter referred to as *1000 Friends/KCRP v. Kitsap County*. The Prehearing Order (**PHO**) set forth the legal issues to be decided as Legal Issues 1-4, submitted in the 1000 Friends/KCRP PFR, and Legal Issues 5-8, submitted in the Harless PFR.

On February 15, 2005, the Board received Petitioner Harless' Motion to Supplement the Record, with nine attachments.

On February 17, 2005, the Board received Kitsap County's Core Documents, as follows:

- Kitsap County Comprehensive Plan, Index 26832
- Resolution No. 158-2004, Index 27441
- Provisions of Zoning Code referenced in Resolution 158-2004 [N/A]
- Ordinance No. 326-2004 amending Comp Plan and Zoning Map, Index 27334
- Population Appendix to Kitsap County Comp Plan, Index 20539
- Buildable Lands Analysis, Index 23627
- Ordinance No. 327-2004 amending County-Wide Planning Policy [N/A]
- Ordinance No. 311-2003 amending Comp Plan and Map for 2003, Index 25559

On February 17, 2005, the Board received a Motion to Appear as Amicus Curiae from Overton & Associates, Alpine Evergreen Company, Inc., and Olympic Property Group.

On February 17, 2005, the Board received "Kitsap County's Motion to Dismiss Legal Issues 5, 7 and 8", accompanied by an Affidavit of Publication affirming the publication of notice of adoption of Ordinance 326-2004 on October 30, 2004. Legal Issues 5, 7 and 8, submitted in the Harless PFR, challenge Ordinance 326-2004. Kitsap's Motion to Dismiss was based on the untimely filing of the Harless PFR, which was filed December 30, 2004, on the 61<sup>st</sup> day after publication.

On February 24, 2005, the Board issued its Order to Supplement the Record, requiring Kitsap County to submit an affidavit of publication of Resolution No. 158-2004.

On February 28, 2005, the Board received Kitsap County's Response to Petitioner Harless' Motion to Supplement the Record, with seven attachments.

On March 7, 2005, the Board received Petitioner Harless' Rebuttal of Kitsap County's Response to His Motion to Supplement the Record.

On March 7, 2005, the Board received Respondent's Response to Board's Order to Supplement the Record, indicating that notice of adoption of Resolution 158-2004 was not separately published, but the resolution was incorporated by reference in the notice of adoption of Ordinance 326-2004.

Petitioner Harless submitted no response to Kitsap County's Motion to Dismiss.

On March 15, 2005, the Board issued its Order on Motions, Dismissing Harless Petition, Ruling on Supplementation and Granting Amicus (**Order on Motions**). The Order on Motions granted Kitsap County's Motion to Dismiss Harless Legal Issues 5, 7 and 8 as untimely. The Order further dismissed Legal Issue 6 on the ground that, though posited as a "failure to act" challenge, Legal Issue 6 in fact asserts the non-compliance of various County actions with GMA requirements, and as to those actions, the challenge is untimely or otherwise barred.

On March 21, 2005, the Board received Petitioner Harless' Request for Reconsideration and Motion to Intervene, requesting reconsideration of the Board's order dismissing Legal Issue 6 and, alternatively, requesting status as an intervenor with regard to Legal Issues 2, 3 and 4 as petitioned by 1000 Friends/KCRP.

On March 21, 2005, the Board issued its Order Granting Intervention and Shortening Time to Respond to Motion for Reconsideration.

On March 28, 2005, the Board received Kitsap County's Response to Harless Motion for Reconsideration.

On March 31, 2005, the Board issued its Order on Reconsideration, reinstating Harless's PFR as to Legal Issue No. 6 and revising the briefing schedule for that issue.

On April 4, 2005, the Board received Futurewise's and Kitsap Citizens for Responsible Planning's Prehearing Brief with nine attachments and Intervenor Harless' Prehearing Brief [Legal Issues 2, 3 and 4] with one attachment. On April 11, 2005, the Board received Petitioner Harless' Prehearing Brief of Legal Issue No.6 with one attachment.

On April 5, 2005, the Board received a Motion to Intervene by Richard Bjarnson and a Notice of Appearance from William H. Broughton of Broughton & Singleton, Inc., P.S. The proposed intervention is in support of Respondent Kitsap County and is limited to Legal Issue No. 1. The Board received no response to the Motion to Intervene.

On April 12, 2005, the Board issued its Order on Intervention granting the Bjarnson motion.

On April 18, 2005, the Board received Respondent's Prehearing Brief with the Declaration of David W. Nash and eleven exhibits. On that same day the Board received Respondent [Intervenor] Bjarnson's Prehearing Brief and the Prehearing Brief of Amici Curiae Overton, et al., with eleven exhibits.

On April 22, 2005, the Board received Kitsap County's Prehearing Brief Concerning Issue No. 6.

On April 22, 2005, the Board received Intervenor Harless' Reply Brief of Issues 2, 3 and 4 electronically, with hard copy received by mail on April 25.

On April 25, 2005, the Board received Futurewise and KCRP's Prehearing Reply Brief electronically, with hard copy and one attached exhibit received by mail on April 26.

On April 27, 2005, the Board received Intervenor [sic] Harless' Reply Brief Regarding Issue 6 with one attachment.

On May 2, 2005, the Board held the Hearing on the Merits (**HOM**) in the conference room adjacent to the Board's Offices, Suite 2470, 900 Fourth Avenue, in Seattle. Board member Margaret Pageler presided, with board members Bruce Laing and Ed McGuire also in attendance. The hearing began at approximately 10:00 a.m. and adjourned at 12:15. Petitioners Futurewise and Kitsap Citizens for Responsible Planning were represented by John Zilavy, accompanied by co-counsel Simi Jain, and KCRP members Charlie Burrow and Tom Donnelly. Petitioner-Intervenor Jerry Harless appeared *pro se*. Respondent Kitsap County was represented by Kitsap County Deputy Prosecutor Shelley Kneip, accompanied by Lisa Nickel and Angie Silva. Intervenor Bjarnson was represented by Bill Broughton and *Amici Curiae* Overton, et al., were represented by Elaine Spencer. Katie A. Askew of Byers & Anderson, Inc. provided court reporting services. The Board subsequently ordered a transcript of the HOM.

At the outset of the HOM, the Presiding Officer indicated that Board would defer to the written decision and order (FDO) its rulings as to admission of exhibits submitted with the briefs that were not previously identified as part of the record or by Motion to Supplement the Record. In the course of the HOM both parties made use of an enlarged colored copy of Map 2, Index No. 24122, which Respondent supplied for illustrative purposes.

On May 4, 2005, the Board received, by memorandum from Shelley Kneip, Kitsap County's response to a question posed by the Board at the HOM regarding the zoning requirements for park and ride lots.

On May 13, 2005, the Board received Kitsap County's Statement of Additional Authority with an attached copy of the Supreme Court's decision in *Quadrant Corp. v. CPSGMHB*, \_\_\_ Wn2d \_\_\_, 110 P.3d 1132, 2005 WL 1037145 (May 5, 2005). On May 16, 2005, the Board received Harless' Response to County Statement of Additional Authority.

The Board received the transcript of the hearing on the merits electronically on May 24 and in paper copy with certifying pages on June 8, 2005.

The Board's Final Decision and Order was issued on June 28, 2005.

## APPENDIX - B

### Reasonable Measures

*Kitsap County Staff Report – July 12, 2004 – with Planning Commission recommendations to the Board of County Commissioners – Index 27143, at 14-25*

1. Ease development standard restrictions for Accessory Dwelling Units (ADUs) in single family zones in the UGA.
2. Provide multifamily housing tax credits (or other types of real estate tax abatement) to developers in the UGA.
3. Provide density bonuses to developers in the UGA.
4. Transfer/purchase of Development rights (TDRs) between rural lands and the UGA.
5. Allow clustered residential development in the UGA.
6. Allow limited-equity housing such as co-housing and community land trusts in the UGA.
7. Allow duplexes, town homes and condominiums in single-family zones in the UGA.
8. Increase allowable residential densities in the UGA.
9. Institute maximum lot sizes in the UGA.
10. Institute minimum residential densities in the UGA.
11. Reduce residential street width standards in the UGA.
12. Selectively implement small residential lots in the UGA.
13. Implement inclusionary zoning ordinances for new housing development in the UGA.
14. Plan and zone for affordable and manufactured housing development.
15. Zone areas by building type, not by use.
16. Develop a local brownfields program in the UGA.
17. Encourage the development of urban centers and urban villages.
18. Encourage mixed uses.



19. Encourage transit-oriented development.
20. Implement a master-plan permit requirement for large parcel development in the UGA.
21. Interim development standards.
22. Encourage transportation-efficient land use.
23. Urban growth management agreements between jurisdictions.
24. Work with KRCC (Kitsap Regional Coordinating Council) to create annexation plans for UGAs.
25. Encourage developers to reduce off-street surface parking.
26. Implement a program to identify, rezone, and redevelop vacant and abandoned buildings.
27. Concentrate critical services near homes, jobs, and transit.
28. Locate civic buildings in existing communities rather than in greenfield areas.
29. Implement a process to expedite plan and permit approval for dense development.
30. Implement design review programs for land within the UGA.
31. Urban amenities for increased densities.
32. Targeted capital facilities investments.
33. Environmental review and mitigation built into the sub-area planning process.
34. Enhance flexibility in Limited Areas of More Intense Rural Development (LAMIRDs).
35. Mitigation banking.

**ORDINANCE NO. 326-2004****RELATING TO GROWTH MANAGEMENT, AMENDING THE COMPREHENSIVE PLAN AND MAP FOR 2004 AND MAKING CORRESPONDING AMENDMENTS TO THE KITSAP COUNTY ZONING CODE AND MAP****BE IT ORDAINED:****Section 1. The Kitsap County Board of Commissioners (BCC) makes the following findings:**

- 1) Kitsap County has adopted a Comprehensive Plan pursuant to Chapter 36.70A. RCW, the State Growth Management Act (GMA). Kitsap County's Comprehensive Plan provides that it will be reviewed and updated to adjust to changing needs, unforeseen circumstances or new local or regional trends (Kitsap County Comprehensive Plan, Part I Land Use, Comprehensive Plan Amendment Process, p. 25-26). The Kitsap County Code Chapter 21.08 Annual Comprehensive Plan Amendment Procedures, Section 21.08.040, provides that the BCC will establish a schedule for review and possible amendment of the Comprehensive Plan.
- 2) The Comprehensive Plan is intended to actively guide future growth in Kitsap County and effectively respond to changes in conditions or assumptions. The Comprehensive Plan Amendment process is intended to provide an opportunity for the public to propose amendments to the County's Comprehensive Plan, and amendments to the Kitsap County Code, if required to maintain consistency with the Comprehensive Plan.

**Section 2. General Procedural Findings. The BCC makes the following findings regarding the process and public participation aspects for amending the Comprehensive Plan:**

- 1) As discussed in more detail below, the 2004 Comprehensive Plan Amendments include adoption of requirements for textual and policy revisions relating to the designation of a "Limited Area of More Intensive Rural Development" (LAMIRD) at the George's Corner intersection, GMA Compliance Review, and 13 site-specific redesignation/rezone amendments located throughout the County.
- 2) Pursuant to Ordinance 311-2003, adopted December 8, 2003, the Kitsap County Board of County Commissioners directed staff to re-visit the public participation process for designating a LAMIRD at the George's Corner intersection. To fulfill this requirement, the Kitsap County Department of Community Development (DCD) held a series of meetings involving the citizens of Kingston and those property owners in the vicinity of the George's Corner intersection. This group, referred to as the George's Corner Boundary Advisory Group (BAG), reviewed the requirements outlined in the Growth Management Act and Kitsap County Comprehensive Plan. The BAG also prepared a recommendation to the Kitsap County Planning Commission and Board of County Commissioners regarding the

potential designation of a LAMIRD at the George's Corner intersection, and alternatives for drawing a Logical Outer Boundary (LOB) to limit development.

- 3) On April 14, April 27, May 11, and May 18, 2004, the Kitsap County Department of Community Development hosted meetings of the George's Corner BAG. The issues identified by members of the BAG regarding designating a LAMIRD at the George's Corner crossroads intersection were as follows: traffic generation, intensity of uses allowed and the preservation of the natural systems. Members of the group also identified issues related to the permanent nature of a boundary around the LAMIRD. These issues were raised in discussions during the four meetings and were identified in responses to questionnaires and maps submitted by 25 of the 38 participants in the series of BAG meetings. The responses to the questionnaires and maps completed by the Boundary Advisory Group were summarized, and a series of four alternatives were identified as a result.
- 4) Pursuant to Ordinance 311-2003, adopted December 8, 2003, the Board of County Commissioners deferred four site-specific amendments in the South Kitsap County area (i.e., Brown-Rice-Krueger, Blackjack Valley Associates, Waters and Sedgwick Joint Venture) to be considered concurrently with the South Kitsap/Port Orchard Sub-Area Planning process in 2004. Additionally, pursuant to Ordinance 311-2003, the Board of County Commissioners deferred two site-specific amendments in North Kitsap: the Bjarnson application, to be considered as part of the George's Corner LAMIRD process, as well as the Sherrard application.
- 5) The GMA, RCW 36.70A.130(4), establishes a schedule whereby each city and county in Washington must take action to review and, if needed, revise its Comprehensive Plan and development regulations to ensure consistency with the Act, in accordance with RCW 36.70A.130(1). Kitsap County's deadline for this "compliance review" is December 1, 2004. The GMA also directs each jurisdiction to determine whether its plan and regulations have been affected by any amendments made to the GMA after the jurisdiction adopted its comprehensive plan or development regulations.
- 6) On March 8, 2004, following timely and effective public notice, the Kitsap County Board of Commissioners adopted Resolution 038-2004, which set forth a process and timeline for the annual Comprehensive Plan Amendment process pursuant to KCC 21.08.040 and included an initial docket. On March 29, 2004, the BCC amended the resolution, now titled Resolution 038A-2004, to include a process regarding the GMA-mandated compliance review pursuant to RCW 36.70A.130(1), and provided additional information on the proposed comprehensive plan review, amendments, and processes. In these resolutions the Board identified a public participation schedule for development and amendment of the comprehensive land use plan and development regulations through the Planning Commission and BCC processes.
- 7) The Department of Community Development completed its review of the Comprehensive Plan and development regulations for GMA compliance, culminating in a staff report, dated July 8, 2004. DCD staff employed the Washington State Community, Trade and Economic Development compliance review checklists as a technical assistance tool. DCD staff used these checklists to identify areas of the Comprehensive Plan and/or development regulations

that may need revision in order to comply with the Act. From this preliminary review several areas were highlighted for further review. DCD published a *Comprehensive Plan and Development Regulation Checklist*, dated April 30, 2004. In that document DCD recommended review and analysis of County Comprehensive Plan and development regulations with respect to the following GMA provisions:

- Critical Areas, RCW 36.70A.070 (1);
- Siting of Essential Public Facilities, RCW 36.70A.200 (1);
- General Aviation Airports, RCW 36.70A.510 and RCW 36.70.547;
- Residential Housing Policies, RCW 36.70A.410;
- Consistency between Capital Budget Decisions and Land Use Plans, RCW 36.70A.120;
- Capital Facilities Plan Consistency, RCW 36.70A.070 (3);
- Public Participation Requirements, RCW 36.70A.020 (11), .035, .140

8) In addition to the areas DCD recommended for compliance review, the public was given an until May 28, 2004, to propose revisions to the Comprehensive Plan and development regulations related to the GMA compliance review. In this time period the County received two comment letters (from Mr. Jerry Harless and 1000 Friends of Washington) regarding GMA Compliance issues not already under consideration by DCD. These issues included the following:

- Level of Service Standards for Regional County Highways, and
- Reasonable Measures, RCW 36.70A.215 (4)

DCD added these two additional issues to the compliance review docket and analyzed them along with the other compliance review issues identified by the County.

9) On June 3, 2004, Kitsap County issued a Determination of Significance (DS) and Adoption of Existing Environmental Documents for the proposed Comprehensive Plan Amendments. The DS and Notice of Adoption were published on June 7, 2004, and the comment period expired on June 21, 2004. No appeals were filed. There was no additional comment period. The adopted documents included the following:

- Kitsap County Comprehensive Plan Final and Supplemental Environmental Impact Statement and Addenda, issued August 23, 1994;
- Final SEIS, issued December 2, 1996
- Addenda, issued March 12, 1998, April 11, 1998, and June 24, 2003.

10) On June 14, 2004, all of the proposed items for GMA compliance review were compiled in the form of the "final draft docket" and submitted to the Planning Commission for consideration and additional public comment.

11) On June 15, 2004, following timely and effective public notice, the Planning Commission held a work-study session on Phase I of the 2004 Comprehensive Plan Amendments. Phase I included all proposed amendments that were deferred from 2003, as follows:

- George's Corner LAMIRD
- Bjarnson
- Sherrard
- Brown-Rice-Krueger
- Blackjack Valley Associates
- Waters
- Sedgwick Joint Venture

12) On June 15, 2004, DCD submitted to the state a Notice of Intent to Adopt Amendments to Kitsap County's Comprehensive Plan and Land Use Map, pursuant to RCW 36.70A.190 and WAC 365-195-620. The notice included a GMA compliance staff report, fourteen site-specific amendments and rezone staff reports and associated comprehensive plan and zoning maps, as well as a George's Corner LAMIRD staff report.

13) On June 22, 2004, following timely and effective public notice, the Planning Commission held a work-study session on Phase II of the 2004 Comprehensive Plan Amendments. Phase II included GMA compliance review and eight additional proposed site-specific requests, as follows:

- White-Lueck
- Global Investments-Kitsap Transit
- Lindsey
- Lewis
- CARA Land Co., LLC.
- Binns
- Home Depot

14) On June 29, 2004, following timely and effective public notice, a joint public hearing was held by the Board of County Commissioners and Planning Commission to receive testimony relating to the Phase I 2004 Comprehensive Plan Amendments. At the end of that hearing the oral and written testimony period for the items included in Phase I was closed. All testimony received by this date was summarized and included in a "testimony matrix" that was distributed to the Planning Commission prior to making its recommendation to the Board of County Commissioners.

15) On July 6, 2004, following timely and effective public notice, a subsequent joint public hearing was held by the Board of County Commissioners and Planning Commission to receive testimony relating to the Phase II Comprehensive Plan Amendments. The oral testimony period was closed at the end of the hearing on July 6, 2004. Written testimony was accepted for Phase II issues through July 7, 2004. All testimony received by this date was summarized and included in a "testimony matrix" that was distributed to the Planning Commission prior to making its recommendation to the Board of County Commissioners.

- 16) On July 9, 2004, following timely and effective public notice, the Planning Commission held a decision-only public hearing to deliberate and formulate its recommendation to the Board of County Commissioners on all 2004 Comprehensive Plan Amendments.
- 17) On July 20, 2004, following timely and effective public notice, the Planning Commission held a decision-only hearing to deliberate upon and finalize the *Findings of Fact, Conclusions, and Recommendations of the Kitsap County Planning Commission to the Board of County Commissioners of Kitsap County, Washington, Regarding the Proposed Adoption of Comprehensive Plan Amendments for 2004* (hereafter the Planning Commission Recommendation).

The Planning Commission then forwarded its Recommendation to the Board of County Commissioners.

- 18) On July 26, 2004, following timely and effective public notice, the Board of County Commissioners, at its regularly scheduled public briefing meeting, received and discussed the Planning Commission Recommendation.
- 19) On August 2, 2004, following timely and effective public notice, the Board of County Commissioners conducted a public hearing to accept oral and written comments regarding the Planning Commission Recommendation. The oral and written comment period on the Planning Commission Recommendation was officially closed at the end of the public hearing on the evening of August 2, 2004.
- 20) On August 4, 2004, following timely and effective public notice, the Board of County Commissioners conducted a work-study session to discuss the Planning Commission Recommendation.
- 21) On August 9, 2004, the Central Puget Sound Growth Management Hearings Board issued a Final Decision & Order in *Bremerton, et al. v. Kitsap County*, CPSGMHB No. 04-3-0009c, which addressed appeals of Kitsap County's 2003 Comprehensive Plan Amendment process and specifically addressed expansion of Urban Growth Areas (UGAs) and reasonable measures.
- 22) On August 10, 2004, following timely and effective public notice, the Board of County Commissioners conducted a decision-only public hearing to consider oral and written testimony previously received. At this hearing the Board of County Commissioners instructed DCD staff to supplement those staff reports concerning proposed site-specific rezones that entailed a UGA expansion. The hearing was continued to an indefinite date after supplemented staff reports were prepared.
- 23) On September 7, 2004, following a timely publication and distribution, DCD provided industrial and commercial lands supply-and-demand analyses (thru 2017) for certain 2004 site-specific Comprehensive Plan Amendments. This addendum included analysis of industrial and commercial lands with a comparison of demand versus supply. It examined industrial and commercial lands that were designated/rezoned in sub-area plans and previous Comprehensive Plan Amendment site-specific rezone requests. It also considered map



corrections. The 2004 Comprehensive Plan Amendment site-specific staff reports supplemented with the Industrial and Commercial Land Supply and Demand Addendum are as follows:

Phase I, 2003 Deferred Site-Specific Comprehensive Plan Amendments:

- Blackjack Valley
- Waters
- Brown-Rice-Krueger
- Sedgwick Joint Ventures
- Bjarnson

Phase II, 2004 New Site-Specific Comprehensive Plan Amendments:

- CARA Land Co., LLC
- Binns
- Lewis
- Home Depot
- Global Investments-Kitsap Transit

24) On September 15, 2004, following timely and effective notice, the Board of County Commissioners held a work-study session to review the Industrial and Commercial Lands Supply and Demand Analyses Addendum. Following the work-study session, the Board of County Commissioners held a public hearing to receive limited testimony on the new information, i.e., the addendum, and rendered an oral decision on the 2004 Comprehensive Plan Amendments, Phase I and II.

**Section 3. Substantive Findings Relating to Text and Policy Amendments.** The Board of County Commissioners makes the following findings with respect to the text and policy amendments to the Comprehensive Plan.

- 1) The Kitsap County Planning Commission considered the goals and requirements of the GMA (Chapter 36.70A RCW) and made findings pertaining to the proposed amendments. The Planning Commission also reviewed the proposed amendments for compliance with the criteria of KCC 21.08.160 and KCC 21.08.180, as well as the goals and policies of the Kitsap County Comprehensive Plan and the goals and policies of the GMA (RCW 36.70A.020). Except where otherwise noted, the BCC hereby adopts those findings of the Planning Commission.
- 2) Kitsap County Code 21.08.160 sets forth criteria that the Board must consider in general when making amendments to the Comprehensive Plan. In making amendments, the Board must consider:
  - a) Whether circumstances related to the proposed amendment and/or the area in which the property affected by the proposed amendment is located have substantially changed since the adoption of the Comprehensive Plan; and



- b) Whether the assumptions upon which the Comprehensive Plan is based are no longer valid, or there is new information available which was not considered during the adoption of, or during the last annual amendment to, the Comprehensive Plan.
- 3) Kitsap County Code 21.08.170 also sets forth criteria for making text or area-wide amendments to the Comprehensive Plan. In making such amendments, the Board must consider:
- a) Whether the proposed amendment is consistent with and supports other plan elements and/or Development Regulations, and if not, what additional amendments to the plan and/or Development Regulations will be required to maintain consistency;
  - b) Whether the proposed amendment to the plan and/or regulation will more closely reflect the goals, objectives and policies of the Comprehensive Plan;
  - c) Whether the proposed amendment is consistent with the Kitsap County-wide Planning Policies; and
  - d) Whether the proposed amendment complies with the requirements of the GMA.
- 4) The Board specifically adopts findings made by the Kitsap County Planning Commission on July 20, 2004, which found that the proposed general text amendments met the criteria for recommendation or decision, as per Sections 21.08.160 and 21.08.170 of the Kitsap County Code.
- 5) The Board finds that the proposed 2004 Comprehensive Plan Text and Policy Amendments meet the criteria for approval as provided in Kitsap County Code 21.08.160 and 21.08.170. Additionally, the proposed text and policy amendments outlined in the July 12, 2004, GMA compliance staff report promote the public interest and welfare of the citizens of Kitsap County.

**Section 4. Substantive Findings related to Phase I of the 2004 Comprehensive Plan Amendment process, pertaining to the proposed Limited Area of More Intense Rural Development (LAMIRD) known as "George's Corner." The Board of County Commissioners makes the following findings related to the George's Corner LAMIRD:**

- 1) The Planning Commission deliberated as to whether a LAMIRD was appropriate at this site, and if so, where the Logical Outer Boundary (LOB) should be drawn. The Planning Commission considered the DCD Staff Report dated June 4, 2004, which included the BAG recommendations and various alternatives considered by the BAG.
- 2) The Planning Commission found that George's Corner intersection includes some commercial development and infrastructure that existed prior to July 1, 1990. The existing development was located on the northeast and southwest corners of two major arterials that bisect the area. Additional commercial development has also occurred in the vicinity of the intersection since 1990. The Planning Commission found that a commercial LAMIRD designation was appropriate for this crossroads area.

- 3) The Planning Commission voted to recommend approval of a LAMIRD with the LOB drawn to include a portion of the Bjarnson property (as recommended by staff), as well as the Hanson property. The Planning Commission also recommended that all property within the LOB be designated and zoned Neighborhood Commercial (NC). In making its recommendation, the Planning Commission considered evidence that the Hanson property had been a commercial development prior to July 1, 1990, and is currently adjacent to commercial property. The Planning Commission found it was logical to include the Hanson property within the boundary of the LAMIRD.
- 4) The Board of County Commissioners finds that the existing commercial development at George's Corner principally serves the rural community in the area. The area is a logical choice for a LAMIRD because commercial development existed on two corners of this intersection prior to July 1, 1990, and it is a typical rural "crossroads development" as recognized under RCW 36.70A.070(5)(d)(i).
- 5) In setting the Logical Outer Boundary of the LAMIRD, the Planning Commission and the Board considered the existing developed area; the need to preserve the character of the existing area; the location of physical boundaries, including critical areas; the prevention of abnormally irregular boundaries and the ability to provide public services and facilities to the area in a manner that will not permit low-density sprawl.
- 6) The DCD staff recommendation is shown in Attachment 11 to the staff report dated June 4, 2004. The staff recommendation included a portion of the Bjarnson property on the northwest corner of the intersection, but the redesignation and inclusion of that property within the LAMIRD LOB is conditioned upon a boundary line adjustment that will exclude critical areas on the Bjarnson parcel.
- 7) The Planning Commission determined that the Logical Outer Boundary for the George's Corner LAMIRD should be the alternative that DCD recommended, including the condition for the boundary line adjustment, but should also include the Hanson property, given the evidence that it was also a pre-existing commercial property. The Planning Commission recommended that once these conditions are met, the property within the LAMIRD LOB should be designated Neighborhood Commercial in order to retain the rural character of the surrounding neighborhood.
- 8) The Board of Commissioners adopts the Planning Commission's recommendation and finds that Alternative 11, with conditions and the inclusion of the Hanson property, constitutes a Logical Outer Boundary for the commercial LAMIRD at George's Corner. This LOB will contain future commercial use within the George's Corner LAMIRD and should be designated/zoned Neighborhood Commercial hereto as Attachment 1.
- 9) The Board of Commissioners finds that proposed commercial uses in the George's Corner LAMIRD should be the types of commercial uses principally designed to serve the rural community. Any development or redevelopment within the George's Corner LAMIRD shall be consistent with the character of the existing area in terms of building size, scale, use or intensity.

**Section 5. Substantive Findings related to Phase I of the 2004 Comprehensive Plan Amendment process, specifically the 2003 deferred site-specific Comprehensive Plan Map amendments. The Board of County Commissioners makes the following findings related to the 2003 deferred site-specific Comprehensive Plan Map amendments.**

1) With regard to the 2003 deferred site-specific redesignation requests, the Planning Commission reviewed the proposed site-specific amendments. Its recommendation on each is noted below. With regard to each site-specific redesignation request, the Board finds as follows:

- a) Richard Bjarnson, LIS Permit No. 04 16511, request to redesignate/rezone a 5.79-acre portion of an 8.33-acre parcel from Rural Residential (RR) to Neighborhood Commercial (NC). The site is at the northwest corner of Hansville Road and State Route 104. The Planning Commission voted to recommend approval of the staff recommendation. (Motion to approve the staff recommendation: Seven members voted to approve, one member voted to oppose).
  - i) As noted above, the BCC finds that a 5.79-acre portion of the Bjarnson property is appropriate to include within the Logical Outer Boundary (LOB) of the George's Corner commercial LAMIRD. The property should be redesignated/rezoned Neighborhood Commercial (NC), subject to a Boundary Line Adjustment. This Boundary Line Adjustment reflects considerations to ensure there is development potential for each parcel, as it is divided, given the substantial wetlands identified through a wetland delineation.
  - ii) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for commercial property through 2017.
- b) Jean Sherrard, LIS Permit No. 04 16508, request to redesignate/rezone 5.74 acres from Urban Medium Residential (UM) to Urban High Residential (UH). The site fronts State Highway 104 to the south and is surrounded by parcels to the west, north and east which is designated Urban Medium Residential. Other parcels to the east are designated Highway Tourist Commercial. The Planning Commission voted to recommend approval of this application. (Six members voted in favor of the motion to recommend approval, two members voted to oppose).
  - i) The BCC notes that in order to allow for additional consideration by the Kingston community in conjunction with the 2025 population allocation process, this site-specific application was deferred from the 2003 Comprehensive Plan Amendment process. The BCC finds that the principal reason for redesignating/rezoning this property is to allow the property owner to continue a mini-storage use on site as a conforming use. Furthermore, since the site is already located within the Kingston

Urban Growth Area (UGA), it is a reasonable measure to increase the density within the UGA without expanding the UGA boundary.

- ii) The BCC adopts the recommendation of the Planning Commission, as well as the findings and conclusions of the Planning Commission and approves the redesignation/rezone of the Sherrard property.
- c) Brown-Rice-Krueger, LIS Permit No. 04 16510, request to redesignate/rezone 29.07 acres from Rural Protection (RP) to Highway Tourist Commercial (HTC). This site is adjacent to the City of Port Orchard UGA, fronts Sidney Road to the west and abuts State Highway 16 to the east. The Planning Commission voted to recommend approval of this application. (Five members voted to approve the proposal, three members voted against the motion to approve).
  - i) The BCC finds that this proposal was deferred from the 2003 Comprehensive Plan Amendment process in order to include it in the Port Orchard/South Kitsap sub-area planning process. The Port Orchard/South Kitsap sub-area planning process, however, will not be completed by the end of 2004. Nevertheless, this property is within the Port Orchard study area and the City of Port Orchard supports the redesignation/rezone of this site and the inclusion of this site within the Port Orchard UGA. The property is bounded on two sides by the City of Port Orchard. Infrastructure and urban services are available.
  - ii) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for commercial lands through 2017.
  - iii) The BCC adopts the recommendation of the Planning Commission, as well as the findings and conclusions of the Planning Commission, and approves the redesignation/rezoning of the Brown-Rice-Krueger property and its inclusion into the Port Orchard UGA.
- d) Blackjack Valley Associates, LIS Permit No. 04 16509, request to redesignate/rezone 6.33 acres from Rural Protection (RP) to Highway Tourist Commercial (HTC). The site is west of Sidney Road and south of Sedgwick Road, adjacent to the Port Orchard city limits. The Planning Commission recommended approval of this application. (Five members voted to approve the proposal, three members voted against the motion to approve).
  - i) The BCC finds that this proposal was deferred from the 2003 Comprehensive Plan Amendment process in order to include it in the Port Orchard/South Kitsap sub-area planning process. The Port Orchard/South Kitsap sub-area planning process, however, will not be completed by the end of 2004. Nevertheless, this property is within the Port Orchard study area and the City of Port Orchard supports the redesignation of this site and the inclusion of this site within the Port Orchard UGA.

The property is bounded on two sides by the City of Port Orchard UGA and is adjacent to an existing commercial area. Infrastructure and urban services available.

- ii) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for commercial lands through 2017.
  - iii) The BCC adopts the recommendation of the Planning Commission, as well as the findings and conclusions of the Planning Commission and approves the redesignation/rezoning of the Blackjack Valley Associates property and its inclusion into the Port Orchard UGA.
- e) Robert Waters, LIS Permit No. 04 16512, request to redesignate/rezone 4.32 acres from Rural Protection (RP) to Highway Tourist Commercial (HTC). The property is located in the southwest quadrant of the intersection of Glenwood Road and Sidney Road. The Planning Commission voted to recommend approval of this request. (Five members voted to approve the proposal, three members voted against the motion to approve).
- i) The BCC finds that this proposal was deferred from the 2003 Comprehensive Plan Amendment process in order to include it in the Port Orchard/South Kitsap sub-area planning process. The Port Orchard/South Kitsap sub-area planning process, however, will not be completed by the end of 2004. Nevertheless, this property is within the Port Orchard study area and the City of Port Orchard supports the redesignation/rezoning of this site and the inclusion of this site within the Port Orchard UGA. The property is bounded on one side by the City of Port Orchard UGA and is adjacent to an existing urban reserve area. Infrastructure and urban services are available.
  - ii) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for commercial lands through 2017.
  - iii) The BCC adopts the recommendation of the Planning Commission, as well as the findings and conclusions of the Planning Commission and approves the redesignation/rezone of the Waters property and its inclusion into the Port Orchard UGA.
- f) Sedgwick Joint Venture, LIS Permit No. 04 16519, request to redesignate/rezone 9.84 acres from Urban Reserve (UR) to Highway Tourist Commercial (HTC). The site is 1,325 feet east of Bethel Road and south of Sedgwick Road. The Planning Commission voted 4-4 to approve this redesignation and inclusions into the UGA. As the Planning Commission vote was a tie vote, no recommendation was forwarded to the BCC.



- i) The BCC finds that this proposal was deferred from the 2003 Comprehensive Plan Amendment process in order to include it in the Port Orchard/South Kitsap sub-area planning process. The Port Orchard/South Kitsap sub-area planning process, however, will not be completed by the end of 2004. Nevertheless, this property is within the Port Orchard study area and the City of Port Orchard supports the redesignation of this site and the inclusion of this site within the Port Orchard UGA. The property is bounded on two sides by the City of Port Orchard UGA and is adjacent to existing commercial property. Infrastructure and urban services are available.
  - ii) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, does not exceed the amount of acreage needed to meet Kitsap County's forecasted need for commercial lands through 2017.
  - iii) The BCC adopts the recommendation of the Planning Commission, as well as the findings and conclusions of the Planning Commission and approves the redesignation/rezoning of the Sedgwick Joint Ventures property and its inclusion into the Port Orchard UGA.
- 2) The BCC further finds that the approval of the George's Corner LAMIRD, the accompanying redesignation/rezone to property within the LAMIRD boundary, and the site-specific land use amendments and rezones approved in this section, are consistent with the 13 statewide planning goals set forth within the Growth Management Act, RCW 36.70A.020.

**Section 6. Substantive Findings related to Phase II of the 2004 Comprehensive Plan Amendment process, specifically GMA Compliance.**

The Board of County Commissioners makes the following findings related to Growth Management Act (GMA) Compliance.

- 1) The Kitsap County Planning Commission has considered the recommended Comprehensive Plan and Development Regulation amendments for GMA Compliance, pursuant to RCW 36.70A.130(1), as outlined in the July 8, 2004, revised staff report. The Planning Commission's recommendations for GMA Compliance are as follows:
  - **Critical Areas:** Adopt textual amendments to the comprehensive plan regarding critical areas as outlined in the July 8, 2004, Revised Staff Report, as modified by Puget Sound Action Team and the Planning Commission. The Planning Commission called for, "including public rights-of-way" in SW-12 and NS-26. (Six members voted in favor of the motion to adopt, two were opposed). On July 20, 2004, in an additional motion regarding policy SW-12, the Planning Commission moved to insert the word "runoff" after "agricultural" (Additional motion: Seven members voted in favor of the motion.)

- **Siting of Essential Public Facilities:** Adopt staff's recommended proposed changes, including language addressing both Mr. Harless' and Mr. Gurol's comments, as outlined in the July 8, 2004, Revised Staff Report. (8 voted in favor of the motion to adopt; none were opposed).
- **General Aviation Airports:** This issue is addressed in new language concerning the "Siting of Essential Public Facilities," and therefore no action is required.
- **Residential Housing Policies:** The current Comprehensive Plan and development regulations are in compliance, and therefore no action is required.
- **Consistency between Capital Budget Decisions and Land Use Plans:** The current Comprehensive Plan and development regulations are in compliance, and therefore no action is required.
- **Capital Facilities Plan Consistency:** The current Comprehensive Plan and development regulations are in compliance, and therefore no action is required.
- **Public Participation Requirements:** Adopt language as outlined in the July 8, 2004, Revised Staff Report, including language addressing Commissioner Endresen's concerns, which were raised during the July 6, 2004, hearing. (Eight voted in favor of the motion to adopt; none were opposed).
- **Level of Service Standards for Regional County Highways:** Adopt language as outlined in the July 8, 2004, Revised Staff Report with designated Level of Service areas specific to Kitsap County. (Eight voted in favor of the motion to adopt; none were opposed).
- **Reasonable Measures:** Adopt list of potential Reasonable Measures as an addendum to the Buildable Lands Analysis, as outlined in the July 8, 2004 Revised Staff Report. (Eight voted in favor of the motion to adopt; none were opposed).

With the revisions shown in the July 12, 2004, Staff Report, the Planning Commission found the Kitsap County Comprehensive Plan and development regulations to be in compliance with the Growth Management Act (RCW 36.70A.130(1)) and recommended that the Board of County Commissioners adopt the proposed revisions as outlined in the July 12, 2004 Staff Report.

- 2) The BCC finds that, with the exception of "Reasonable Measures," the recommendation of the Planning Commission, as set forth in the DCD staff report dated July 12, 2004, should be adopted and the Kitsap County Comprehensive Plan and development regulations should be amended to reflect those changes. The BCC further finds that such changes are consistent with the 13 statewide planning goals set forth in the Growth Management Act, RCW 36.70A.020.
- 3) With respect to Reasonable Measures, the BCC finds that, since the onset of the time period reviewed in the Buildable Lands Analysis (1995) to date, Kitsap County has adopted and incorporated a number of reasonable measures intended to promote growth and density within UGAs. Since those reasonable measures are already adopted, there is no need for a Comprehensive Plan Amendment or changes to development regulations. The BCC shall formally recognize those measures by a separate resolution.
- 4) Notwithstanding the fact that Kitsap County has adopted reasonable measures, the BCC directs staff to continue to study and identify additional reasonable measures, other than



expanding UGAs that might be necessary and/or appropriate to further encourage growth within the Urban Growth Areas. As staff identifies other reasonable measures, the proposed adoption of such measures shall go through a public participation process, including review by the Kitsap County Planning Commission.

**Section 7. Substantive Findings related to Phase II of the 2004 Comprehensive Plan Amendment process, specifically those new site-specific Comprehensive Plan Map amendments received in 2004. The Board of County Commissioners makes the following findings related to the new site-specific Comprehensive Plan Map amendments, received in 2004.**

- 1) White-Lueck, LIS Permit No. 04 16167, request to redesignate/rezone 19.14 acres from Rural Residential (RR) to Urban Medium Residential (UM) or Urban High Residential (UH). This site fronts Lindvog Road to the east, with parcels to the north, east, south, and west designated Rural Protection, and parcels to the south designate Urban Medium Residential and Rural Protection. The Planning Commission voted to recommend denial and deferral to future planning processes for the Kingston Sub-Area. (Six members voted in favor of the motion to deny and defer, one member opposed the motion and one member abstained).
  - i) The BCC finds that the Planning Commission recommendation is appropriate and the proposal should be denied at this time. Such a proposal should be referred to future Kingston sub-area planning processes.
- 2) Global Investments-Kitsap Transit, LIS Permit No. 04 15981, request to redesignate/rezone 2 acres of an existing 11.74-acre parcel from Urban Restricted (UR) to Neighborhood Commercial (NC). This site fronts State Highway 303 to the east, Waaga Way to the north, parcels designated Urban Medium Residential to the west and a parcel designated Urban Reserve to the south. This proposal is located in the unincorporated Central Kitsap UGA. The Planning Commission voted to recommend approval of this application, with the conditions outlined in the addendum to the staff report and with an additional condition (as proposed in the City of Bremerton's June 30<sup>th</sup> letter) related to critical areas. (Six members voted to approve the motion, two members voted in opposition).
  - i) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for commercial lands through 2017.
  - ii) The BCC finds that the proposal, as amended, is appropriate and the property should be redesignated as Neighborhood Commercial, subject to the conditions proposed in the July 6, 2004 addendum to the staff report as recommended by the Planning Commission, as well as an additional condition outlined in the City of Bremerton, June 30, 2004 letter that all development-sensitive lands to the west, including the required buffer areas, shall be retained in a natural state.

- 3) Lindsey, LIS Permit No. 04 16028, request to redesignate/rezone 40 acres from Rural Residential (RR) to Urban Low Residential (UL) or Urban Restricted (UR). This site is east of Dickey Road and south of Newberry Hill Road. This proposal is located adjacent to the Silverdale UGA. The Planning Commission voted to recommend denial and deferral to the Silverdale sub-area planning process. (Five members approved the motion to recommend denial and deferral of the proposal, two members voted to deny the motion and one member abstained).
- i) The BCC finds that the redesignation/rezoning of this parcel and its inclusion into the Silverdale UGA is not appropriate at this time. The BCC refers this request to the Silverdale sub-area planning process, which is currently underway.
- 4) Lewis, LIS Permit No. 04 15938, request to redesignate/rezone 0.6 acres from Urban Low Residential (UL) to Highway Tourist Commercial (HTC). The site fronts Lund Avenue to the south. This property is located within the Port Orchard UGA, but would involve the expansion of the Bethel Corridor Development Plan. The Planning Commission voted to recommend approval of this application. (Seven members voted to approve the motion to recommend approval, one member abstained).
- i) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for commercial lands through 2017.
- ii) The BCC finds that the proposal, as amended, is appropriate and the property should be redesignated/rezoned as Highway Tourist Commercial, subject to the restrictions proposed in the staff report and the Bethel Corridor Development Plan.
- 5) CARA Land Company LLC., LIS Permit No. 04 16052, request to redesignate/rezone 20 acres from Urban Reserve (URS) to Industrial (I) or Business Park (BP). This site fronts Cook Road to the north and abuts parcels designated Urban Reserve to the north. The properties are located within the joint planning area for the City of Port Orchard. The Planning Commission voted to approve the staff recommendation to approve the redesignation/rezone to Industrial. (Five members voted to approve the motion to recommend approval, two members opposed the motion and one member abstained).
- i) The property is bounded on two sides by the City of Port Orchard UGA, and by State Highway 16 (a freeway) on a third side. The property is adjacent to an industrial park, in which the applicant has an existing manufacturing business. The property owner intends to expand the existing manufacturing business onto the new property, which is anticipated to result in an initial increase of at least 40 jobs. The City of Port Orchard has written in support of the redesignation/rezone of this property and its inclusion into the Port Orchard UGA.
- ii) A land capacity analysis shows a deficit of designated industrial lands available for development through 2017. Designation of this property as industrial, as well as other

property redesignated as industrial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for industrial land through 2017.

- iii) The BCC finds that the proposal, as amended, is appropriate and that the property should be redesignated/rezoned as Industrial, subject to the restrictions proposed in the staff report.
- 6) Binns, LIS Permit No. 04 16368, request to redesignate/rezone 7.5 acres from Urban Reserve (URS) to Industrial (I). This site fronts Cook Road to the south and is surrounded on all sides by parcels designated Urban Reserve. This site is contained within the joint planning area and the Port Orchard UGA. The Planning Commission voted to recommend denial and deferral to future South Kitsap/Port Orchard sub-area planning processes. (Five members voted to approve the motion to recommend denial and deferral, two members opposed and one member abstained).
  - i) The property is abuts State Highway 16 on a good portion of its boundary and abuts the Cara properties (referenced above) on the third side.
  - ii) A land capacity analysis shows a deficit of designated industrial lands available for development through 2017. Designation of this property as industrial, as well as other property redesignated as industrial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for industrial land through 2017.

The BCC finds that the proposal, as amended, is appropriate and that the property should be redesignated/rezoned as Industrial, subject to the restrictions proposed in the staff report.

- 7) Home Depot, LIS Permit No. 04 16522, request to redesignate/rezone 2.17 acres of a 7.04-acre site from Urban Medium Residential (UM) to Highway Tourist Commercial (HTC). This site fronts Bethel Road to the west and is located within the Port Orchard UGA. The Planning Commission voted to recommend approval of this application. (Seven members voted in favor of the motion to recommend approval, one member abstained).
  - i) A land capacity analysis shows a deficit of designated commercial lands available for development through 2017. Designation of this property as commercial, as well as other property redesignated as commercial in this ordinance, is within the amount of acreage needed to meet Kitsap County's forecasted need for commercial lands through 2017.
  - ii) The BCC finds that the proposal, as amended, is appropriate and that the property should be redesignated/rezoned as Highway Tourist Commercial, subject to the restrictions proposed in the staff report and the Bethel Corridor Development Plan.

**Section 8. Substantive Findings related to Ordinance 311-2003, 2003 Comprehensive Plan Amendment process, specifically Tom Waggoner and Dorothy Bradley site-specific amendments. The Board of County Commissioners makes the following findings related to the Waggoner and Bradley 2003 site-specific Comprehensive Plan Amendments.**

- 1) Pursuant to Ordinance 311-2003, the Tom Waggoner and Dorothy Bradley site-specific proposals were approved by the Board of Commissioners in 2003, with certain conditions. The Planning Commission had referred these site-specific proposals to the Board in 2003 without recommendation. The Board approved Comprehensive Plan designation and zoning of these properties to Urban Medium (UM), subject to a Boundary Line Adjustment and a concomitant agreement regarding the preservation of sensitive areas, as well as joint access to State Highway 104. On June 29, 2004, DCD staff brought these site-specific proposals to the Board's attention at their joint public hearing with the Planning Commission. Staff explained that they recommended to the Board in the final Comprehensive Plan Amendment decision hearing in 2003 that the Board approve the site-specific requests subject to a concomitant agreement. However, staff did not explain at that final hearing what the concomitant agreement would entail. At the June 29th public hearing this year, staff requested that the Board review their 2003 decision and clarify their intent.

The Board finds that its intent was to approve the site-specific amendments and rezones for Urban Medium. In doing so, the Board had requested that the property owners pursue joint access collaboratively with each other when developing their properties (as recommended in the 2003 Staff Report), but not requiring a formal agreement between the property owners. The Board hereby corrects its decision shown in Ordinance 311-2003 and removes the requirement for a formal concomitant agreement between the property owners.

**Section 9. NOW THEREFORE , BE IT FURTHER ORDAINED, that the Kitsap County Board of Commissioners, based on the foregoing findings, does hereby:**

- 1) Adopt the 2004 Text and Policy Revisions relating to the George's Corner LAMIRD as amended in Attachment 1. The Board hereby designates George's Corner as a LAMIRD, and redesignates/rezones the property within the LAMIRD boundary as Neighborhood Commercial, subject to a Boundary Line Adjustment for the Bjarnson property, as set out in the June 4, 2004, staff report. The Zoning Code shall also include a provision that requires any new development or redevelopment within the George's Corner LAMIRD to be consistent with the character of the existing area in terms of building size, scale, use or intensity.
- 2) Adopt the 2004 Text and Policy Revisions relating to the Comprehensive Plan and development regulations recommended in the July 12, 2004, staff report concerning GMA compliance review, with the exception of identifying Reasonable Measures. The Board of Commissioners shall formally recognize, by separate resolution, the reasonable measures the County has adopted to date. Staff is directed to continue to analyze and study the need for any additional reasonable measures that should be appropriate for adoption and begin a public process on such measures for future Comprehensive Plan Amendments.

- 3) Adopt, pursuant to the Growth Management Act, Chapter 36.70A RCW, and Article 11, Section 11 of the Washington Constitution, the revised Comprehensive Plan Land Use Map attached hereto as Attachment 2, including the site-specific redesignations/rezones discussed above. In addition, adopt the corresponding Zoning Map attached hereto as Attachment 2. Specifically, the following changes are made:
- a) The Port Orchard Urban Growth Area is extended to include the following properties, redesignated/rezoned on the Comprehensive Plan and Zoning Maps as Highway Tourist Commercial:
    - i) Blackjack Valley Associates
    - ii) Brown-Rice-Krueger
    - iii) Waters
    - iv) Sedgewick Joint Ventures
  - b) The Port Orchard Urban Growth Area is extended to include the following properties, redesignated/rezoned on the Comprehensive Plan and Zoning Maps as Industrial:
    - i) CARA Land Co., LLC
    - ii) Binns
  - c) The following Comprehensive Plan designation and zoning changes shall be implemented:
    - i) Sherrard: redesignated/rezoned from Urban Medium to Urban High Residential
    - ii) Global Investments-Kitsap Transit: conditionally redesignated/rezoned from Urban Restricted to Neighborhood Commercial
    - iii) Lewis: redesignated/rezoned from Urban Low Residential to Highway Tourist Commercial, subject to the Bethel Road Corridor Development Plan guidelines and development standards.
    - iv) Home Depot: redesignated/rezoned from Urban Medium Residential to Highway Tourist Commercial, subject to the Bethel Road Corridor Development Plan guidelines and development standards.
  - d) The following Comprehensive Plan designation and zoning changes for George's Corner LAMIRD shall be implemented:
    - i) Bjarnson: the 5.79-acre portion of the total 8.33-acre parcel shall be redesignated/rezoned from Rural Residential to Neighborhood Commercial and included in the George's Corner LAMIRD, subject to a boundary line adjustment.
    - ii) George's Corner Logical Outer Boundary and Comprehensive Plan Designation/Zoning: the property within the Planning Commission's recommendation as outlined in Alternative 11 of the staff report, together with the Hanson property, constitutes the Logical Outer Boundary. All property located within the Logical Outer Boundary shall be redesignated/rezoned to Neighborhood Commercial.
- 4) The Board hereby corrects the condition in Ordinance 311-2003 regarding the site-specific amendments and rezones on the Waggoner and Bradley properties by removing the requirement that a concomitant agreement between the property owners. Instead, the Board requests that the properties owners pursue joint access collaboratively.

**Effective Date.** This ordinance shall take effect immediately except that the site amendments for the Bjarnson site and Global Investments-Kitsap Transit site will take effect as stated in the BCC's findings above.

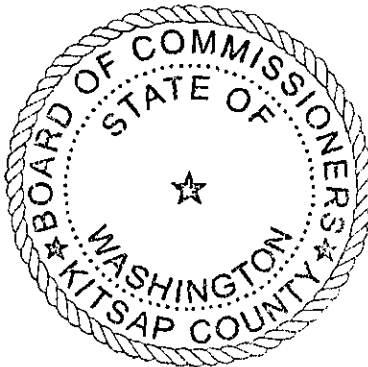
**Severability.** If any provision of this ordinance or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

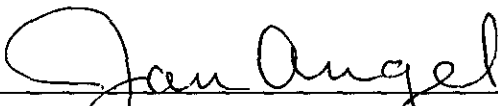
DATED THIS 25<sup>th</sup> day of October, 2004.


KITSAP COUNTY BOARD OF  
COMMISSIONERS

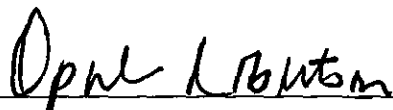
  
PATTY LENT, CHAIR

ATTEST:



  
JAN ANGEL, COMMISSIONER

  
CHRIS ENDRESEN, COMMISSIONER

  
Opal Robertson  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Shelley E. Kneip

Deputy Prosecuting Attorney

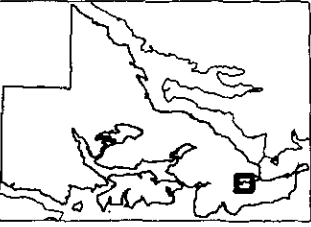
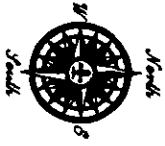


# George's Corner

## LAMIRD Boundary Attachment 1

Comprehensive Plan  
☒ Rural Protection (1 DU/10 Ac)  
☐ Rural Residential (1 DU/5 Ac)  
☐ Neighborhood Commercial

☒ LAMIRD Boundary  
☐ Tax Parcels



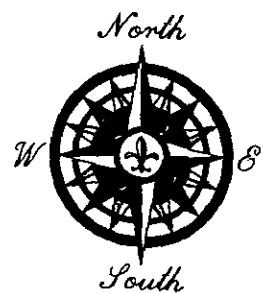
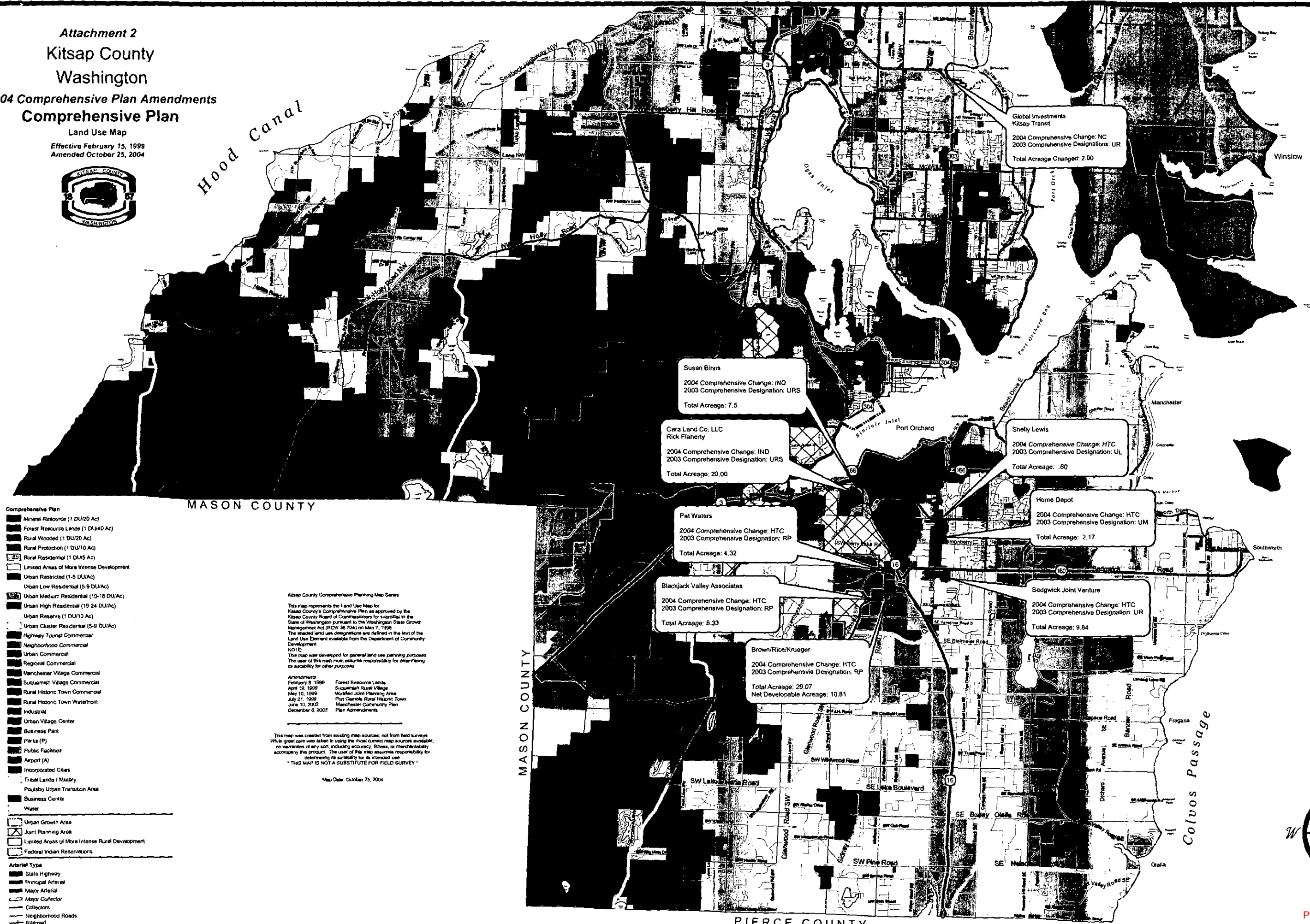
Map of the County of Santa Clara, California, showing the LAMIRD Boundary. The map is prepared by the County of Santa Clara, California, and is subject to the provisions of the Santa Clara County Comprehensive Plan. The map is prepared by the County of Santa Clara, California, and is subject to the provisions of the Santa Clara County Comprehensive Plan. The map is prepared by the County of Santa Clara, California, and is subject to the provisions of the Santa Clara County Comprehensive Plan.

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Attachment 2  
Kitsap County  
Washington  
2004 Comprehensive Plan Amendments  
Comprehensive Plan  
Land Use Map

Effective February 15, 1999  
Amended October 25, 2004





Attachment 2  
Kitsap County  
Washington

2004 Comprehensive Plan Amendments  
Comprehensive Plan

Land Use Map

Effective February 15, 1999  
Amended October 25, 2004

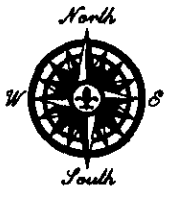
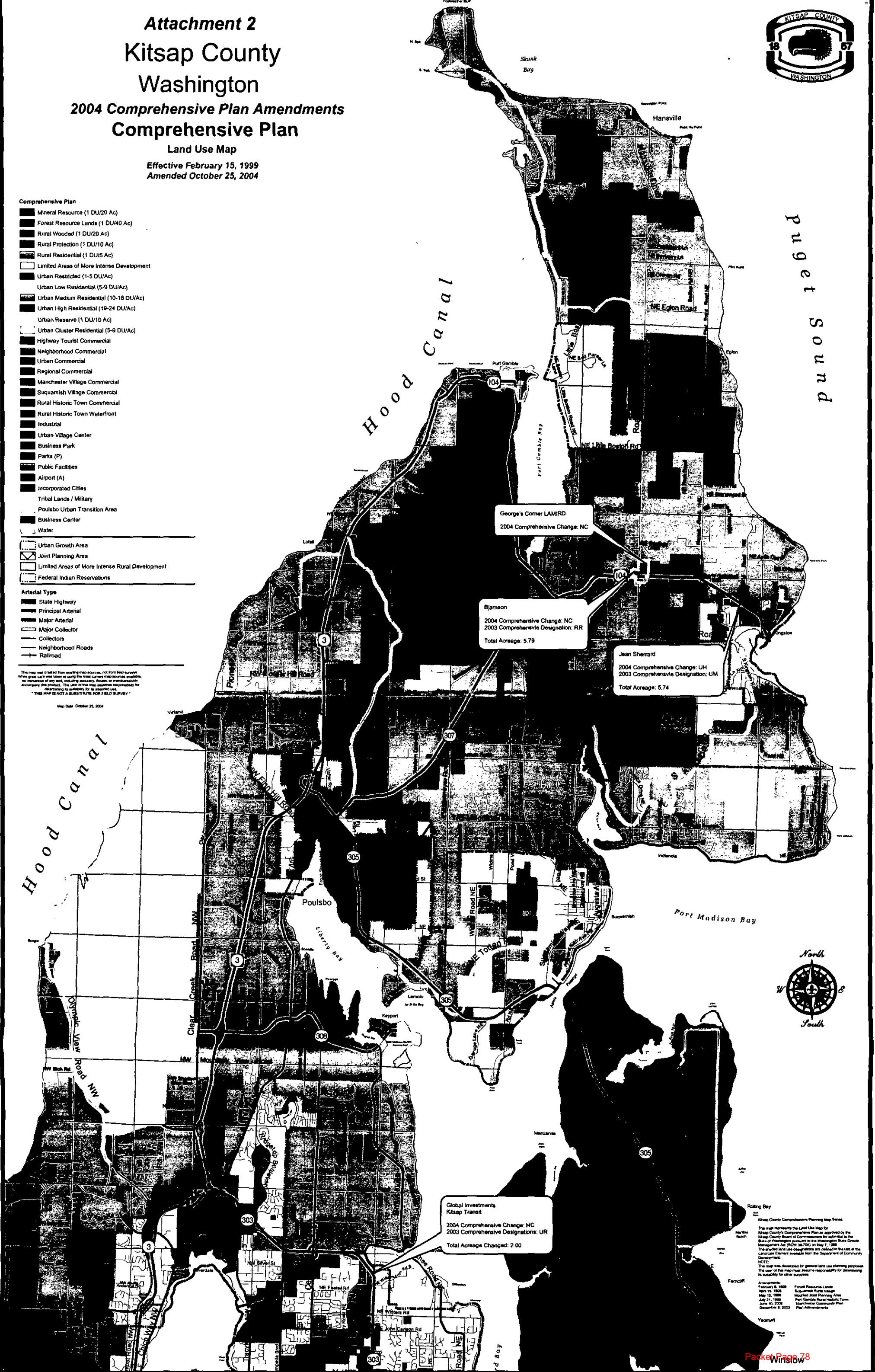


- Comprehensive Plan**
- Mineral Resource (1 DU/20 Ac)
  - Forest Resource Lands (1 DU/40 Ac)
  - Rural Wooded (1 DU/20 Ac)
  - Rural Protection (1 DU/10 Ac)
  - Rural Residential (1 DU/5 Ac)
  - Limited Areas of More Intense Development
  - Urban Restricted (1-5 DU/Ac)
  - Urban Low Residential (5-9 DU/Ac)
  - Urban Medium Residential (10-18 DU/Ac)
  - Urban High Residential (19-24 DU/Ac)
  - Urban Reserve (1 DU/10 Ac)
  - Urban Cluster Residential (5-9 DU/Ac)
  - Highway Tourist Commercial
  - Neighborhood Commercial
  - Urban Commercial
  - Regional Commercial
  - Manchester Village Commercial
  - Squamish Village Commercial
  - Rural Historic Town Commercial
  - Rural Historic Town Waterfront
  - Industrial
  - Urban Village Center
  - Business Park
  - Parks (P)
  - Public Facilities
  - Airport (A)
  - Incorporated Cities
  - Tribal Lands / Military
  - Poulsbo Urban Transition Area
  - Business Center
  - Water
- Arterial Type**
- State Highway
  - Principal Arterial
  - Major Arterial
  - Major Collector
  - Collectors
  - Neighborhood Roads
  - Railroad
- Other Features**
- Urban Growth Area
  - Joint Planning Area
  - Limited Areas of More Intense Rural Development
  - Federal Indian Reservations

This map was drafted from existing map sources, not from field surveys. While great care was taken in using the most current map sources available, no guarantee of any sort, including accuracy, fitness, or merchantability, is made by the Kitsap County Board of Commissioners for its use. The user of this map assumes responsibility for determining its suitability for its intended use.

\*THIS MAP IS NOT A SUBSTITUTE FOR FIELD SURVEY\*

Map Date: October 25, 2004



**Kitsap County Comprehensive Planning Map Series**

The map represents the Land Use Map for Kitsap County's Comprehensive Plan as approved by the Kitsap County Board of Commissioners for submission to the State of Washington pursuant to the Washington State Growth Management Act (RCW 36.70A) on May 7, 1998. The shaded land use designations are defined in the text of the Land Use Element annexes from the Department of Community Development.

**NOTE:**  
The map was developed for general and use planning purposes. The user of this map must assume responsibility for determining its suitability for other purposes.

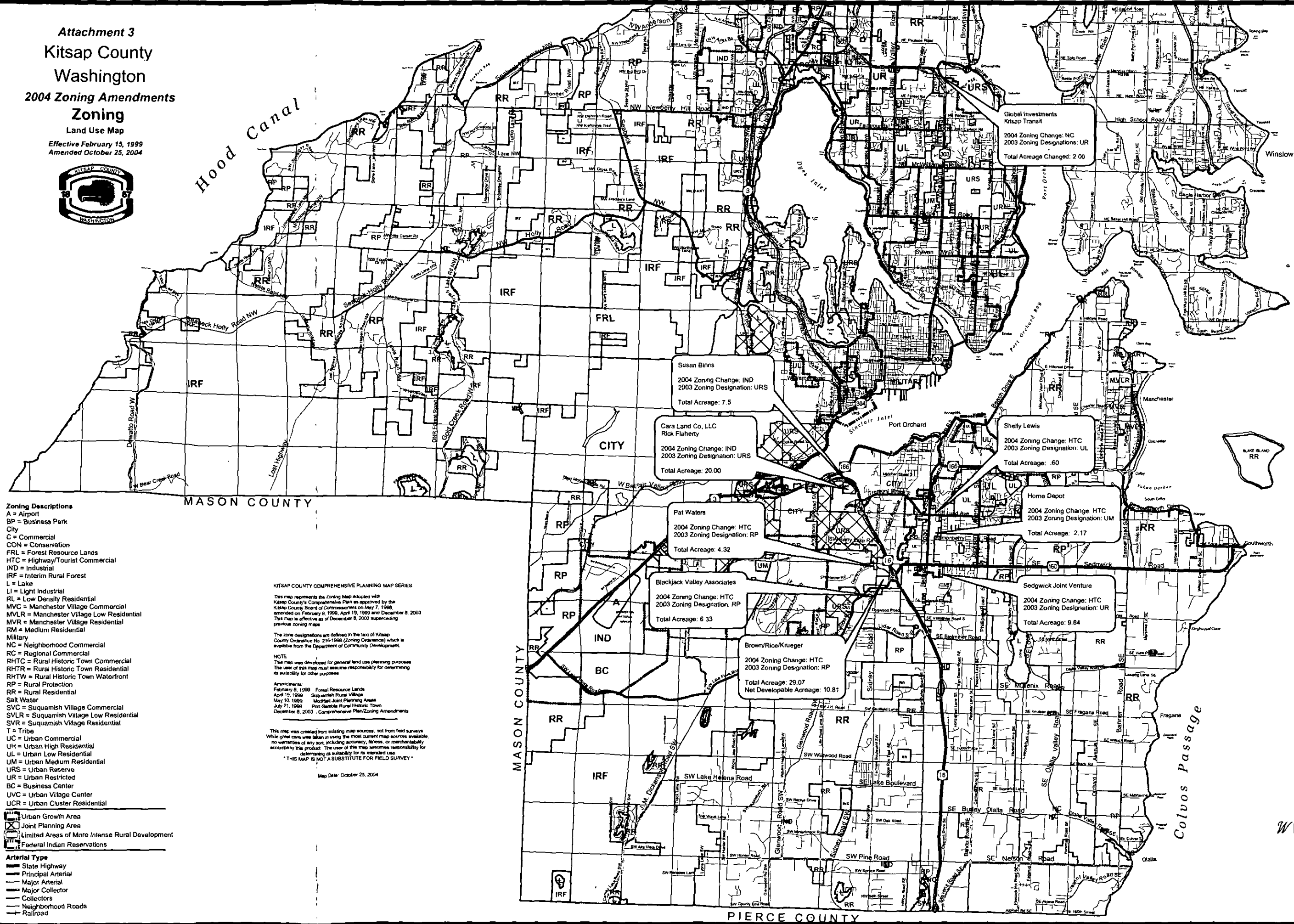
**Amendments:**  
February 6, 1999  
April 18, 1999  
May 10, 1999  
July 21, 1999  
June 16, 2002  
December 8, 2003

**For Further Information:**  
Squamish Rural Village  
Modified Joint Planning Area  
Port Gamble Rural Historic Town  
Manchester Community Plan  
Plan Amendments



Attachment 3  
Kitsap County  
Washington  
2004 Zoning Amendments  
Zoning  
Land Use Map

Effective February 15, 1999  
Amended October 25, 2004



KITSAP COUNTY COMPREHENSIVE PLANNING MAP SERIES

This map represents the Zoning Map adopted with Kitsap County's Comprehensive Plan as approved by the Kitsap County Board of Commissioners on May 7, 1998, amended on February 8, 1999, April 19, 1999 and December 8, 2003. This map is effective as of December 8, 2003 superseding previous zoning maps.

The zone designations are defined in the text of Kitsap County Ordinance No. 216-1998 (Zoning Ordinance) which is available from the Department of Community Development.

**NOTE**  
This map was developed for general land use planning purposes. The user of this map must assume responsibility for determining its suitability for other purposes.

**Amendments:**  
February 8, 1999 Forest Resource Lands  
April 19, 1999 Suquamish Rural Village  
May 10, 1999 Manchester Joint Planning Area  
July 21, 1999 Port Gamble Rural Historic Town  
December 8, 2003 Comprehensive Plan/Zoning Amendments

This map was created from existing map sources, not from field surveys. While great care was taken in using the most current map sources available, no warranties of any sort, including accuracy, fitness, or merchantability accompany this product. The user of this map assumes responsibility for determining its suitability for its intended use.

\* THIS MAP IS NOT A SUBSTITUTE FOR FIELD SURVEY \*

Map Date: October 25, 2004



Attachment 3  
Kitsap County  
Washington  
2004 Zoning Amendments  
Zoning  
Land Use Map

Effective February 15, 1999  
Amended October 25, 2004

Zoning Descriptions

A = Airport  
BP = Business Park  
City  
C = Commercial  
CON = Conservation  
FRL = Forest Resource Lands  
HTC = Highway/Tourist Commercial  
IND = Industrial  
IRF = Interim Rural Forest  
L = Lake  
LI = Light Industrial  
RL = Low Density Residential  
MVC = Manchester Village Commercial  
MVL = Manchester Village Low Residential  
MVR = Manchester Village Residential  
RM = Medium Residential  
Military  
NC = Neighborhood Commercial  
RC = Regional Commercial  
RHTC = Rural Historic Town Commercial  
RHTR = Rural Historic Town Residential  
RHTW = Rural Historic Town Waterfront  
RP = Rural Protection  
RR = Rural Residential  
Salt Water  
SVC = Suquamish Village Commercial  
SVL = Suquamish Village Low Residential  
SVR = Suquamish Village Residential  
T = Tribe  
UC = Urban Commercial  
UH = Urban High Residential  
UL = Urban Low Residential  
UM = Urban Medium Residential  
URS = Urban Reserve  
UR = Urban Restricted  
BC = Business Center  
UVC = Urban Village Center  
UCR = Urban Cluster Residential

Urban Growth Area  
Joint Planning Area  
Limited Areas of More Intense Rural Development  
Federal Indian Reservations

Arterial Type  
State Highway  
Principal Arterial  
Major Arterial  
Major Collector  
Collectors  
Neighborhood Roads  
Railroad

This map was created from existing map sources, not from field surveys. While great care was taken in using the most current map sources available, no warranties of any sort, including accuracy, fitness, or merchantability accompany this product. The user of this map assumes responsibility for determining its suitability for its intended use.  
\* THIS MAP IS NOT A SUBSTITUTE FOR FIELD SURVEY \*

Map Date: October 25, 2004



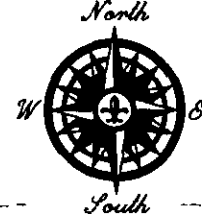
Puget Sound

Hood Canal

Hood Canal

MILITARY

MILITARY



Global Investments  
Kitsap Transit  
2004 Zoning Change: NC  
2003 Zoning Designations: UR  
Total Acreage Changed: 2.00

Jean Sherrard  
2004 Zoning Change: UH  
2003 Zoning Designation: UM  
Total Acreage: 5.74

Blamson  
2004 Zoning Change: NC  
2003 Zoning Designation: RR  
Total Acreage: 5.79

George's Corner LAMIRD  
2004 Zoning Change: NC

Rolling Bay  
KITSAP COUNTY COMPREHENSIVE PLANNING MAP SERIES  
This map represents the Zoning Map adopted with Kitsap County's Comprehensive Plan as approved by the Kitsap County Board of Commissioners on May 7, 1999, amended on February 6, 1999, April 13, 1999, and December 8, 2003. This map is effective as of December 8, 2003 superseding previous zoning maps.  
The 2004 designations are defined in the list of Kitsap County Ordinance No. 216-1998 (Zoning Ordinance) which is available from the Department of Community Development.  
NOTE:  
This map was developed for general land use planning purposes. The user of this map must assume responsibility for determining its suitability for other purposes.  
Amendments:  
February 6, 1999: Forest Resource Lands  
April 13, 1999: Business Park Village  
May 10, 1999: Modified Joint Planning Areas  
July 27, 1999: Port Gamble Rural Historic Town  
December 8, 2003: Comprehensive Planning Amendments  
Yosamit



## **NOTICE OF PUBLIC MEETING AND PROPOSED ORDINANCE ADOPTION**

**NOTICE IS HEREBY GIVEN** that the Kitsap County Board of Commissioners will hold a public hearing on **October 25, 2004**, at **10:00 AM** in its Chambers, County Administrative Building, 614 Division Street, Port Orchard, Washington, to deliberate on and consider adopting **Ordinance No. 326-2004**, RELATING TO GROWTH MANAGEMENT, AMENDING THE COMPREHENSIVE PLAN AND MAP AND MAKING CORRESPONDING AMENDMENTS TO THE KITSAP COUNTY ZONING CODE AND MAP. A summary of the ordinance is as follows:

**Section 1** includes findings of fact made by the Board of County Commissioners (BCC) regarding review and updates to Kitsap County Comprehensive Plan, procedures for the annual Comprehensive Plan Amendment procedures and intent of the annual Comprehensive Plan Amendment process.

**Section 2** includes findings of fact pertaining to the process and public participation aspects for the 2004 Comprehensive Plan Amendment process. The 2004 Comprehensive Plan Amendments include adoption of requirements for textual and policy revisions relating to the designation of a Limited Area of More Intensive Rural Development (LAMIRD) at George's Corner, Growth Management Act (GMA) compliance review and 13 site-specific redesignation/rezone amendments as indicated below.

**Section 3** includes substantive findings relating to text and policy amendments. The BCC adopts certain findings, conclusions and recommendations of the Kitsap County Planning Commission for the 2004 Comprehensive Plan Amendment process, Phase I and II. The BCC finds that the proposed 2004 Comprehensive Plan text and policy amendments meet the criteria for approval with Kitsap County Code 21.08.160 and 21.08.170 and the proposed text and policy amendments outlined in the July 12, 2004, GMA compliance staff report promote the public interest and welfare of the citizens of Kitsap County and are in compliance with the state Growth Management Act, Ch. 36.70A. RCW.

**Section 4** includes substantive findings related to Phase I of the 2004 Comprehensive Plan Amendment process, specifically George's Corner LAMIRD. The BCC finds that commercial development existed in the area prior to July 1, 1990, that it serves the rural community and that it is a logical choice for a LAMIRD. The BCC finds that the Logical Outer Boundary (LOB) that staff and the Planning Commission recommended, including the Hanson property, are appropriate with certain conditions; the BCC finds that properties located within the George's Corner LOB should be redesignated/rezoned Neighborhood Commercial (NC).

**Section 5** includes substantive findings related to Phase I of the 2004 Comprehensive Plan Amendment process, specifically the 2003 deferred Comprehensive Plan map amendments: Bjarnson (LIS Permit No. 04 16511) request to

redesignate/rezone a 5.79-acre portion of a 8.33-acre lot from Rural Residential (RR) to Neighborhood Commercial (NC) and inclusion in the George's Corner LAMIRD, upon approval of a Boundary Line Adjustment; Sherrard (LIS Permit No. 04 16508) request to redesignate/rezone 5.74 acres from Urban Medium Residential (UM) to Urban High Residential (UH); Brown-Rice-Krueger (LIS Permit No. 04 16510) request to redesignate/rezone 29.07 acres from Rural Protection (RP) to Highway Tourist Commercial (HTC) and inclusion in the Port Orchard Urban Growth Area (UGA); Blackjack Valley Associates (LIS Permit No. 04 16509) request to redesignate/rezone 6.33 acres from Rural Protection (RP) to Highway Tourist Commercial (HTC) and inclusion in the Port Orchard UGA; Waters (LIS Permit No. 04 16512) request to redesignate/rezone 4.32 acres from Rural Protection (RP) to Highway Tourist Commercial (HTC) and inclusion in the Port Orchard UGA; Sedgwick Joint Venture (LIS Permit No. 04 16519) request to redesignate/rezone 9.84 acres from Urban Reserve (UR) to Highway Tourist Commercial (HTC) and inclusion in the Port Orchard UGA. The BCC finds that each of these site-specific proposals for redesignation/rezoning are appropriate, that there is a need for these redesignations/rezones and that the redesignation/rezones are in compliance with the state Growth Management Act.

**Section 6** includes substantive findings relating to Phase II of the 2004 Comprehensive Plan Amendment process, specifically GMA compliance pursuant to RCW 36.70A.130(1). The BCC finds that, with the exception of "reasonable measures," the proposed textual amendments to the Comprehensive Plan and development regulations outlined in the revised July 12, 2004, GMA compliance staff report are appropriate and necessary for GMA compliance. With respect to reasonable measures, the BCC finds that Kitsap County has adopted 18 reasonable measures intended to promote growth and density in Urban Growth Areas. The BCC directs the Department of Community Development to study and identify additional reasonable measures. As staff identifies other reasonable measures, the proposed adoption of such measures shall go through a public participation process, including review by the Kitsap County Planning Commission.

**Section 7** includes substantive findings related to Phase II of the 2004 Comprehensive Plan Amendment process, specifically the following new 2004 site-specific Comprehensive Plan Amendments: Global Investments-Kitsap Transit (LIS Permit No. 04 15981) request to redesignate/rezone 2 acres of an existing 11.74-acre parcel from Urban Restricted (UR) to Neighborhood Commercial (NC); Lewis (LIS Permit No. 04 15938) request to redesignate/rezone 0.6 acres from Urban Low Residential (UL) to Highway Tourist Commercial (HTC); CARA Land Co., LLC. (LIS Permit No. 04 16052) request to redesignate/rezone 20 acres from Urban Reserve (URS) to Industrial (I) and inclusion in the Port Orchard UGA; Binns (LIS Permit No. 04 16368) request to redesignate/rezone 7.5 acres from Urban Reserve (URS) to Industrial (I) and inclusion in the Port Orchard UGA; Home Depot (LIS Permit No. 04 16522) request to redesignate/rezone 2.17 acres of a 7.04-acre site from Urban Medium Residential (UM) to Highway Tourist Commercial (HTC). The BCC finds that each of these site-specific proposals for redesignation/rezoning are appropriate, that there is a need for these redesignations/rezones and that the redesignations/rezones are in

compliance with the state Growth Management Act. Additionally, the BCC finds that it should correct Ordinance 311-2003 to reflect its intent concerning the Waggoner and Bradley site-specific rezones; and finds it should remove the requirement for a formal concomitant agreement between the property owners.

This section also refers the White-Lueck (LIS Permit No 04 16167) proposal to the Kingston sub-area planning process and the Lindsey (LIS Permit No. 04 16028) proposal is referred to the Silverdale sub-area planning process.

**Section 8** includes substantive findings related to Ordinance 311-2003, 2003 Comprehensive Plan Amendments, specifically Tom Waggoner and Dorothy Bradley site-specific amendments. The Board of County Commissioners removes the requirement for a formal concomitant agreement between the property owners.

**Section 9** adopts text and policy revisions to the George's Corner LAMIRD, establishes a Logical Outer Boundary (LOB) and rezones properties located within the LAMIRD as Neighborhood Commercial (NC). Section 9 also states that development within the LAMIRD should be types of commercial uses principally designed to serve the rural community. Any development or redevelopment within the George's Corner LAMIRD shall be consistent with the character of the existing area in terms of building size, scale, use or intensity. Section 9 adopts textual revisions to the Comprehensive Plan and development regulations regarding sections 1-8 outlined in the revised July 12, 2004, GMA compliance staff report. It also adopts 11 redesignation/rezone requests; and includes Binns Cara Land Co. LLC, Home Depot, Global Investments/Kitsap Transit, Bjarnson, Sherrard, Lewis Sedgwick Joint Ventures, Waters, Brown-Rice-Krueger and Blackjack Valley site-specific amendments.

The full text of the ordinance will be sent upon request. Any additional information on the documents referenced above can be inspected or obtained by visiting the Department of Community Development located at 614 Division St. Port Orchard, or by contacting the Community Planning Division of the Department of Community Development at (360) 337-7181.

ALL THOSE INTERESTED are welcome to attend.  
Opal Robertson, Clerk of the Board

Kitsap County does not discriminate on the basis of disability. Individuals who require accommodations at this meeting or who require this information in a different format should contact the ADA Coordinator at (360) 337-7146 (voice) or (360) 337-7275 (TDD) or (800) 816-2782. Please provide one week's notice for accommodations, if possible.

Publication Date: **October 13, 2004**  
THE KITSAP NEWSPAPER GROUP





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1617 Boylston Avenue, Suite 200  
Seattle, WA 98122  
(206) 343-0681 phone  
(206) 709-8218 fax  
www.1000friends.org

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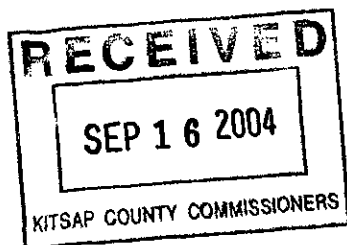
Dick Ford

Virginia Gunby

Joe King

Lucy Steers

Everett Wilcock



September 14, 2004

COPIES INDIVIDUALLY  
ADDRESSED TO ALL  
THREE (3):

Board of County Commissioners  
Kitsap County  
Department of Community Development  
614 Division Street, MS-4  
Port Orchard, Washington 98366

**Subject: Kitsap County 2004 Comprehensive Plan Amendments**

Dear Board of Commissioners:

1000 Friends of Washington is a statewide public interest group working to keep overdevelopment from destroying farms, forests, and rural areas, while making cities and towns great places to live. We work with cities and counties to effectively implement the Growth Management Act and stop sprawl. We have members in Kitsap County as we do throughout the state. As part of the periodic updates of comprehensive plans, we are focusing on working with local governments to help improve their comprehensive plans.

We understand Kitsap County is currently in the process of updating its comprehensive plan. We applaud many elements of the current Kitsap County comprehensive plan, and we appreciate the opportunity to submit comments on the proposed LAMIRD designation at George's Corner and the proposed 2004 amendments.

1000 Friends of Washington does not oppose the creation of a LAMIRD at George's Corner if the logical outer boundary encloses land that was already developed in 1990. The proposed outer boundary of the George's Corner LAMIRD contains land that was occupied by rural uses or vacant in 1990. Including this land does not in comply with the Growth Management Act. We urge you to include only land that was developed in 1990 or was vacant but within the logical outer boundary defined by the properties developed for more intense uses in 1990 as part of the George's Corner LAMIRD.

As part of our recommendation regarding the potential George's Corner LAMIRD, we do not support the Bjarnson rezone proposal. This land is currently zoned rural residential and should not be rezoned to neighborhood commercial as part of the LAMIRD. The 7.2 acres is currently vacant. It was not developed for more intense purposes in 1990 and is not within the logical outer boundary

defined by the 1990 development pattern. We urge you to decline this proposed amendment in order to maintain Kitsap County's desirable rural character and to comply with the Growth Management Act.

We recommend disapproval of the Brown-Rice-Krueger, Black Jack Valley & Assoc., Waters, and Sedgwick Joint Venture proposed amendments. All of these rezone requests would require changing land from a Rural Protection or Rural Residential to Highway Tourist Commercial which will lead to an increase in urban sprawl development. The rural areas of Kitsap County need to be preserved, and we urge you to decline these proposed amendments. These amendments also violate the Growth Management Act provisions summarized above.

We recommend denial of the Binns and Global Investments proposed rezones. These proposed rezones would require expansions of the Urban Growth Area and could contribute to sprawl development. There is no need to expand the urban growth area to accommodate the county's adopted population target. The Kitsap County Buildable Lands Report documents that sufficient land is within the urban growth area. The Growth Management Act prohibits urban growth areas larger than needed to accommodate the target and a reasonable market factor which is already included in the sizing of the Kitsap County urban growth area.

Thank you for the opportunity to comment on the Kitsap County Comprehensive Plan as part of your update process. We will mail you a hard copy of this letter to your office. If you have any questions, please feel free to contact Sydney McComas or Tim Trohimovich at (206)343-0681.

Sincerely,



Sydney McComas  
Urban Policy Advocate  
1000 Friends of Washington  
1617 Boylston Avenue, Ste 200  
Seattle, Washington 98122

Cc:

Laura Ditmer, Community Planning Manager  
Iken Nwankwo, Technical and Financial Assistance Program Manager,  
CTED

FILE

7/13/04

## AFFIDAVIT OF PUBLICATION

No. Ad # 100110603

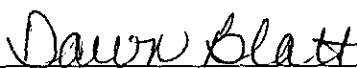
STATE OF WASHINGTON  
COUNTY OF KITSAP

I, Robin Alexander, being first duly sworn on oath, deposes and says: That she is now, and at all times embraced in the publication herein mentioned was the principal clerk of the printers and publishers of THE SUN; that said newspaper has been approved as a legal newspaper by order of the Superior Court of the County of Kitsap, in which County it is published and is now and has been for more than six months prior to the date of the publication hereinafter referred to, published in the English language continually as a daily newspaper in Bremerton, Kitsap County, Washington, and is now and during all of said time, was printed in an office maintained in the aforesaid place of publication of said newspaper; June 20, 2004 and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is the sum of \$34.42 which amount as not been paid in full.

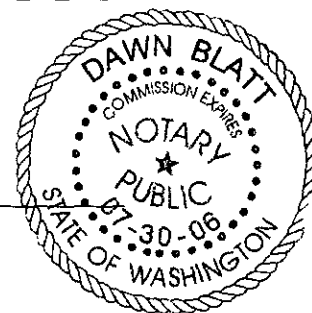


(Signature of Principal Clerk)

Subscribed and sworn to before me this day of June 29, 2004.



Notary Public in and for the State of Washington, Kitsap County.



## AMENDED NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kitsap County Board of Commissioners and the Kitsap County Planning Commission will hold a joint public hearing on Tuesday, June 29, 2004, beginning at 6:30 PM at the Kitsap County Fairgrounds, Presidents Hall, 1200 NW Fairgrounds Road, Bremerton, Washington to receive oral and written testimony regarding:

## Phase I of the 2004 Comprehensive Plan Amendment Process:

1. George's Corner Limited Area of More Intense Rural Development (LAMIRD), North Kitsap, intersection of Highway 104 and Miller Bay Road/Hansville Highway.

2. 2003 Deferred Site Specific requests:

Richard Bjarnson - 7.2 acres, North Kitsap, currently Rural Residential, requesting Neighborhood Commercial

Jean Sherrard - 5.74 acres, North Kitsap, currently Urban Medium Residential, requesting Urban High Residential

Brown-Rice-Krueger - 29.07 acres net developable=10.81 acres, South Kitsap, currently Rural Protection, requesting Highway Tourist Commercial

Blackjack Valley Associates - 6.33 acres, South Kitsap, currently Rural Protection, requesting Highway Tourist Commercial

Robert Waters - 4.32 acres, South Kitsap, currently Rural Protection, requesting Highway Tourist Commercial

-  
Sedgwick Joint Venture - 9.84 acres, South Kitsap, currently Urban Reserve, requesting Highway Tourist Commercial-  
-

3. Deferred Housekeeping items from 2003-  
-

Opal Robertson, Clerk of the Board-  
KITSAP COUNTY BOARD OF COMMISSIONERS-  
-

Kitsap County does not discriminate on the basis of disability. Individuals who require accommodations at this meeting, or who require this information in a different format, should contact the ADA Coordinator at (360) 337-7181 (voice) or (TDD) (360) 337-7275 or (800) 816-2782. Please provide seven business days notice for accommodations, if possible.-

June 20, 2004••#100110603-

FILE

Sub 11/9/04

**Port Orchard Independent**  
P.O. Box 27, Port Orchard, WA 98366  
360-876-4414

## Affidavit of Publication

STATE OF WASHINGTON }  
COUNTY OF KITSAP } ss

Rich Peterson being first duly sworn, upon oath deposes and says: that (s)he is the publisher of the Port Orchard Independent, a twice-weekly newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a twice weekly newspaper in Port Orchard, Kitsap County, Washington and is and always has been printed in whole or part in the Port Orchard Independent, Central Kitsap Reporter, North Kitsap Herald, Bainbridge Island Review, and the Bremerton Patriot and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Kitsap County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of County Notices - ADOPTION CPA (PC8781) as it was published once a week in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 10/30/04 and ending on 10/30/04 and that said newspaper was regularly distributed to its subscribers during all of said period. The amount of the fee for such publication is \$ 67.50 which has been paid in full.

*Rich Peterson*

Subscribed and sworn before me on this  
30th day of October

2004

*Anis E. French*  
Notary Public in and for the State of  
Washington, residing in Port Orchard, 2004  
Washington.



**Notice of Adoption**  
**NOTICE IS HEREBY**  
GIVEN that the Kitsap  
County Board of Com-  
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**25, 2004, at 10:00 AM**  
in its Chambers,  
County Administrative  
Building, 614 Division  
Street, Port Orchard,  
Washington, adopted  
and enacted **Ordin-**  
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**RELATING TO**  
**GROWTH MANAGE-**  
**MENT, AMENDING**  
**THE COMPREHEN-**  
**SIVE PLAN AND MAP**  
**AND MAKING COR-**  
**RESPONDING**  
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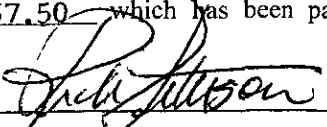


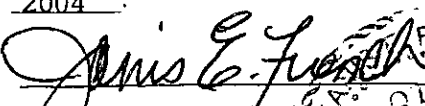
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(360) 337-7181.  
Date of Publication:  
10/30/04  
(PC8781)



Meeting Date: October 25, 2004  
Agenda Item No.

10:00 G

## Kitsap County Board of Commissioners

Department: Department of Community Development  
Staff Contact: Laura Ditmer, Community Planning Manager  
X 4 8 4 8

Initials: ASL

Title: 2004 Comprehensive Plan Amendments Adoption Ordinance

### Recommended Action:

- 1) Consider testimony on the adoption ordinance, review Planning Commission's "Findings of Fact and Recommendations to the Board of Commissioners" contained within the Adoption Ordinance and enact the ordinance thereby approving the 2004 Comprehensive Plan Amendments and related changes to the Comprehensive Plan and Land Use Map, as well as changes to the Zoning Map and Kitsap County Code.

### Summary:

Relative to the GMA, this is the annual process amending the County's Comprehensive Plan and Land Use Map for 2004, and making corresponding amendments to the Kitsap County Zoning Code and Zoning Map. On September 15, 2004, the Board of County Commissioners issued preliminary decisions on the following items and will need to render a final decision as outlined in the Adoption Ordinance. Items included in the 2004 Comprehensive Plan Amendments Phase I and II are as follows:

### 2004 Comprehensive Plan Amendments Phase I:

1. George's Corner  
Potential designation of a commercial Limited Area of More Intensive Rural Development (LAMIRD), North Kitsap, intersection of Highway 104 and Miller Bay Road/Hansville Highway.
2. 2003 Deferred Site-Specific Requests
  - **Richard Bjarnson** – 5.79 of the total 8.33 acres, North Kitsap  
Current Designation/Zoning: Rural Residential  
Proposed Designation/Zoning: Commercial/Neighborhood Commercial
  - **Jean Sherrard** – 5.74 acres, North Kitsap  
Current Designation/Zoning: Urban Medium Residential  
Proposed Designation/Zoning: Urban High Residential
  - **Brown-Rice-Krueger** – 29.07 acres net developable=10.81 acres, South Kitsap  
Current Designation/Zoning: Rural Protection  
Proposed Designation/Zoning: Commercial/Highway Tourist Commercial
  - **Blackjack Valley Associates** – 6.33 acres, South Kitsap  
Current Designation/Zoning: Rural Protection  
Proposed Designation/Zoning: Commercial/Highway Tourist Commercial



- **Robert Waters** – 4.32 acres, South Kitsap  
Current Designation/Zoning: Rural Protection  
Proposed Designation/Zoning: Commercial/Highway Tourist Commercial
- **Sedgwick Joint Venture** – 9.84 acres, South Kitsap  
Current Designation/Zoning: Urban Reserve  
Proposed Designation/Zoning: Commercial/Highway Tourist Commercial

## **2004 Comprehensive Plan Amendments Phase II:**

1. Growth Management Act (GMA) Compliance  
The Washington State GMA (RCW 36.70A.130) requires Kitsap County to review and, if needed, revise the comprehensive plan and implementing development regulations to ensure compliance with the GMA. Kitsap County is required by Washington State CTED to complete this process by December 2004.
2. 2004 Site-Specific Requests
  - **White-Lueck** – 19.14 acres, North Kitsap  
Current Designation/Zoning: Rural Residential  
Proposed Designation/Zoning: Urban Medium or Urban High Residential
  - **Global Investments-Kitsap Transit** – 2.11 acres out of 11.74 acres), Central Kitsap  
Current Designation/Zoning: Urban Low Residential and Urban Restricted  
Proposed Designation/Zoning: Commercial/Neighborhood Commercial
  - **Lindsey** – 40.0 acres, Central Kitsap  
Current Designation/Zoning: Rural Residential  
Proposed Designation/Zoning: Urban Low Residential or Urban Restricted
  - **Lewis** – 0.6 acres, South Kitsap  
Current Designation/Zoning: Urban Low Residential  
Proposed Designation/Zoning: Commercial/Highway Tourist Commercial
  - **Cara Land Co-Flaherty** – 20.0 acres, South Kitsap  
Current Designation/Zoning: Urban Reserve  
Proposed Designation/Zoning: Business Park or Industrial
  - **Binns** – 7.5 acres, South Kitsap  
Current Designation/Zoning: Urban Reserve  
Proposed Designation/Zoning: Industrial
  - **Home Depot** – 2.17 acres (of 7.04 total acres), South Kitsap  
Current Designation/Zoning: Urban Medium Residential  
Proposed Designation/Zoning: Commercial/Highway Tourist Commercial

## **Attachments:**

1. Adoption Ordinance
2. Maps

## **Fiscal Impact**

**Expenditure:** Expenditures in 2004 budget for additional staff time, legal notification and supplies for public information materials related to this process, including consultant and outside legal council fees

**Total Cost (including all related costs):** To Be Determined (based on staff salaries, equipment usage, supplies, GIS mapping, additional staff time for evening hearings, extra help assistance, travel expenses, and consultant and outside legal counsel).

**Related Revenue:** A non-refundable fee of \$50 was charged for each pre-application review, a portion of which, if accepted, applied to the application fee. A fee of \$2,725 was charged for new site-specific applications.

**Cost Savings:** \$0

**Net Fiscal Impact:** Determined

**Source of Funds :** General Fund and application fees

**Clearances**

Affected Departments	Department Representative
Department of Community Development	Cindy Baker, Interim Director

**Return Address:**

Richard Bjarnson

P.O. Box 204

Kingston, WA 98346



GARY LINDSEY

BLA

\$22.00

200404150190

Page: 1 of 4

04/15/2004 11:59A

Kitsap Co, WA

**DECLARATION OF BOUNDARY LINE ADJUSTMENT**

THIS DECLARATION MADE THIS 15 day of April, 2004 by Richard S. and Barbara J. Bjarnson, "Declarant(s)" as owners of the real property legally described hereinafter as "PARCEL 'A'", and "PARCEL 'B'", who wish to adjust the common property line between said "PARCEL 'A'" and "PARCEL 'B'" without creating any additional lot, tract, parcel or site.

**CURRENT "PARCEL 'A'" (Tax Acct. No.212702-4-017-2001) is legally described as:**

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 21, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON; EXCEPT THE EAST 30 FEET THEREOF FOR HANSVILLE ROAD NE; AND EXCEPT THOSE PORTIONS DEEDED TO THE STATE OF WASHINGTON FOR STATE ROUTE 104 BY DEEDS RECORDED UNDER AUDITOR'S FILE NOS. 144719, 723051, 8105040063 AND 9307120260 ON THE SOUTH SIDE THEREOF.

**CURRENT "PARCEL 'B'"(Tax Acct. No.212702-4-025-2001 is legally described as:**

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 21, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON; EXCEPT THOSE PORTIONS DEEDED TO THE STATE OF WASHINGTON FOR STATE ROUTE 104 BY DEEDS RECORDED UNDER AUDITOR'S FILE NOS. 144719, 723051, 8105040063 AND 9307120262.

**RESULTING "PARCEL 'A'" shall be legally described as:**

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 21, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON; DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE NORTH 88° 32' 42" WEST ALONG THE SOUTH LINE OF SAID SUBDIVISION 922.81 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE NORTH 01° 22' 12" EAST ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, 250.00 FEET; THENCE SOUTH 88° 32' 42" EAST 263.21 FEET; THENCE NORTH 01° 27' 38" EAST 130.00 FEET; THENCE SOUTH 88° 32' 42" EAST 330.00 FEET; THENCE NORTH 01° 27' 38" EAST 80.00 FEET; THENCE SOUTH 88° 32' 42" EAST 400.00 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE SOUTH 01° 27' 38" WEST ALONG LAST SAID LINE 460.00 FEET TO THE POINT OF BEGINNING;

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EXCEPT THE EAST 30 FEET THEREOF FOR HANSVILLE ROAD NE; AND EXCEPT THOSE PORTIONS DEEDED TO THE STATE OF WASHINGTON FOR STATE ROUTE 104 BY DEEDS RECORDED UNDER AUDITOR'S FILE NOS. 144719, 723051, 8105040063, 9307120260 AND 9307120262 ON THE SOUTH SIDE THEREOF.

**RESULTING "PARCEL 'B'" shall be legally described as:**

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 21, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON; DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE NORTH 88° 32' 42" WEST ALONG THE SOUTH LINE OF SAID SUBDIVISION 922.81 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE NORTH 01° 22' 12" EAST ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, 250.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 01° 22' 12" EAST 412.34 FEET TO THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE SOUTH 88° 30' 42" EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, 963.86 FEET TO THE NORTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21; THENCE SOUTH 01° 27' 38" WEST ALONG THE EAST LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, 201.76 FEET; THENCE NORTH 88° 32' 42" WEST 400.00 FEET; THENCE SOUTH 01° 27' 38" WEST 80.00 FEET; THENCE NORTH 88° 32' 42" WEST 330.00 FEET; THENCE SOUTH 01° 27' 38" WEST 130.00 FEET; THENCE NORTH 88° 32' 42" WEST 263.21 FEET TO THE TRUE POINT OF BEGINNING; EXCEPT THE EAST 30 FEET THEREOF FOR HANSVILLE ROAD NE.



GARY LINDSEY

BLA

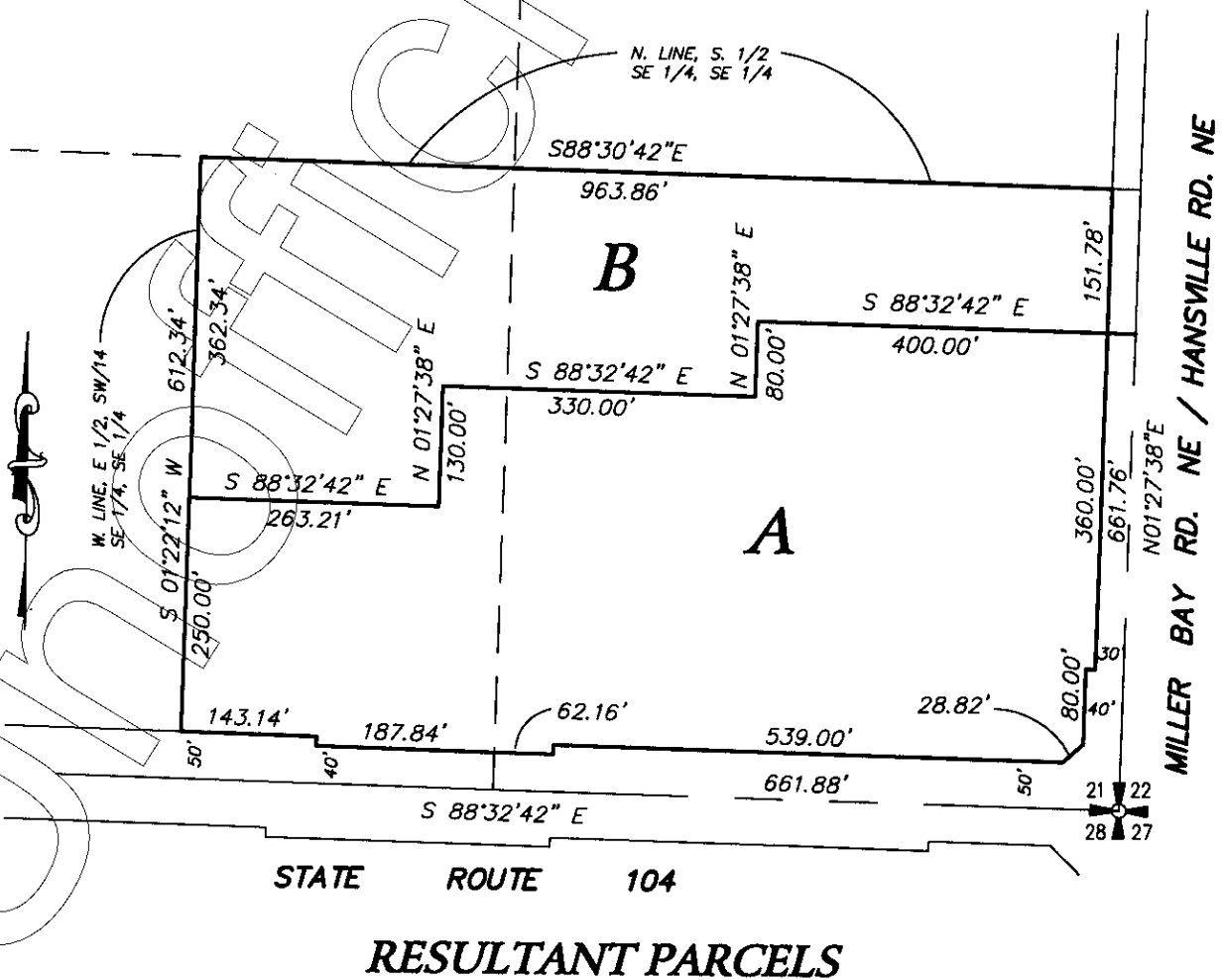
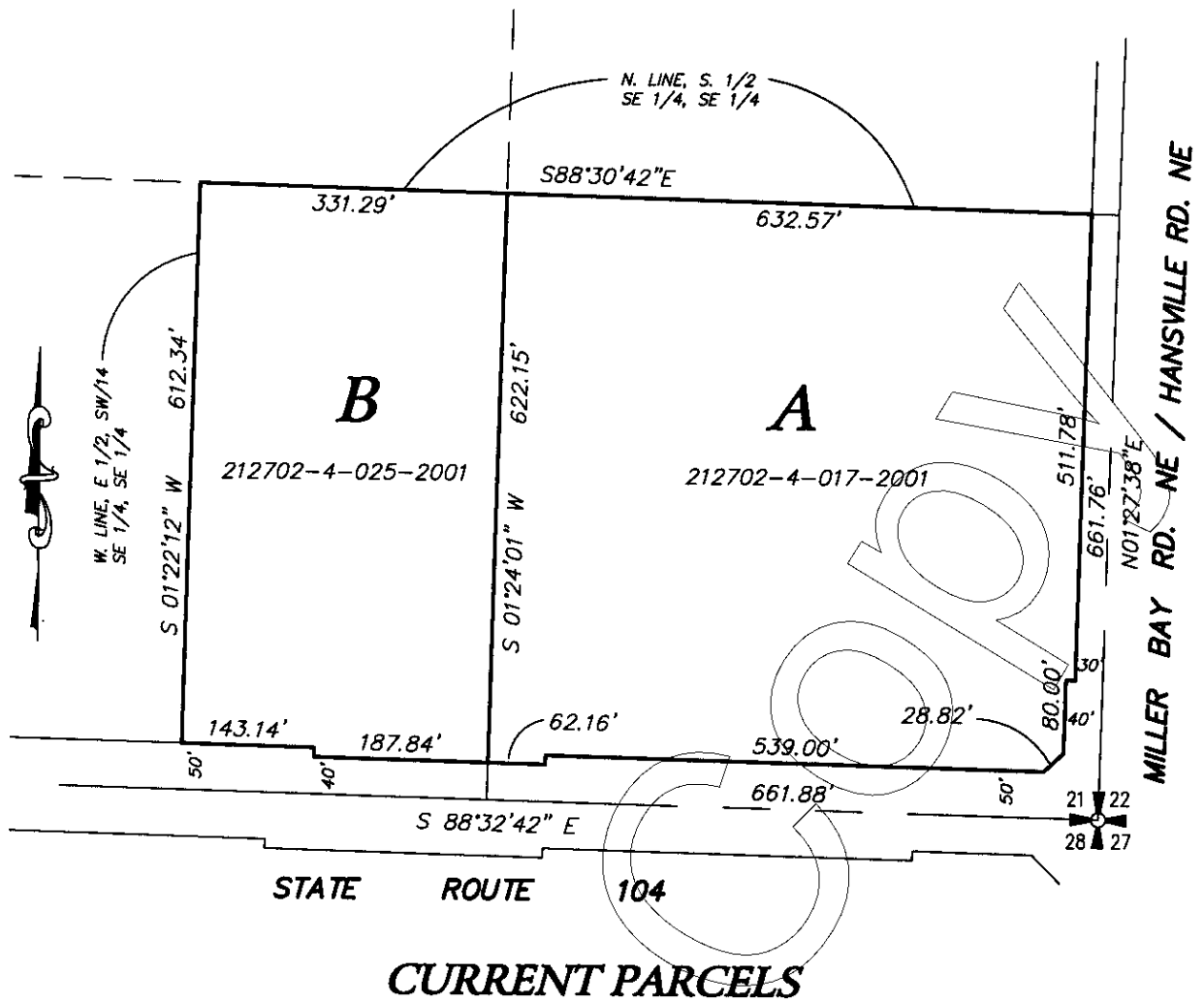
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Kitsap Co, WA



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DECLARANT(S)/OWNERS OF ORIGINAL PARCEL(S):

Name

Mailing Address

City/Zip

Richard S. and Barbara J. Bjarnson

P.O. Box 204

Kingston, WA 98346

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first above written.

DECLARANTS

Barbara J. Bjarnson

**Note: Signatures and Notary Seal must NOT go into 1 inch border line of document!**

STATE OF WASHINGTON )

)§

COUNTY OF KITSAP )

ON THIS DAY personally appeared before me Richard S. and Barbara J. Bjarnson, to me known to be the individual(s) described in and who executed the foregoing Declaration and acknowledged that they signed the same as their free and voluntary act.

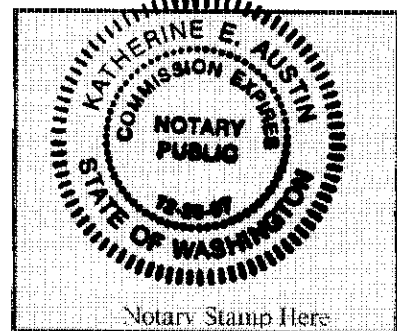
GIVEN under my hand and official seal this 15 day of April, 2004.

Katherine E. Austin  
Notary Public in and for the

State of Washington, residing at Poplsbo

My Commission expires: 12/28/07

**Note: Signatures and Notary Seal must NOT go into 1 inch border line of document!**



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## STAFF REPORT

### **GEORGE'S CORNER LIMITED AREA OF MORE INTENSIVE DEVELOPMENT**



*June 4, 2004*



## DIRECTIVE

Under Ordinance 311-2003, signed December 8, 2003, the Kitsap County Board of County Commissioners directed staff to re-examine the public participation element for designating a Limited Area of More Intensive Rural Development ("LAMIRD") at the George's Corner intersection (**Attachment 1**). In an effort to fulfill this requirement, the Kitsap County Department of Community Development organized a series of four meetings to involve the citizens of Kingston and those property owners surrounding the George's Corner intersection. The purpose and scope of this group, referred to as the George's Corner Boundary Advisory Group, was to review the requirements that are outlined in the Washington State Growth Management Act and Kitsap County Comprehensive Plan and form a recommendation to the Planning Commission and Board of County Commissioners regarding the designation of a LAMIRD at the George's Corner intersection.

## INTRODUCTION/BACKGROUND

The purpose of this report is to provide information to the Boundary Advisory Group, public, Planning Commission and Board of County Commissioners (BCC) regarding the future of the George's Corner Commercial area (intersection of Hwy 104 & Hansville Road). This information must be consistent with language and direction contained in Ordinance No. 274-2002 and 311-2003, relating to growth management, amending the Comprehensive Plan and Map for 2003 and 2004 (respectively) and making corresponding amendments to the Kitsap County Zoning Code and Map.

On June 10, 2002 the BCC approved a re-zone application for four acres of the North Sound Bank property on the southeast corner of the George's Corner intersection under Ordinance 274-2002. This ordinance also directed County staff to conduct an analysis of the George's Corner intersection for the potential designation as a commercial LAMIRD, as provided for under the Growth Management Act [RCW 36.70A.070 (5)(d)]. (**See Attachment 2**)

After reviewing the staff report and taking public testimony, on August 19, 2003 the Planning Commission made their final recommendation to the Board of County Commissioners regarding the George's Corner LAMIRD. Their discussion and recommendation are summarized as follows:

**George's Corner LAMIRD Considerations:** In brief, as GMA requires, there was some built development with infrastructure prior to July 1, 1990 on the Northeast (one lot removed from the intersection) and Southwest corners. Additional development has occurred since 1990 on the Northeast corner, leaving the Northwest and Southeast corners undeveloped. There are natural areas that may serve as barriers to expanded development in all directions, and there are two major arterials that bisect the properties. Plan and sub-area plan policies identify a need and ability to limit development within an identifiable Logical Outer Boundary (LOB).

**Discussion:** The Planning Commission was divided as to the appropriate location and placement of a Logical Outer Boundary (LOB) that met the criteria established under .RCW 36.0A.070(5)(d)(iv). After examination of the staff findings, the Planning Commission determined that the pre-1990 development of the Northwest corner (one lot removed) did not justify establishing a LOB. Therefore, the Planning Commission



found that having only one corner of the crossroads development constructed prior to 1990 failed to qualify this area for a LAMIRD designation at this time.

**Staff Recommendation:** Approval

**Planning Commission Recommendation:** Denial.

The Board of County Commissioners, giving consideration to the recommendation of the Planning Commission, made the following decision regarding the George's Corner LAMIRD:

- 1) The Board finds that, with regard to the proposed George's Corner LAMIRD, the County has not followed the process established in the Comprehensive Plan for designating LAMIRDs. While a LAMIRD designation at George's Corner may be a logical and appropriate way to contain growth in that area, the Board cannot make that determination, or any other determination relating to George's Corner, until the LAMIRD process discussed in the Comprehensive Plan is followed.
- 2) With regard to the site-specific redesignation requests, on August 19, 2003, the Kitsap County Planning Commission reviewed the proposed site-specific amendments, and the Planning Commission's recommendation on each is noted below. With regard to each site specific redesignation request, the Board finds as follows:
  - a) Richard Bjarnson, LIS Docket No. 03 05328, request to redesignate property from Rural Residential (RR) to Neighborhood Commercial (NC). The site is the northwest quadrant of Hansville Road and State Route 104. The site includes 13.5 acres. **Planning Commission recommended denial.**

The BCC finds that, because the Bjarnson Comprehensive Plan Amendment and rezone is integral to the George's Corner LAMIRD designation process, the **Bjarnson amendment and rezone should be deferred to 2004** for concurrent review with a LAMIRD designation at George's Corner. The fees for that review should be waived.

- b) Choi Byong Jik and In Sook, LIS Docket No. 03 05684, request to redesignate property from Rural Protection (RP) to Neighborhood Commercial (NC). The site is 1,200 feet east of Hansville Road on the north side of State Route 104. Total area equals 23.48 acres. **The Planning Commission recommended denial of the redesignation request.**

**The BCC concurs with the Planning Commission and finds that the Choi redesignation request should be denied** because it would allow urban uses in a rural area. The BCC adopts the findings of the Planning Commission with respect to this issue.

The progression of the re-zone proposals from 1998 to 2003 can be seen in **Attachment 3**.

To satisfy the requirements of the Growth Management Act and the direction given in Ordinance 311-2003, Kitsap County hosted a series of four public meetings to discuss and form a recommendation for the designation of a LAMIRD at the George's Corner intersection, beginning on April 14, 2004. This group, called the "George's Corner Boundary Advisory Group", was





composed of representatives and property owners from parcels that are already developed commercial/industrial, parcels that have commercial zoning but no development, and properties that are currently residential but have expressed an interest in obtaining commercial zoning. There were also representatives who had participated in development of the Kingston Sub-Area Plan with the Kingston Citizen's Advisory Committee (KCAC), as well as landowners and homeowners in the area immediately surrounding the George's Corner intersection.

## LOCAL AND HISTORIC CONTEXT

As indicated in the original 1998 Kitsap County Comprehensive Plan Rural Appendix Issue Paper (pg. A-294) Kitsap County's rural lands are characterized by parcels of undeveloped land, scattered low-density development, and limited low-intensity commercial and industrial uses. These areas are not typically supplied or served with urban levels of service. "Commercial areas which generally consist of scattered pockets of small-scale grocery/convenience stores, limited light industrial, and forestry or mineral extraction activities" are typical development patterns that form the rural character and makeup of Kitsap County. The Issue Paper indicates that the existing characteristics of rural areas should be used to help develop criteria for designating appropriate Areas of More Intensive Development in the Comprehensive Plan, and to potentially draft regulations, design guidelines and other appropriate programs to ensure that these types and levels of growth are limited and contained consistent with the requirements of GMA.

The Issue paper further identifies George's Corner as a candidate example of an existing Rural Commercial area, which can be defined as:

*Areas that are dispersed throughout the county and include sites devoted to relative small-scale commercial or industrial uses. Examples include: crossroads development (gas station, mini-mart or grocery store); neighborhood shopping centers, isolated commercial or industrial businesses; and small industrial parks that are not typically "rural" in character (ie: supporting agricultural or other "traditional" rural activities) and may be served by public or on-site sewer and water (pg A-296). Further, commercial uses in rural areas typically cater to the daily needs of the residents. (pg. A-300)*

## GROWTH MANAGEMENT ACT REQUIREMENTS FOR IDENTIFYING THE "LIMITED AREA OF MORE INTENSIVE RURAL DEVELOPMENT"

Direction for establishing LAMIRDs is set forth in the Growth Management Act under section 36.70A.070(5)(d), which states that:

...the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

- (i) Rural development consisting of infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas...
  - (A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection...
  - (B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this



subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5) . . . ;...

(iv) A county shall adopt measures to minimize and contain the existing areas... Lands included in such existing areas... shall not extend beyond the logical outer boundary of the existing area... thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominantly by the built environment, but that may also include undeveloped lands if limited as provided in this section. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address:

(A) the need to preserve the character of existing natural neighborhoods and communities,

(B) physical boundaries such as bodies of water, streets and highways, and landforms and contours,

(C) the prevention of abnormally irregular boundaries, and

(D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area...is one that was in existence: (A) on July 1, 1990...

The first step for designating a limited area of more intensive rural development is to define a logical outer boundary. This boundary is a permanent boundary, not subject to the review and revision procedures applicable to Urban Growth Areas (UGAs).

## ESTABLISHING THE LOGICAL OUTER BOUNDARY

Pursuant to the GMA [(RCW 36.70A.070(5)(d)(iv)] Kitsap County must adopt measures to minimize and contain existing area or uses within LAMIRDs and those areas shall not extend beyond the logical outer boundary (LOB). While LAMIRDs must be delineated predominately by the pre-July 1, 1990 built environment they also may include undeveloped land, if limited, in order to prevent further low-density sprawl. The GMA outlines four issues that must be addressed in establishing the LOB in addition to respecting the predominance of the pre-1990 built environment.

(D) The need to preserve the character of existing natural neighborhoods and communities: Preserving the character of the existing development was taken into consideration. The intersection is a classic example of a crossroads development in rural Kitsap County. Although a majority of the development has taken place since 1990, there is evidence that supports historic commercial development on three parcels adjacent to the intersection in the northeast quadrant and on one parcel on the southwest corner.

(E) Physical boundaries such as bodies of water, streets and highways, landforms and contours: This intersection area is considered a plateau region, with delineated drainage basins and headwaters for Grover's creek (ESA listed stream) and Gamble creek located on the east and west respectively. These areas can easily be depicted on





the CAO map and include identifiable features such as wetlands, hydric soils, open water and forest cover (**Attachment 4**). The two arterials at this location could not be used in determining the boundary because they are considered principal arterials/collectors with no side streets in close proximity and run directly through the middle of the potential LAMIRD.

- (F) The prevention of abnormally irregular boundaries: The physical boundaries can be easily established by the non-built or natural environment, however, the built environment provides for more of the immediate challenge because of the lack of existing structures and infrastructure as indicated by the Pre-1990 conditions (listed below). In addition the unique parcel shape/size and associated property lines could lead to some irregularity, unless parcels were split.
- (G) The ability to provide public facilities and services in a manner that does not permit low-density sprawl: The immediate area is currently served by water facilities (installed between 1992-95) and on site septic systems. There is an existing roadside distribution system for power with a voltage of 12.5 Kv's. There is adequate service capacity with no immediate plans for upgrades to any of these facilities.

For the purpose of a LAMIRD designation, RCW 36.70A(5)(d)(v)(A) requires that an existing area or use be one that was in existence on July 1, 1990. While the reference and discussion related to the George's Corner commercial area was contained within the Rural Appendix Issue Paper, further evidence must be provided through the analysis of the built environment to determine the potential for identifying a "logical outer boundary" (LOB). The Comprehensive Plan notes, however, that its language discussing the designation was not intended to be definitive or exclusive.

In trying to establish the LOB, the County used its Geographic Information System's (GIS) 1992 and 2001 aerial photos and parcel-specific Assessor's data, as well as the input received from the Boundary Advisory Group. Data was gathered and analyzed as follows:

#### Pre 1990 Conditions

1. Buildings – Four parcels contained existing structures on/prior to the date referenced above. The corner parcel (APN #282702-1-005-2004) located on the South ~~East~~ <sup>west</sup> side of Hwy 104 and Hansville Road retained a Mini-mart and gas station facility and associated uses/businesses contained within a 5150 sq ft building constructed in 1985. This parcel historically has been identified as the Kountry Korner's landmark. The second, third and fourth parcels (APN #222702-3-040-2003, 222702-3-041-2002 and 222702-3-042-2001) located on the North East corner (one parcel removed from the intersection) contained a 3440 sq ft manufacturing building constructed in 1968, a 3528 sq ft storage warehouse constructed in 1990, and a 3528 sq ft storage warehouse constructed in 1988, respectively.
2. Electrical/power – All parcels had access to a roadside distribution system (12.5 Kv.) with no upgrades in the last 10 years.
3. Water – PUD provides the necessary service to the immediate areas. Water mains are located on the north side of Hwy 104 (10") and on the east side of Hansville Road NE (8"). On-site mains for the Albertson's parcel are all 8" in diameter. Sources for the North Peninsula system are Kingston #3, #4, #6 & Ritter Road respectively. Main extension along Hwy 104 and Hansville Road NE were completed around August 11, 1995. (**Attachment 5**)



4. Road Infrastructure – As seen in the 1992 aerial photos, George’s Corner was characterized by a major arterial (State Hwy 104) and a county collector (Hansville Road).

## **KITSAP COUNTY COMPREHENSIVE PLAN REQUIREMENTS FOR IDENTIFYING THE “LIMITED AREA OF MORE INTENSIVE RURAL DEVELOPMENT”**

The following policy guidelines for designating LAMIRDs are set forth in the Kitsap County Comprehensive Plan:

**RL-22** Changes to land use designations for limited areas of more intensive development should be addressed via a local community planning process. This process would incorporate local knowledge, experience and preferences to determine appropriate area-specific land uses, development standards, design guidelines, and public service needs. Specific issues that should be considered in this planning process include:

- Appropriate area boundaries;
- Rural character of the subject and surrounding area;
- Appropriate mix of uses, densities and intensities;
- Feasibility, cost and need for public services;
- Significant natural constraints or features to be preserved;
- Provision for a monitoring and evaluation process; and
- Benefits to the local community.

**RL-23** The planning process for each limited area of more intensive development should include use of an advisory committee composed of area residents, interest groups, Tribes and County representatives. Kitsap County should develop a scope of work for each area, which outlines the structure of the planning process, the proposed schedule, issues to be addressed, and roles of the various participants.

In addition to policies RL-22 and RL-23, policy RL-24 states that “For identified commercial/ industrial areas, changes to permitted uses and development standards should be permitted through a master planning process...”. While the County recognizes that the George’s Corner crossroads development is characterized by commercial uses, the purpose and intent of this LAMIRD designation is to recognize the existing built environment. Requiring a master planning process for the existing development would be a timely and costly for those business owners and property owners affected.

The aforementioned public participation process required by the Kitsap County Comprehensive Plan has been conducted for the George’s Corner LAMIRD proposal and is described in the following section.

### **PUBLIC PARTICIPATION PROCESS**

On February 18, 2004, the North Kitsap Herald published an article outlining the history of the George’s Corner LAMIRD proposal, and identified where and when future information for this process will be available.

On February 26, 2004, County staff attended the Kingston Town Meeting with information regarding the upcoming public participation process for the George’s Corner LAMIRD. Citizens





in attendance were encouraged to sign up to be put on a contact list, and were provided with an informational sheet and questionnaire.

On April 5, 2004, Kitsap County mailed an invitation to landowners within 1000 feet of the center of the George's Corner intersection to solicit participation in the George's Corner Boundary Advisory Group (**Attachment 6**). This invitation identified the purpose and goal statement, as well as the dates and locations of upcoming meetings (**Attachment 7**).

On April 24, 2004, a notice of public meeting was published in the Bremerton Sun newspaper.

On May 5 and May 8, 2004, a notice of public meeting was posted in the North Kitsap Herald and the Bremerton Sun newspapers.

On the evenings of April 14, April 27, May 11, and May 18, 2004, the Kitsap County Department of Community Development hosted the meetings of the George's Corner Boundary Advisory Group. The summaries of those meetings can be found in **Attachment 8**.

The George's Corner Boundary Advisory Group was charged with formulating a recommendation that would be forwarded to the Planning Commission and Board of County Commissioners for their review, based on the requirements that are identified in the Washington State Growth Management Act and Kitsap County Comprehensive Plan. The primary concerns for allowing further commercial development at this crossroads intersection were as follows: traffic, intensity of uses that would be allowed, and the preservation of the natural systems. There were also concerns raised by the group related to the permanent nature of this boundary to limit future development and subsequently could not be redrawn based on future needs. These issues were identified in discussions during the four meetings and were identified in the questionnaires and maps that were submitted by 25 of the 38 participants in the series of BAG meetings. The responses to the questionnaires and maps completed by the Boundary Advisory Group have been summarized<sup>1</sup> and a series of four alternatives have been identified as a result.

Each of the four alternatives were developed by compiling the responses to the map drawing exercise and determining which properties received a majority consideration.

Alternative #1 identifies only those properties that currently retain commercial zoning, and was the scenario supported by the original staff report in 2003, is currently supported by the KCAC, and is supported by the 29 signers of the neighborhood petition.

Alternative #2 includes those properties that currently have the commercial zoning, as well as a small amount of additional property that can be characterized as "infill" development. Approval of Alternative #2 would be conditioned on the execution of a Boundary Line Adjustment by three property owners to include approximately 1/3 of their property within the LOB. Alternative #3 includes those properties that currently have Commercial zoning, as well as a more significant portion of "infill" property than Alternative #2. Approval of Alternative #3 would be conditioned on the execution of a Boundary Line Adjustment by three property owners to include approximately 2/3 of their property within the LOB.

Alternative #4 includes those properties that currently have Commercial zoning, as well as a significant portion of growth that a majority of the Boundary Advisory Group characterizes as "infill" development. (See **Attachment 9**)

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<sup>1</sup> George's Corner Boundary Advisory Group Questionnaire Responses Summary and Map Drawing Exercise Results Table  
June 4, 2004  
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## FINDINGS

### Staff Findings:

After careful consideration of statutory requirements for the potential designation of a LAMIRD, the following summary of findings is provided to assist and guide the decision-making process. Based on the research conducted for this effort, the findings are as follows:

**1. Existing development was established prior to July 1, 1990.**

One parcel located at the intersection of Hwy 104 and Hansville Road contained a non-residential use (with permits) and historic commercial zoning prior to GMA. The second, third and fourth parcels, located adjacent to the current Albertson's site (one-removed from the intersection) contained 3 non-residential buildings (with permits) also in place prior to GMA (**Attachment 10**).

**2. The Albertson's site was constructed after the 1990 cutoff date and therefore can't be used as justification for determining the LOB.**

However, it can be viewed as infill development between the two existing developed parcels noted above. Note: the Albertson site contains development that has established a higher intensity use than those existing prior to GMA.

**3. The location of the potential LAMIRD contains two major arterials (Hwy 104/Hansville Road).**

These arterials provide the primary accessibility to the entire North Kitsap region, including Kingston, Hansville, Port Gamble, Indianola and many locations in between.

**4. The location and immediate area is served by existing PUD water.**

This facility was not installed until 1992 (actual installation began in '92 and concluded in '95).

**5. Presence of on-site septic.**

The development/uses, which were in place prior to GMA, utilized on-site septic systems and therefore can be used as further justification of the pre-1990 existing built environment requirements established under GMA.

**6. Electrical power was provided to the immediate areas.**

This was done via a roadside distribution system that was in place before the 1990 conception date.

**7. The non-built or natural environment can provide useful assistance in delineating a LOB.**

This area is defined by a plateau region, with a delineated drainage basins located on either side of the intersection for Grover's and Gamble Creeks respectively (see critical areas map, **Attachment 4**). Therefore, the existing development could contain the development using the natural environment as the maximum limits. Property lines may also be used in determining a Logical Outer Boundary, which would prevent irregular boundaries and avoid splitting parcels.

**8. Recognition of commercial development in rural areas and preservation of rural character.**

This area maintains an identity that is distinct in that there is approximately 1.5 miles of distance between this location and the Kingston Urban Growth Area, thereby preserving the rural character of the surrounding area.

**9. The Kitsap County Commissioners are the decision-making authority for comprehensive plan amendments.**





### **Boundary Advisory Group Findings:**

The findings and recommendation of the George's Corner Boundary Advisory Group are as follows:

- 1) There should be a commercial LAMIRD designated at George's Corner based on the following criteria:
  - There was development in existence at this intersection prior to July 1, 1990.
  - Public services are available to serve development at this intersection (except sewer)
  - Designating a LAMIRD at this intersection will preserve the rural character of the surrounding neighborhoods
- 2) The four Alternatives for the Logical Outer Boundary were designated based on the following criteria:
  - Bodies of water, streets and highways, and land forms and contours were taken into consideration
  - Irregular boundaries were avoided by following parcel lines
  - The boundary line was delineated primarily by the pre-1990 development
  - Existing commercial development that occurred after July 1, 1990 is included to prevent low-density sprawl
  - Undeveloped lots are included within the boundary as infill development within the outer limits of the pre-1990 built environment
- 3) To keep with the rural character of the surrounding neighborhoods, the Neighborhood Commercial land use and zoning designation should be applied.
- 4) Improvements and channelization must be conducted on SR104, Miller Bay Rd, and Hansville Hwy prior to the occurrence of new development.

### **RECOMMENDATIONS**

**Staff Recommendation:** Based on the staff findings, the staff recommendation is approval of the LAMIRD designation at the George's Corner intersection, with the Logical Outer Boundary drawn to include those parcels as depicted in Attachment 11.

The potential designation of a Commercial LAMIRD at George's Corner could be justified on a limited basis. There is evidence of historic built environment prior to GMA (July 1, 1990) at George's Corner, however records indicate that a majority of the existing development has taken place after July 1, 1990. The natural constraints of the location provide limits on the size and scale of the LAMIRD. The boundary could be drawn in a manner that would limit the irregular nature of the existing developed parcels, and the potential for infill will be based on the delineation of a LOB. This area already has development that arguably exceeds that which was intended for our rural areas. However, if the overall impacts associated with infill of these areas were to exceed the Level of Service (LoS) standards and/or capacities of any existing public facility (water, roads, septic, storm-water) the development would not be supported through current policy direction and regulations. These rural areas have limited services and more restrictive development standards that would preclude further intensification or re-development beyond that which currently exists. It should be noted that these areas would also continue serving an important role for the existing and projected population needs of North Kitsap, by providing both limited employment opportunities and basic service needs for residents of the community.



The overall intent of the 1997 amendment to the GMA that allowed for the designation of LAMIRDs was to recognize historical (Pre-July 1, 1990) development patterns that were not considered rural in nature. The County cannot undo what has already taken place, but can utilize the guidelines established under the Growth Management Act to minimize the future impacts to the rural areas of Kitsap County.

**Boundary Advisory Group Recommendation:** The George's Corner Boundary Advisory Group recommends approval of a LAMIRD designation, with the LOB drawn to include some combination of those properties highlighted in Alternatives #1-4 (Attachment 9). The Boundary Advisory Group additionally recommends that infill development be given the Neighborhood Commercial zoning and land-use designation.

The George's Corner Boundary Advisory Group almost unanimously agreed that a LAMIRD designation is appropriate at this intersection. This intersection has repeatedly shown commercial growth that has historically occurred in a piece-meal fashion. Both homeowners and developers have agreed that a LAMIRD designation would be beneficial for all parties to be aware of the extent to which commercial development will be permitted. It gives the homeowners a guarantee that the commercial development will not continue to grow towards their homes, while giving the developers a definite amount of commercial space that will be available for future development. While the Boundary Advisory Group recognizes the intent of the GMA to recognize pre-1990 development and the development that currently exists, many group members felt that it was important to include undeveloped properties to serve the needs of the community and its rural residents. Many group members also felt that it was necessary to strictly recognize only those properties that currently contain commercial development. Because of these differences in opinions among the Boundary Advisory Group, they have recommended four alternative boundaries for consideration by the Planning Commission and Board of County Commissioners.



## **OPTIONS:**

1. Designate a LAMIRD boundary based on staff findings that recognize only the existing non-residential development (pre-1990) and natural limitations with limited infill opportunities.
2. Designate a LAMIRD boundary based on staff findings that recognize the existing non-residential development (pre-1990), infill development (post-1990) and natural limitations with additional opportunities for infill.
3. Designate a LAMIRD boundary based on pre-1990 existing development, post-1990 existing development, as well as several undeveloped parcels with project proposals (BAG Alternatives).
4. Consider the "do nothing" approach which would allow development and requests for parcel specific rezones to continue in the same manner as allowed under the current process.
5. Consider not designating a LAMIRD at this time but rather identify NEW policy language in the Comprehensive Plan Rural and Resource Lands Chapter, such as: "limit additional non-residential Comprehensive Plan site-specific amendments in rural areas until such a time when it is determined or evident that additional land is necessary to serve the existing or planned rural population."





**KITSAP COUNTY ORDINANCE #311-2003**  
**RELATING TO GROWTH MANAGEMENT, AMENDING THE COMPREHENSIVE  
PLAN AND MAP FOR 2003 AND MAKING CORRESPONDING AMENDMENTS TO  
THE KITSAP COUNTY ZONING CODE AND MAP**

(Excerpt)

**Section 4. Substantive Findings related to site-specific Comprehensive Plan Map amendments and Limited Areas of More Intensive Rural Development (LAMIRD).**  
The Board of County Commissioners makes the following findings related to site-specific Comprehensive Plan Map amendments and Limited Areas of More Intensive Rural Development (LAMIRD).

- 1) With regard to the Pioneer Way LAMIRD, the Board finds that GMA requires that a LAMIRD designation be based on development that was in place on or before July 1, 1990. The BCC finds that the record does not contain sufficient information to determine whether the Pioneer Way LAMIRD meets the criteria for a pre-1990 LAMIRD or any of the other types of LAMIRDs permitted by the GMA.
- 2) The BCC further adopts the Planning Commission findings relating to establishing a LAMIRD at the Pioneer Way location. The Planning Commission recommended against such a designation, finding that there was insufficient information in the record to determine whether the LAMIRD criteria could be met.
- 3) With regard to the George's Corner LAMIRD, while the Planning Commission was divided as to the appropriate location and placement of a Logical Outer Boundary (LOB) that met the criteria established under RCW 36.70A.070(5)(d)(iv), the Planning Commission recommended that a LAMIRD be adopted at this location.
- 4) The Board finds that, with regard to the proposed George's Corner LAMIRD, the County has not followed the process established in the Comprehensive Plan for designating LAMIRDs. While a LAMIRD designation at George's Corner may be a logical and appropriate way to contain growth in that area, the Board cannot make that determination, or any other determination relating to George's Corner, until the LAMIRD process discussed in the Comprehensive Plan is followed.
- 5) With regard to the site-specific redesignation requests, on August 19, 2003, the Kitsap County Planning Commission reviewed the proposed site-specific amendments, and the Planning Commission's recommendation on each is noted below. With regard to each site specific redesignation request, the Board finds as follows:
  - a) Richard Bjarnson, LIS Docket No. 0305328, request to redesignate property from Rural Residential (RR) to Neighborhood Commercial (NC). The site is

**the northwest quadrant of Hansville Road and State Route 104. The site includes 13.5 acres. Planning Commission recommended denial.**

- i) The BCC finds that, because the Bjarnson map amendment and rezone is integral to George's Corner LAMIRD designation process, the Bjarnson map amendment and rezone should be deferred to 2004 for concurrent review with a LAMIRD designation at George's Corner. The fees for that review should be waived.**
- b) Rozellen Burgess, LIS Docket No. 0306248, request to redesignate property from Manchester Village Low Residential (MVLR) to Manchester Village Commercial (MVC). The site is the northeast quadrant of the intersection of Alaska Avenue and Mile Hill Drive. Total area equals 1.28 acres. The Planning Commission recommended denial of the map amendment and rezone because it is inconsistent with the Manchester Community Plan.**
  - i) The BCC concurs with the Planning Commission and finds that the Burgess redesignation request should be denied. The BCC adopts the findings of the Planning Commission with respect to this issue.**
- c) Choi Byong Jik and In Sook, LIS Docket No. 0305684, request to redesignate property from Rural Protection (RP) to Neighborhood Commercial (NC). The site is 1,200 feet east of Hansville Road on the north side of State Route 104. Total area equals 23.48 acres. The Planning Commission recommended denial of the redesignation request.**
  - i) The BCC concurs with the Planning Commission and finds that the Choi redesignation request should be denied because it would allow urban uses in a rural area. The BCC adopts the findings of the Planning Commission with respect to this issue.**

**KITSAP COUNTY ORDINANCE #274-2002  
AMENDING THE COMPREHENSIVE PLAN AND LAND USE MAP FOR 2001**

*(Excerpt)*

**H. North Sound Bank: Docket No: 010517-006.**

**Current Land Use Designation/ Zoning: Rural Residential**

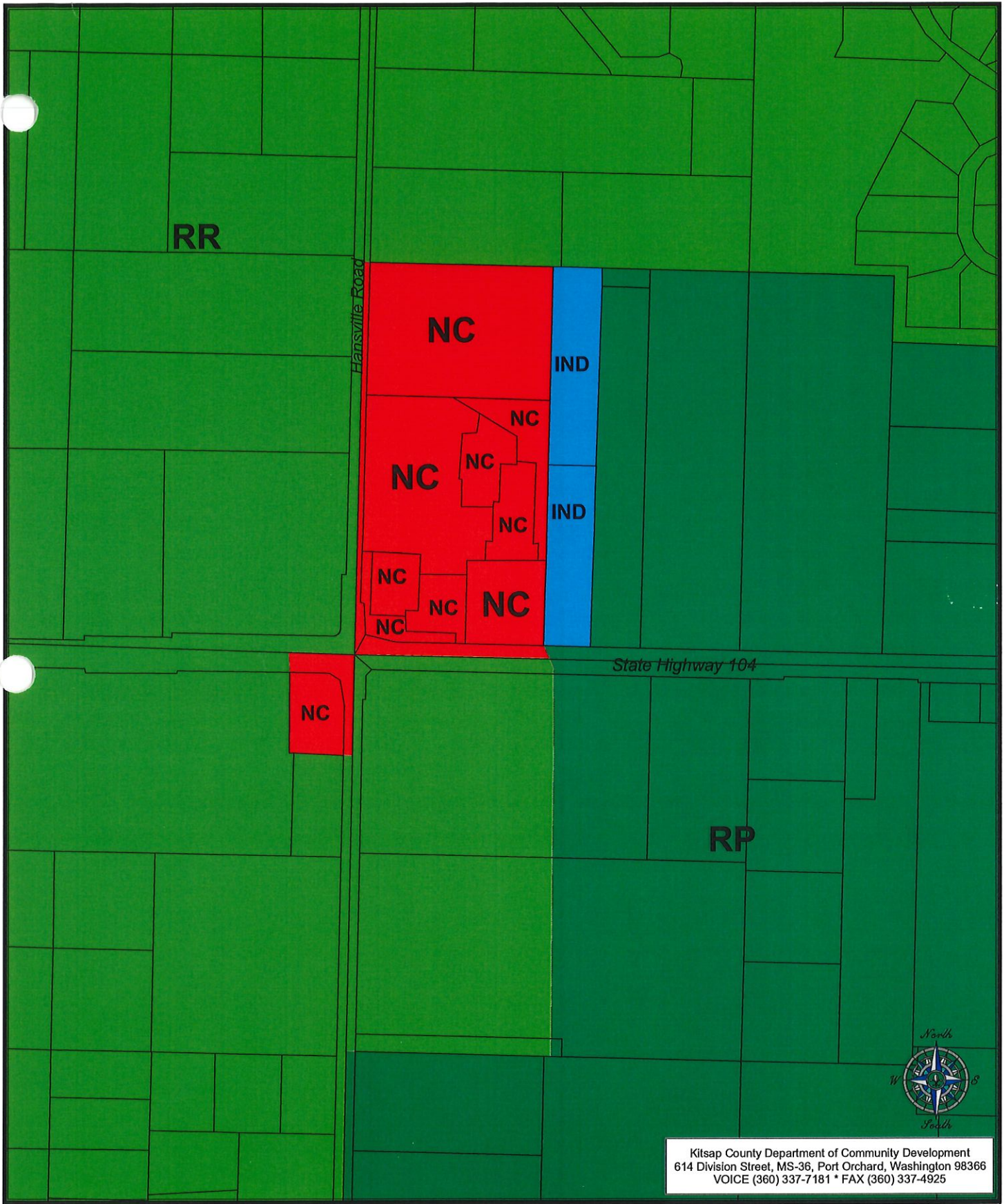
**Requested Land Use Designation/ Zoning: Commercial/ Neighborhood  
Commercial**

**Site Location: Site is at the S.E. corner of SR 104 and Hansville Road near  
Kingston. Total area equals 4 acres of a 13.74-acre parcel.**

**Decision: Board approves a Commercial land use designation and Neighborhood  
Commercial zoning and directs staff to conduct a planning study of this area to  
determine whether it should be a Limited Area or More Intense Rural  
Development.**

1. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan. George's Corner, the intersection of SR 104 and Hansville Road, is an identified Commercial Area per the Comprehensive Plan. The proposal promotes economic development and is being proposed in an area with existing commercial uses. There is a new shopping area across the highway, an Albertson's store and Bank. It has good access to SR 104, a high volume major corridor.
2. The proposed commercial land use designation/ zoning will be compatible with the existing uses across the street, at Country Corner and Albertson's. It has utilities available and environmental constraints are being addressed. A wetland delineation study has been prepared that shows how development can occur on the site with mitigation and minimal environmental degradation on 4 acres of the site.
3. The Board supports the applicant's desire to conduct off-site mitigation through the purchase of a 5-acre site near the headwaters of Grover's Creek. The Board finds that the site should be considered under the Plan's designation of Limited Areas of More Intensive Rural Development and that a LAMIRD plan establishing the boundaries for additional commercial development should be prepared by staff.





Kitsap County Department of Community Development  
614 Division Street, MS-36, Port Orchard, Washington 98366  
VOICE (360) 337-7181 \* FAX (360) 337-4925

- Neighborhood Commercial
- Industrial
- Rural Residential
- Rural Protection
- Tax Parcel

# George's Corner

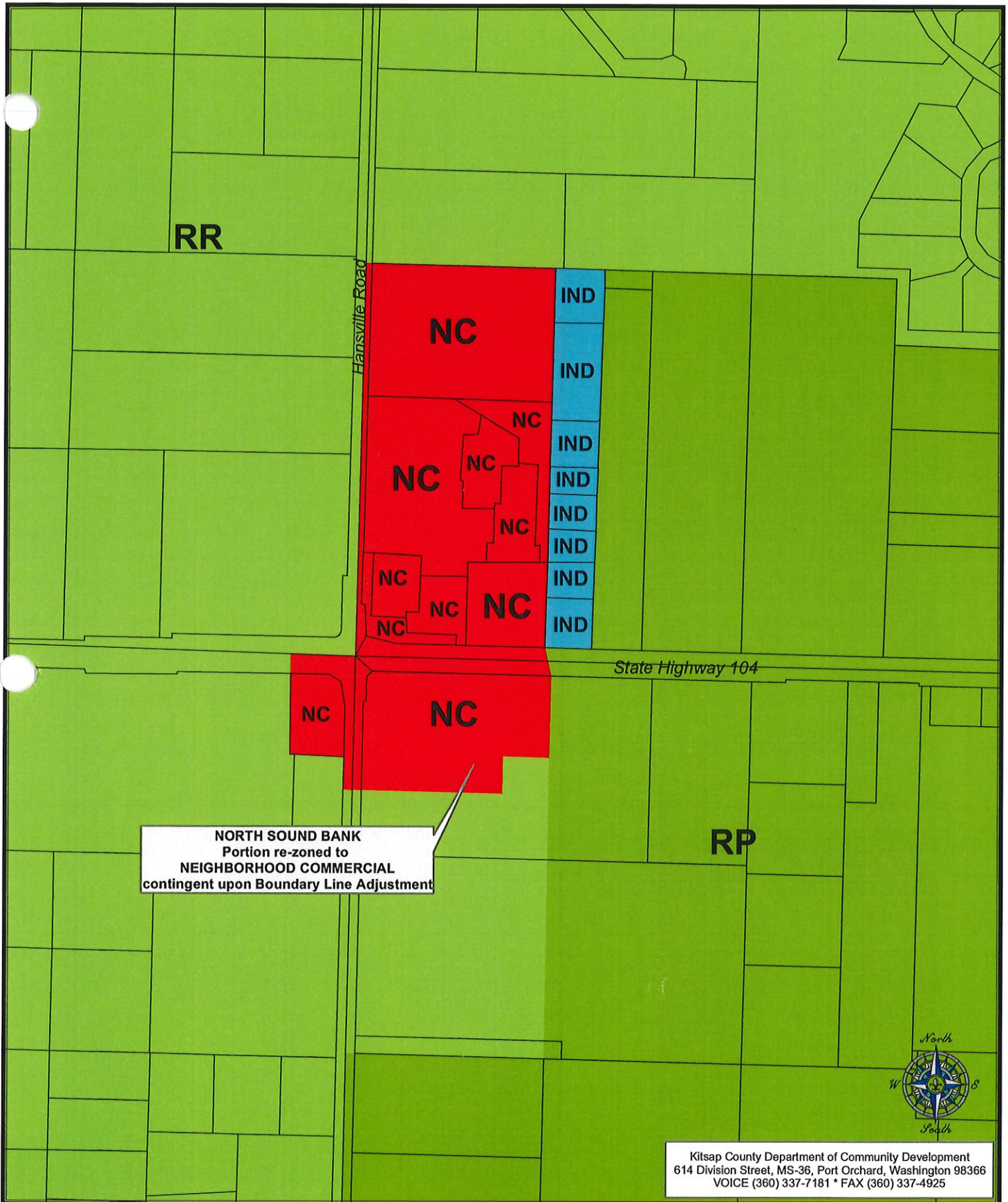
## 1998

Comprehensive Designations



May 24, 2004





NORTH SOUND BANK  
Portion re-zoned to  
NEIGHBORHOOD COMMERCIAL  
contingent upon Boundary Line Adjustment

Kitsap County Department of Community Development  
614 Division Street, MS-36, Port Orchard, Washington 98366  
VOICE (360) 337-7181 \* FAX (360) 337-4925

-  Neighborhood Commercial
-  Industrial
-  Rural Residential
-  Rural Protection
-  Tax Parcel

# George's Corner

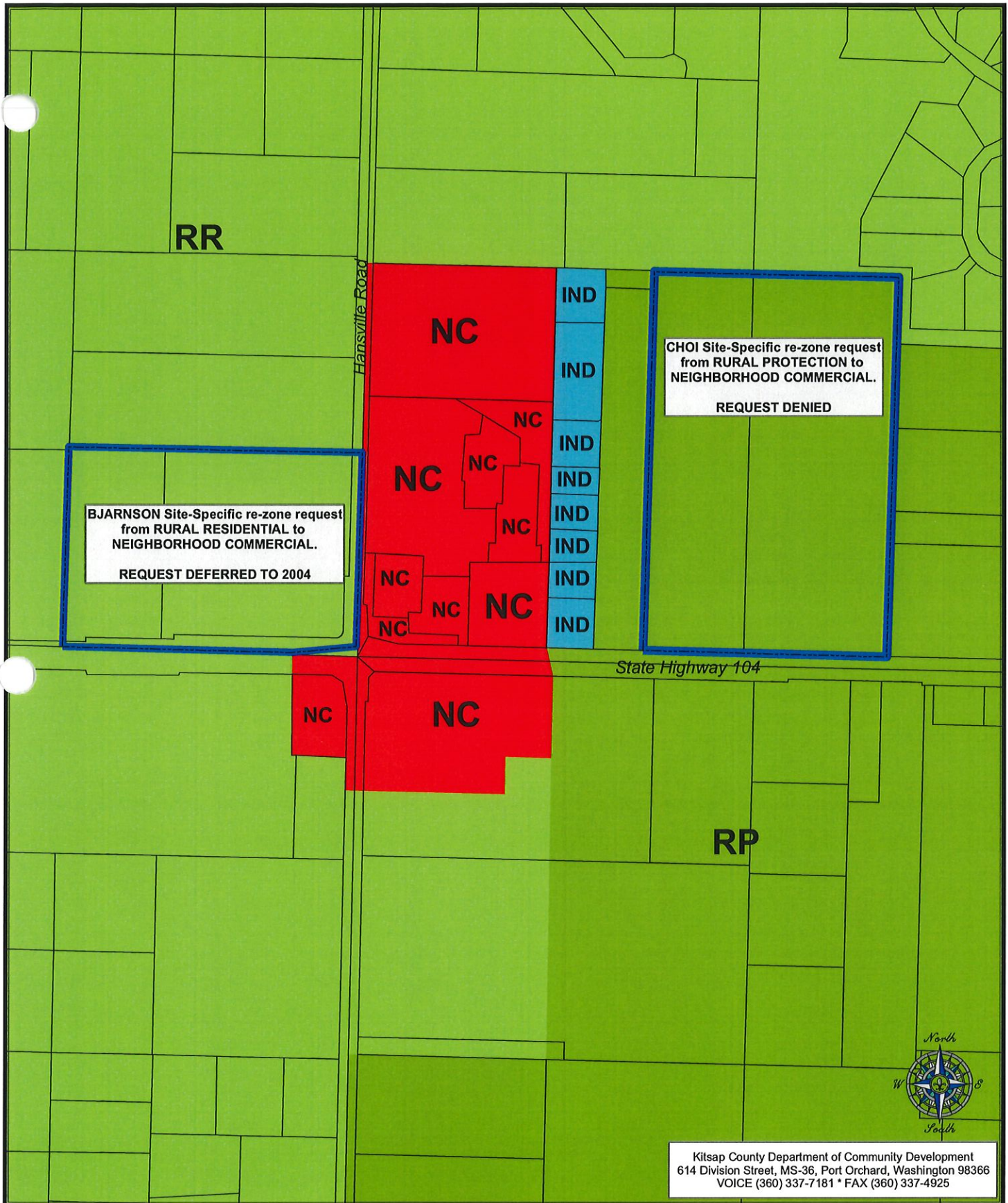
## 2002

Comprehensive Designations



May 24, 2004





Kitsap County Department of Community Development  
 614 Division Street, MS-36, Port Orchard, Washington 98366  
 VOICE (360) 337-7181 \* FAX (360) 337-4925

- Neighborhood Commercial
- Industrial
- Rural Residential
- Rural Protection
- Tax Parcel

# George's Corner

## 2003

### Comprehensive Designations

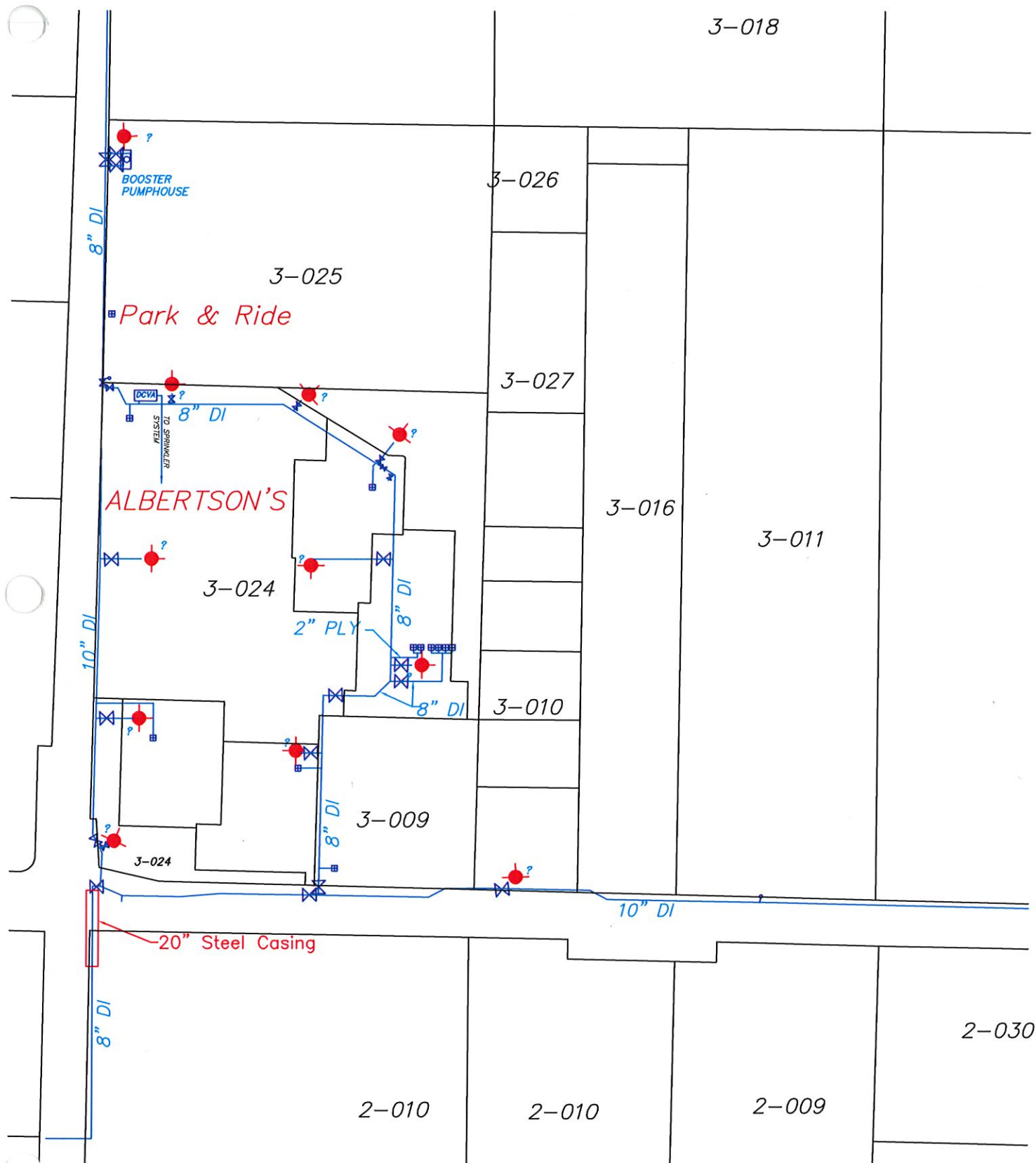


May 24, 2004



## 4



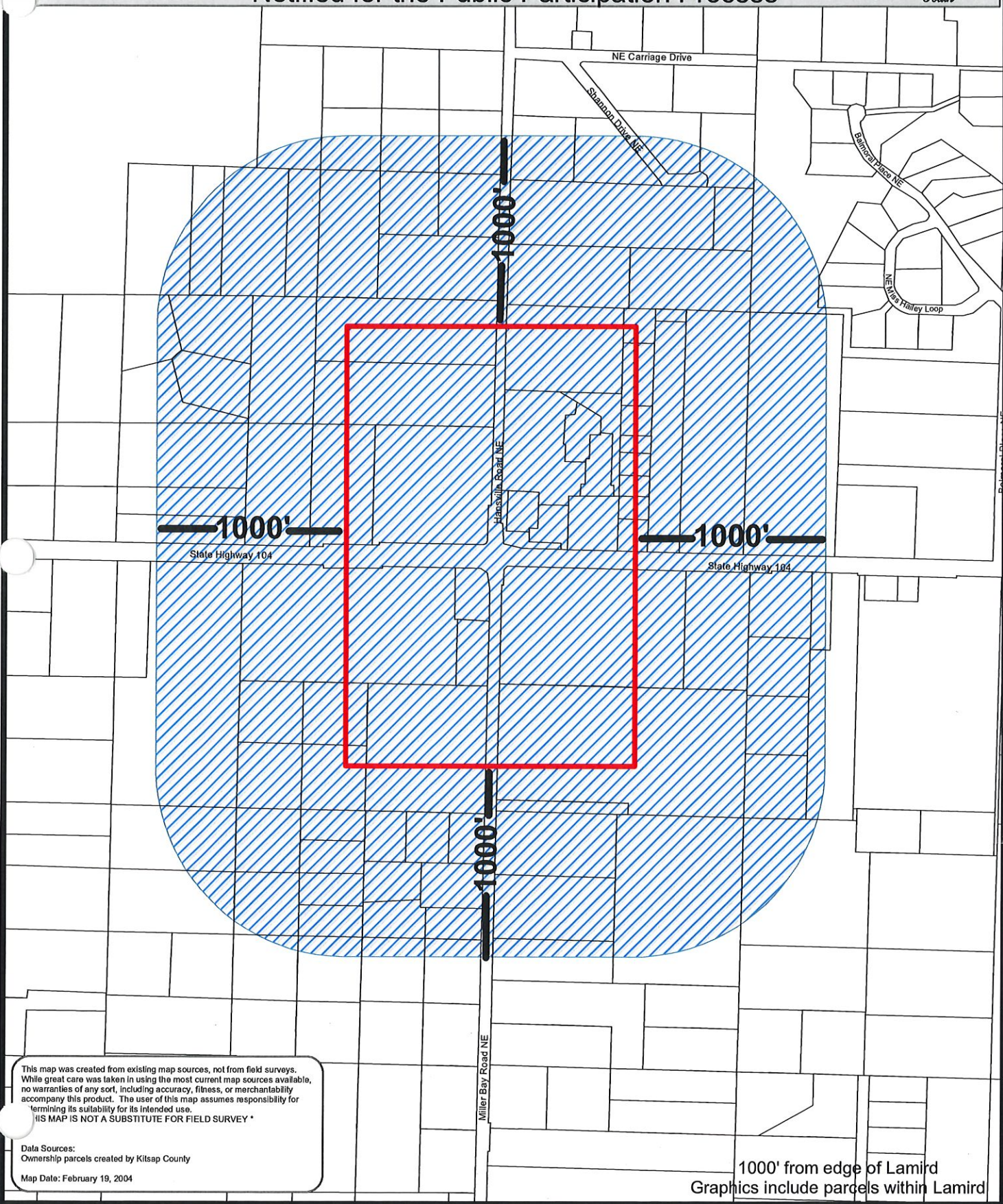






# George's Corner LAMIRD

## 1000' Radius of Property Owners Notified for the Public Participation Process



This map was created from existing map sources, not from field surveys. While great care was taken in using the most current map sources available, no warranties of any sort, including accuracy, fitness, or merchantability accompany this product. The user of this map assumes responsibility for determining its suitability for its intended use.  
**THIS MAP IS NOT A SUBSTITUTE FOR FIELD SURVEY \***

Data Sources:  
Ownership parcels created by Kitsap County  
Map Date: February 19, 2004

1000' from edge of Lamird  
Graphics include parcels within Lamird



George's Corner 1000' Radius for Mailing Meeting Notices

Tax ID Number	Contact Name	Mailing Address	CITY	STATE	ZIP CODE
272702-2-006-2002	AGUIRRE ROBERT & MILA	PO BOX 206	KINGSTON	WA	98346
222702-3-030-2005, 222702-3-035-2000, 222702-3-036-2009, 222702-3-033-2004	ALBERTSONS INC	250 PARKCENTER BLVD BOX 20	BOISE	ID	83726
212702-4-017-2001, 212702-4-017-2001	BJARNSON RICHARD S & BARBARA	PO BOX 204	KINGSTON	WA	98346
282702-1-040-2001	BLACK DONALD D & SANDRA L	PO BOX 856020	LOUISVILLE	KY	40285
212702-4-012-2006	BORN TRACY	PO BOX 1433	KINGSTON	WA	98346
272702-2-041-2009	BURKE EDWARD O	PO BOX 407	KINGSTON	WA	98346
5406-000-005-0004	CALLAHAN CHARLES & JO ELLEN	6325 BALZOW RD	SUQUAMISH	WA	98392
282702-1-019-2008	CHAUSSEE STEPHEN A	7980 NE ROCKY LN	KINGSTON	WA	98346
222702-3-011-2008, 222702-3-012-2007	CHOI BYONG JIK & IN SOOK	15010 21st Avenue West	LYNNWOOD	WA	98037
282702-1-044-2007, 282702-1-045-2006	CHRISTIANSON JOHN V				
222702-3-005-2006, 222702-3-018-2001	CLARK JERRY	PO BOX 205	PORT GAMBLE	WA	98364
282702-1-030-2003	COBB KATRINA & MICHAEL	7915 NE ROCKY LN	KINGSTON	WA	98346
212702-4-038-2006	CROLLARD MATTHEW & JANA	27480 GARDEN GATE AVE NE	KINGSTON	WA	98346
212702-4-040-2002	DAY ROBERT & PENNY	27390 GARDEN GATE AVE NE	KINGSTON	WA	98346
272702-2-022-2002	DINGER DAN W	3274 W HWY 20	REPUBLIC	WA	99166
282702-1-034-2009	ELIASON RONALD K & LEAH H	7975 NE ROCKY LN	KINGSTON	WA	98346
272702-2-013-2003	FAITH EVANGELICAL LUTH CHURCH	PO BOX 1603	KINGSTON	WA	98346
212702-4-023-2003	FALL LONNIE & JUANA	25605 71ST AVE SE	WOODINVILLE	WA	98072
212702-4-011-2007	FINLAY DAVID J	PO BOX 128	HANSVILLE	WA	98340
282702-1-007-2002	FINN CHRISTIN	7515 NE STATE HIGHWAY 104	KINGSTON	WA	98346
212702-4-034-2000	GEORGE FREDRICK J & TINA E	27789 HANSVILLE RD NE	KINGSTON	WA	98346
272702-2-031-2001, 272702-2-032-2000, 272702-2-030-2002	GOMES FRANK & CATHERINE P	31270 SUNRISE BEACH DR	KINGSTON	WA	98346
212702-4-007-2003	HAHN GEORGE R	PO BOX 28	SKAGWAY	AK	99840
222702-3-028-2009	HAL VORSEN CARL O & ANNE E	116 N 117TH ST	SEATTLE	WA	98133
4341-000-003-0007	HAMMON NORMAN E & ALMA M	27830 HANSVILLE RD NE	KINGSTON	WA	98346
282702-1-004-2005	HANSON JEFFREY A & NANCY G	PO BOX 1400	KINGSTON	WA	98346
212702-4-032-2002	HARTMAN ALBERT & KAREN	7971 NE THREE BERRY LN	KINGSTON	WA	98346
282702-1-002-2007	HENRY GARY A & LINDA D	11071 NE CARMODY LN	KINGSTON	WA	98346
272702-2-021-2003	HUGGART ANN C	18490 NELSON PL NE	POULSBO	WA	98370
282702-1-050-2008	HUST RICHARD & MICHELE	7828 ROCKY LAKE NE	KINGSTON	WA	98346
282702-1-052-2006	JOHNSON MELODY A & SCOTT B	26695 TROPHY LN	KINGSTON	WA	98346
5406-000-004-0005	KACZOR STEPHEN & MICHELLE	7775 NE MISS HAILEY LOOP	KINGSTON	WA	98346
212702-4-028-2008	KEENEY SHEILA G & SHEAN CHRISTOPHER J	26249 TUCKERMAN AVE NE	KINGSTON	WA	98346
212702-4-039-2005	KEIM SHIRLEY	PO BOX 1640	KINGSTON	WA	98346
272702-2-007-2001	KELLEY DANIEL & DIANNA	8535 NE ST HWY 104	KINGSTON	WA	98346
282702-1-021-2004	KINBERG DANIEL A	7900 NE ROCKY LN	KINGSTON	WA	98346
222702-3-034-2001	KITSAP BANK				
222702-3-009-2002	KITSAP COMMUNITY FEDERAL CU	8220 NE ST HWY 104	KINGSTON	WA	98346
222702-3-025-2000, 222702-3-026-2001, 222702-3-029-2008	KITSAP TRANSIT	200 CHARLESTON BLVD	BREMERTON	WA	98312
282702-1-058-2000	KNIGHT RENEE J & PATRICK T	7840 NE ROCKY LAKE	KINGSTON	WA	98346
212702-1-011-2003	KNOWLES/TURNER RE GROUP LLC	10722 19TH AVE NE	SEATTLE	WA	98125
222702-3-043-2000, 222702-3-044-2009, 222702-3-041-2002	KOUNTRY KORNER PROPERTIES INC	24225 SEATTLE LN NE	KINGSTON	WA	98346
282702-1-024-2001	LEMAI KENNETH J II & NANCY	8000 NE ROCKY LAKE	KINGSTON	WA	98346
5406-000-028-0007	LIBERTY LAND COLL	877 MEDSK RD	SEQUIM	WA	98382
212702-4-026-2000, 313702-4-008-2002	LUNDGREN CLAYTON E	3924 39TH AVE SW	SEATTLE	WA	98116
212702-4-043-2009, 212702-4-037-2007, 212702-4-044-2008	LYMAN JERRY L & KAREN J	27733 HANSVILLE RD NE	KINGSTON	WA	98346
4341-000-004-0006	MALMBORG JAMES & SANDRA	27889 SHANNON LN NE	KINGSTON	WA	98346
212702-4-041-2001	MOSTOFI AARON H & AYANNA J	4101 WISEMAN BLVD BLDG 102	SAN ANTONIO	TX	78251
282702-1-053-2005	NAYLOR GARRETT W & DELPHINIDAE HOLLY A	26711 TROPHY LN NE	KINGSTON	WA	98346
272702-2-009-2009	NELSON MAY I	16161 MIDVALE AVE N	SHORELINE	WA	98133
272702-2-014-2002, 222702-3-038-2007	NORTH KITSAP FIRE & RESCUE 10	PO BOX 41	KINGSTON	WA	98346
272702-2-010-2006	NORTH SOUND BANK	PO BOX 1779	POULSBO	WA	98370
282702-1-006-2003	NUSSBAUMER EDWIN	6659 SPRINGDALE HUNTERS RD	HUNTERS	WA	99137
282702-1-039-2004	ORR ALLEN & KIMBERLY K	26623 MILLER BAY RD	KINGSTON	WA	98346
212702-4-003-2007	OWEN CLINT & CLAUDIA	27360 GARDEN GATE AVE NE	KINGSTON	WA	98346

# George's Corner 1000' Radius for Mailing Meeting Notices

Tax ID Number	Contact Name	Mailing Address	CITY	STATE	ZIP CODE
282702-1-057-2001	OWEN RONALD E & MICHELLE I	PO BOX 3097	SILVERDALE	WA	98383
282702-1-035-2008	PAGAARD STEPHEN A & JOSEPHINE	7961 NE ROCKY LN	KINGSTON	WA	98346
212702-4-027-2009	PATTERSON EUGENIA A	27300 GARDEN GATE AVE NE	KINGSTON	WA	98346
212702-4-015-2003	PRATER NEAL	163 TOANDOS RD	QUILCENE	WA	98376
282702-1-020-2005	REINHARDT ROBERT M & MARTHA E	PO BOX 48	INDIANOLA	WA	98342
282702-1-017-2000	RIMBAULT MARC S & KIRSTEN	PO BOX 1695	KINGSTON	WA	98346
222702-3-031-2004, 222702-3-032-2003	S G PARTNERSHIP GP	2005 8TH AVE	SEATTLE	WA	98121
222702-3-040-2003, 222702-3-039-2006	SEABREEZE LLC	20635 CHIEF SEALTH DR	INDIANOLA	WA	98342
222702-3-004-2007	SELVIDGE GREG	1005 7TH AVE S	EDMONDS	WA	98020
212702-4-019-2009, 212702-4-024-2002, 212702-4-005-2005	SING PETER HO LIN & CHOU IRENE	PO BOX 274	OLYMPIA	WA	98507
4341-000-005-0005	SMITHLIN LEON S & TERESA	27888 SHANNON LN NE	KINGSTON	WA	98346
222702-3-042-2001	SOUND STONEWORKS INC	PO BOX 1247	KINGSTON	WA	98346
282702-1-005-2004	SUH JIN WON & SOOK SUK	12415 61ST AVE W	MUKILTEO	WA	98275
282702-1-031-2002	SUMMERS MARK D & SUSAN M	7931 NE ROCKY LN	KINGSTON	WA	98346
282702-1-023-2002	SWANSON DOUGLAS PAUL	7880 NE ROCKY LN	KINGSTON	WA	98346
282702-1-033-2000	THOMPSON JAMES L & TAMMI L	PO BOX 951	KINGSTON	WA	98346
272702-2-012-2004, 272702-2-015-2001, 272702-2-011-2005	TRASK RUSSELL J	PO BOX 10652	BAINBRIDGE ISLAND	WA	98110
282702-1-051-2007	WALGREN SARA	PO BOX 994	KINGSTON	WA	98346
212702-4-033-2001	WARREN MICHAEL B & CHRISTINA M	7953 NE THREE BERRY LN	KINGSTON	WA	98346
282702-1-001-2008	WHITNEY DENNIS GENE	9182 NE ST HWY 104	KINGSTON	WA	98346
282702-1-032-2001	WILLIAMS ION DUFFY	7945 NE ROCKY LN	KINGSTON	WA	98346
4341-000-006-0004, 222702-3-015-2004	ZHU XUEWU & SHEARER TRACY	27878 SHANNON LN NE	KINGSTON	WA	98346



<i>Interested Party Name</i>	<i>Mailing Address</i>	<i>City</i>	<i>State</i>	<i>ZIP</i>
COFFEE PAT	9100 NE STATE HWY 104	KINGSTON	WA	98346
Holland Chuck	PO Box 66	Port Gamble	WA	98364
Elliott Walt	11998 Jefferson Point Road	KINGSTON	WA	98346
Scholl Mark	PO Box 870	Kingston	WA	98346
Cooper Betsy	24888 Taree Drive NE	KINGSTON	WA	98346
Ginde Kamilee	PO Box 1546	KINGSTON	WA	98346
Steele Cheryl	PO Box 948	KINGSTON	WA	98346
Vanbianchi Ron	25050 Taka Lane	KINGSTON	WA	98346
Bayless Floyd	PO Box 192	KINGSTON	WA	98346
Finnigan Mike	PO Box 1043	Suquamish	WA	98392
Ackerman, Randy (Kingston Albertson's)	8196 NE Highway 104	Kingston	WA	98346
Lindsey, Gary	6400 Chico Way	Bremerton	WA	98312
Iremonger, Chuck	10629 NE 145th Place	Bothell	WA	98011-4823
Kaiserman, Molly	PO Box 1747	Kingston	WA	98346



## KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

614 DIVISION STREET MS-36, PORT ORCHARD WASHINGTON 98366-4682  
(360) 337-7181 FAX (360) 337-4925 HOME PAGE - [www.kitsapgov.com](http://www.kitsapgov.com)

Kamuron D. Gurol, Director

April 5, 2004

Dear Interested Party,

The George's Corner Boundary Advisory Group meetings will be held in the near future. Several dates for upcoming meetings have been reserved to discuss a potential designation of a Limited Area of More Intensive Rural Development, or LAMIRD, at the George's Corner intersection. The focus of this group will be to look at the historic development patterns and potential infill opportunities at the intersection of Highway 104 and Miller Bay Rd. It is anticipated that this group will ultimately form a recommendation that will be forwarded to the Kitsap County Planning Commission and Board of County Commissioners, summarizing their efforts and determining whether they believe that a boundary is appropriate at the intersection, and if so, where the logical outer boundary should be drawn. The Department of Community Development is encouraging community members and/or property owners to attend these meetings and provide input and opinions on this issue.

Upcoming meeting information is as follows:

- **Wednesday, April 14 from 6-9 pm at the Kingston Community Center banquet room**
- **Tuesday, April 27 from 6-9 pm at the North Kitsap Fire & Rescue meeting room**
- **Tuesday, May 11 from 6-9 pm at the North Kitsap Fire & Rescue meeting room**
- **Tuesday, May 18 from 6-9 pm at the North Kitsap Fire & Rescue meeting room**

This invitation has been sent to all persons that have contacted DCD regarding the George's Corner LAMIRD process. Please extend this invitation to anyone who you feel may be affected by or interested in this process. The first meeting will mostly be informational, and will focus on explaining the definition of a commercial LAMIRD, why this intersection is a candidate for this designation, and what the requirements are for the LAMIRD designation as outlined in the Growth Management Act and Kitsap County Comprehensive Plan.

Thank you all for your interest in this process.

Sincerely,

Jason Rice, Project Manager  
Kitsap County Department of Community Development  
Community Planning Division  
614 Division Street, MS-36  
Port Orchard, WA 98366  
(360) 337-4965  
[jrice@co.kitsap.wa.us](mailto:jrice@co.kitsap.wa.us)



**2004 GEORGE'S CORNER PUBLIC PARTICIPATION PROCESS SUMMARY REPORT**

On December 8, 2003, the Kitsap County Board of County Commissioners signed Resolution #311-2003, amending the Comprehensive Plan for 2003. The following findings were adopted in that resolution relating to the designation of a Commercial LAMIRD at the George's Corner intersection:

Section 4. Substantive Findings related to site-specific Comprehensive Plan Map amendments and Limited Areas of More Intensive Rural Development (LAMIRD). The Board of County Commissioners makes the following findings related to site-specific Comprehensive Plan Map amendments and Limited Areas of More Intensive Rural Development (LAMIRD).

- 1) With regard to the George's Corner LAMIRD, while the Planning Commission was divided as to the appropriate location and placement of a Logical Outer Boundary (LOB) that met the criteria established under RCW 36.70A.070(5)(d)(iv), the Planning Commission recommended that a LAMIRD be adopted at this location.
- 2) The Board finds that, with regard to the proposed George's Corner LAMIRD, the County has not followed the process established in the Comprehensive Plan for designating LAMIRDs. While a LAMIRD designation at George's Corner may be a logical and appropriate way to contain growth in that area, the Board cannot make that determination, or any other determination relating to George's Corner, until the LAMIRD process discussed in the Comprehensive Plan is followed.
- 3) With regard to the site-specific redesignation requests, on August 19, 2003, the Kitsap County Planning Commission reviewed the proposed site-specific amendments, and the Planning Commission's recommendation on each is noted below. With regard to each site specific redesignation request, the Board finds as follows:
  - a) Richard Bjarnson, LIS Docket No. 0305328, request to redesignate property from Rural Residential (RR) to Neighborhood Commercial (NC). The site is the northwest quadrant of Hansville Road and State Route 104. The site includes 13.5 acres. Planning Commission recommended denial.
    - i) The BCC finds that, because the Bjarnson map amendment and rezone is integral to George's Corner LAMIRD designation process, the Bjarnson map amendment and rezone should be deferred to 2004 for concurrent review with a LAMIRD designation at George's Corner. The fees for that review should be waived.
  - b) Choi Byong Jik and In Sook, LIS Docket No. 0305684, request to redesignate property from Rural Protection (RP) to Neighborhood Commercial (NC). The site is 1,200 feet east of Hansville Road on the north side of State Route 104. Total area equals 23.48 acres. The Planning Commission recommended denial of the redesignation request.
    - i) The BCC concurs with the Planning Commission and finds that the Choi redesignation request should be denied because it would allow urban uses in a rural area. The BCC adopts the findings of the Planning Commission with respect to this issue.

On February 18, 2004, the North Kitsap Herald published an article outlining the history of the George's Corner LAMIRD proposal, as well as where and when future information for this process will be available.

On February 26, 2004, County staff attended the Kingston Town Meeting with information regarding the upcoming public participation process for the George's Corner LAMIRD. Citizens that were in attendance of this meeting were encouraged to sign up to be put on a contact list, and were provided with an informational sheet and questionnaire.

On April 5, 2004, Kitsap County mailed an invitation to landowners within 1000 feet of the center of the George's Corner intersection to participate in the George's Corner Boundary Advisory Group. This invitation stated what the purpose and goal of the group would be, as well as where and when the upcoming meeting dates were scheduled.

On the evening of April 14, 2004, the first meeting of the George's Corner Boundary Advisory Group was held at the Kingston Community Center. County staff provided the ten attendees of the meeting with background information on the LAMIRD requirements that are outlined in the Washington State Growth Management Act and the Kitsap County Comprehensive Plan. Attendance included representatives from properties that are already developed commercial, properties that have commercial zoning but no development, and properties that are currently residential but want to get commercial zoning. There were also persons present who had worked on the Kingston Sub-Area Plan with the Kingston Citizen's Advisory Committee, as well as landowners and homeowners in the area immediately surrounding the George's Corner intersection. This meeting was primarily informational, with County staff providing a background on the State and County requirements and the history of this project specifically. The meeting proceeded into a question/answer session for participants to gain clarification on any issue that they may have needed further explanation on. The main concerns that were identified by the group at this meeting was the impacts on traffic if more development is allowed, as well as the uses that would be allowed within the boundary.

On April 24, 2004, a notice of public meeting was published in the Bremerton Sun newspaper.

On the evening of April 27, 2004, the second meeting of the George's Corner Boundary Advisory Group was held at the North Kitsap Fire and Rescue building. County staff provided handouts to the group that addressed the group's previously identified concerns, including traffic and allowed uses. The transportation handout outlined the upcoming projects that Public Works has planned for improvements to this intersection and the allowed use handout identified the Kitsap County Zoning Code Allowed Use Table for the Neighborhood Commercial designation. The group members that were in attendance at this meeting were approximately 50% new attendees, but were generally composed of the same representation that was at the first meeting. Because there were a large number of group members present that had not attended the first meeting, County staff gave a review of the first meeting, including the requirements of the GMA and KCCP. Staff also began having the group identify those characteristics of the GMA that this intersection meets or does not meet on a flip-chart. At the close of the meeting, those group members that were present came to three conclusions: 1) There should be a commercial LAMIRD designated at this intersection, 2) Those parcels included in the boundary should be



designated Neighborhood Commercial, and 3) Following parcel lines will provide the least-irregular boundary. The committee members that were present at this meeting felt that the Neighborhood Commercial zoning designation was the most fitting designation for the allowed uses that are characteristic of rural areas.

On May 5 and May 8, 2004, a notice of public meeting was posted in the North Kitsap Herald and the Bremerton Sun newspapers.

On the evening of May 11, 2004, the third meeting of the George's Corner Boundary Advisory Group was held at the North Kitsap Fire and Rescue building. The group members that were in attendance at this meeting were approximately 50% new attendees, but were generally composed of the same representation that was at the first and second meetings. The meeting began with a presentation of the County's traffic simulation modeling of the George's Corner intersection at peak flow hours by the Public Works Department. Department of Community Development staff then reviewed the flip-chart that contained the GMA requirements for LAMIRDs and what the group had discussed and documented for each of these guidelines. The historical zoning that is shown on the 1977 and 1994 Land Use Maps (Attached) were an important factor in the group's discussions at this meeting. They emphasized that they wanted the Planning Commission and Board of County Commissioners to give due consideration to this historical zoning, although they did understand that many of those affected parcels do not meet the criteria set forth in the GMA. No conclusions were made at this meeting for delineating a Logical Outer Boundary, however lengthy discussions did occur about some of the parcels that the group may recommend for inclusion in the boundary.

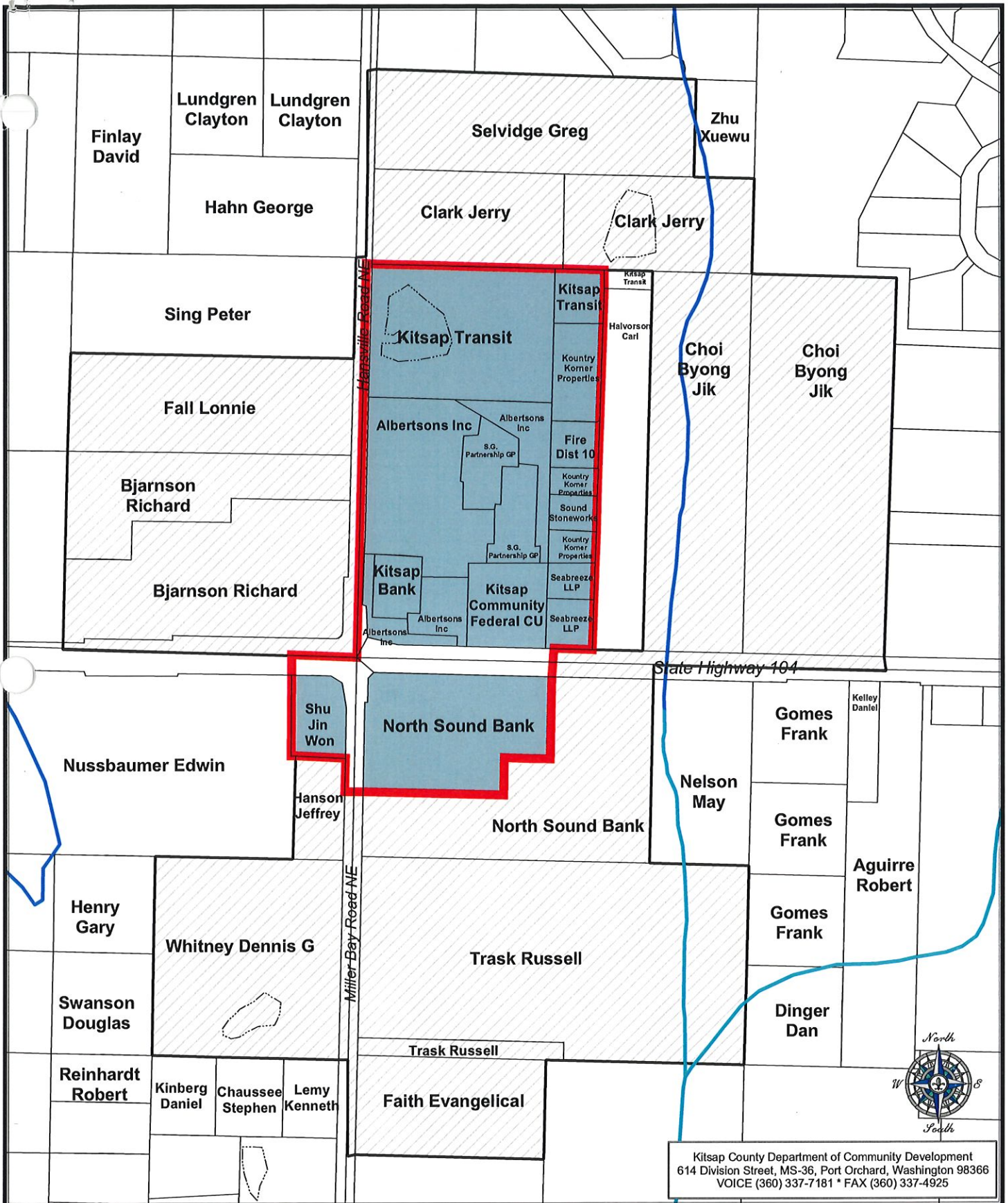
On the evening of May 18, 2004, the fourth and final meeting of the George's Corner Boundary Advisory Group was held at the North Kitsap Fire and Rescue building. County staff provided handouts to the group members present. These handouts included a map of the commercially zoned pre-1990 development, the commercially zoned developed properties, the commercially zoned undeveloped properties, and the residentially zoned undeveloped properties. Each group member then drew the Logical Outer Boundary that they felt would be appropriate and justifiable at this intersection. County staff then hung the maps at the front of the room and began identifying each candidate parcel and how it meets the requirements of the GMA and KCCP.

The findings and recommendation of the George's Corner Boundary Advisory Group are as follows:

- 1) There should be a commercial LAMIRD designated at George's Corner based on the following criteria:
  - There was development in existence at this intersection prior to July 1, 1990.
  - Public services are available to serve development at this intersection (except sewer)
  - Designating a LAMIRD at this intersection will preserve the rural character of the surrounding neighborhoods
- 2) The four Alternatives for the Logical Outer Boundary were designated based on the following criteria:
  - Bodies of water, streets and highways, and land forms and contours were taken into consideration

- Irregular boundaries were avoided by following parcel lines
  - The boundary line was delineated primarily by the pre-1990 development
  - Existing commercial development that occurred after July 1, 1990 is included to prevent low-density sprawl
  - Undeveloped lots are included within the boundary as infill development within the outer limits of the pre-1990 built environment
- 3) To keep with the rural character of the surrounding neighborhoods, the Neighborhood Commercial land use and zoning designation should be applied.
- 4) Improvements and channelization must be conducted on SR104, Miller Bay Rd, and Hansville Hwy prior to the occurrence of new development.





- Residential Parcels
- Alternative #1 Boundary
- Commercial Parcels
- Interested Parties for Commercial Zoning
- DNR Hydro
- Water Type 4
- Water Type 5
- Unclassified Water

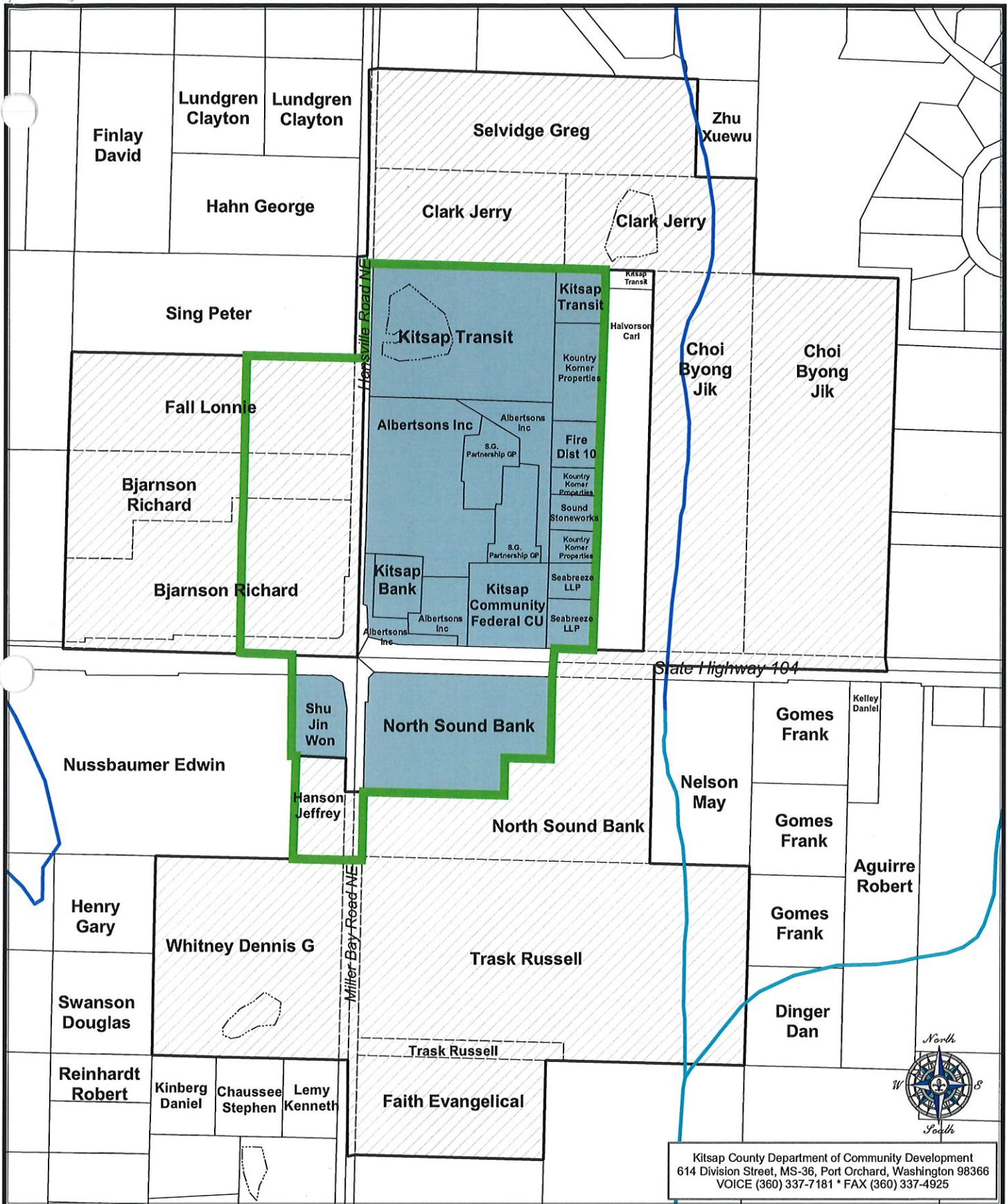
# George's Corner Alternative #1

Proposed LAMIRD - 32.22 Acres



May 24, 2004





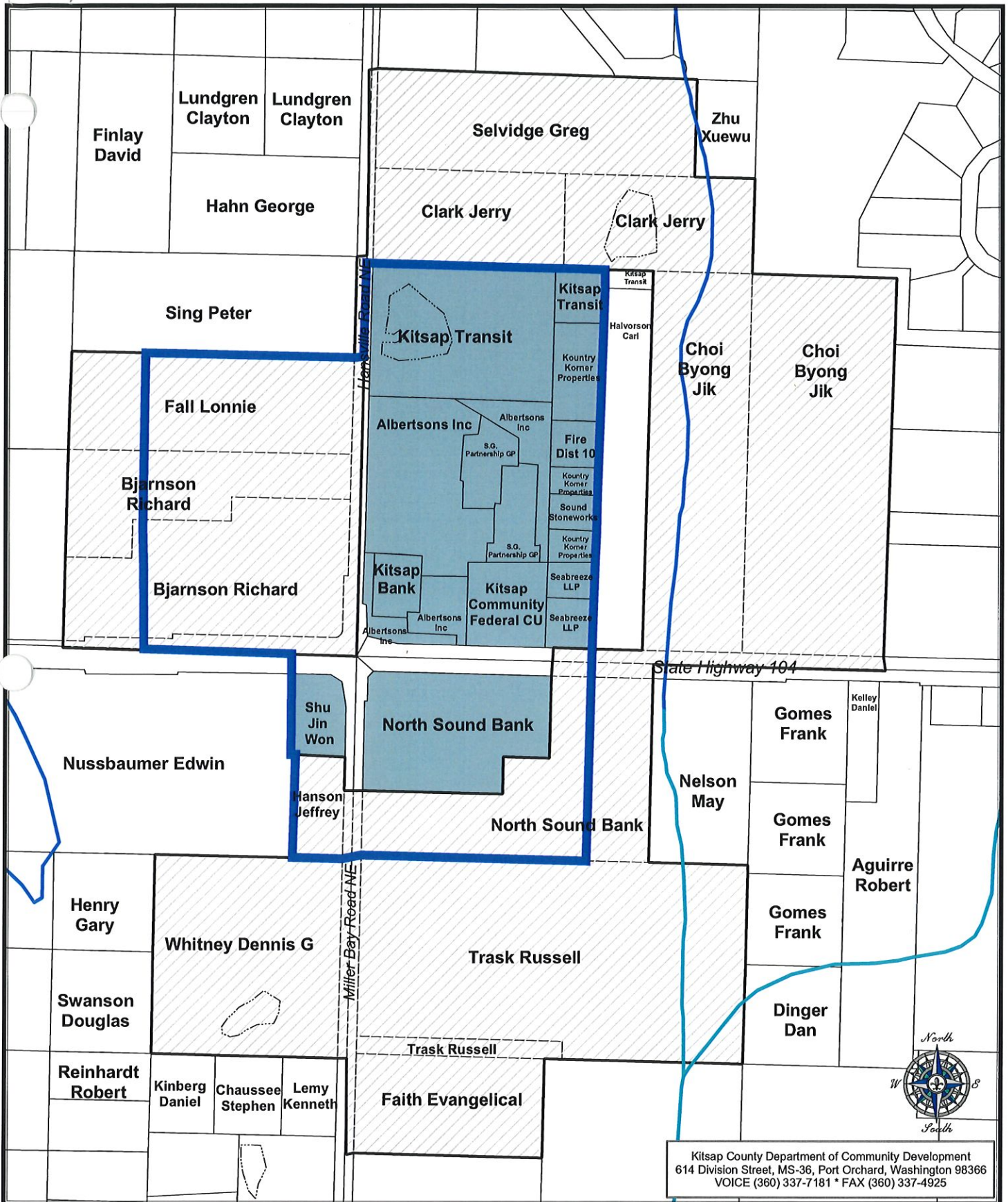
# George's Corner Alternative #2

Proposed LAMIRD - 46.04 Acres



May 24, 2004





Kitsap County Department of Community Development  
 614 Division Street, MS-36, Port Orchard, Washington 98366  
 VOICE (360) 337-7181 \* FAX (360) 337-4925

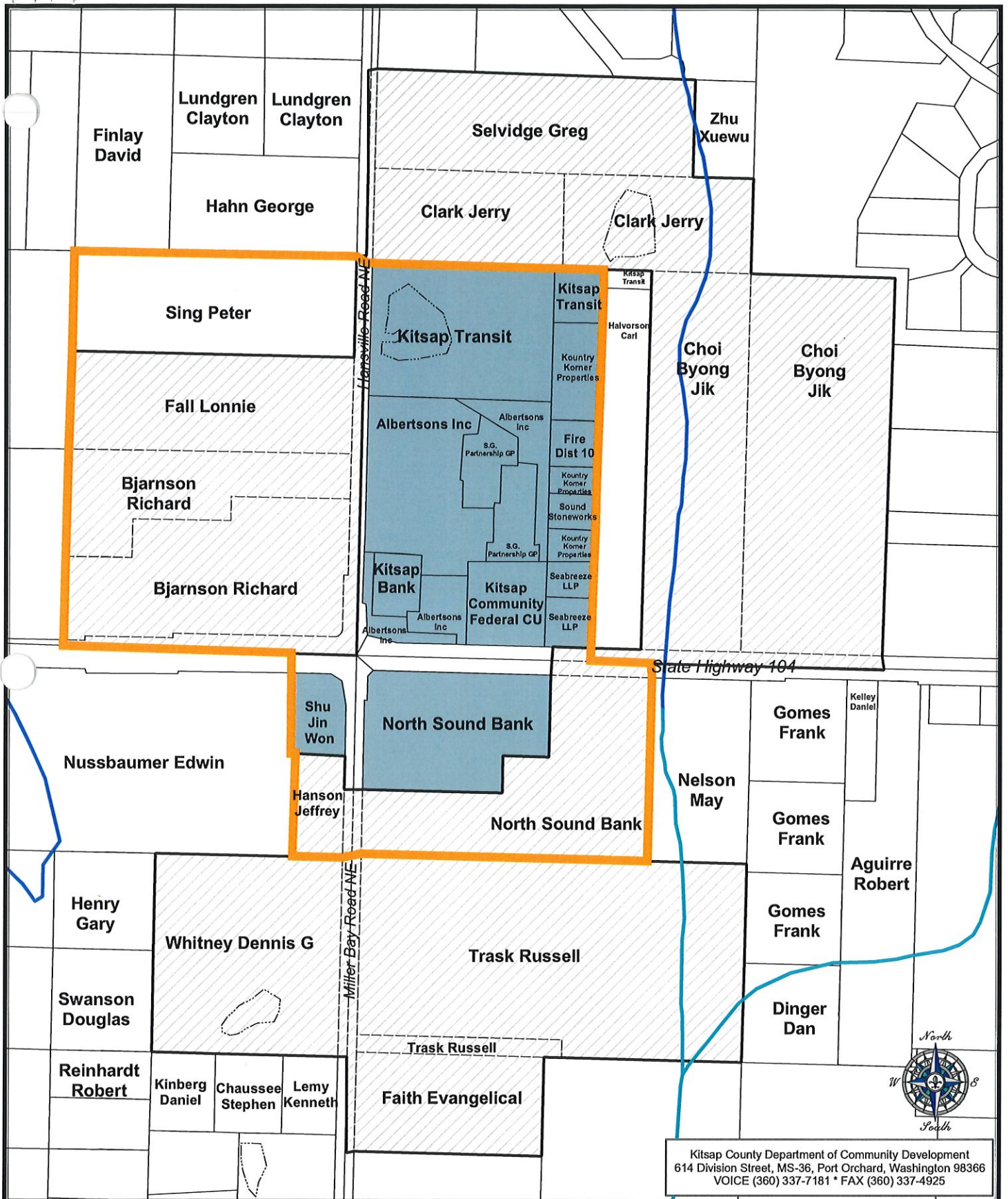
# George's Corner Alternative #3

Proposed LAMIRD - 62.01 Acres



May 24, 2004





Kitsap County Department of Community Development  
614 Division Street, MS-36, Port Orchard, Washington 98366  
VOICE (360) 337-7181 \* FAX (360) 337-4925

- Residential Parcels
- Alternative #4 Boundary
- Commercial Parcels
- Interested Parties for Commercial Zoning
- DNR Hydro
  - Water Type 4
  - Water Type 5
  - Unclassified Water

## George's Corner Alternative #4

Proposed LAMIRD - 72.97 Acres



May 24, 2004





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Tax Parcel  
Developed Commercial:  
Built prior to 1990

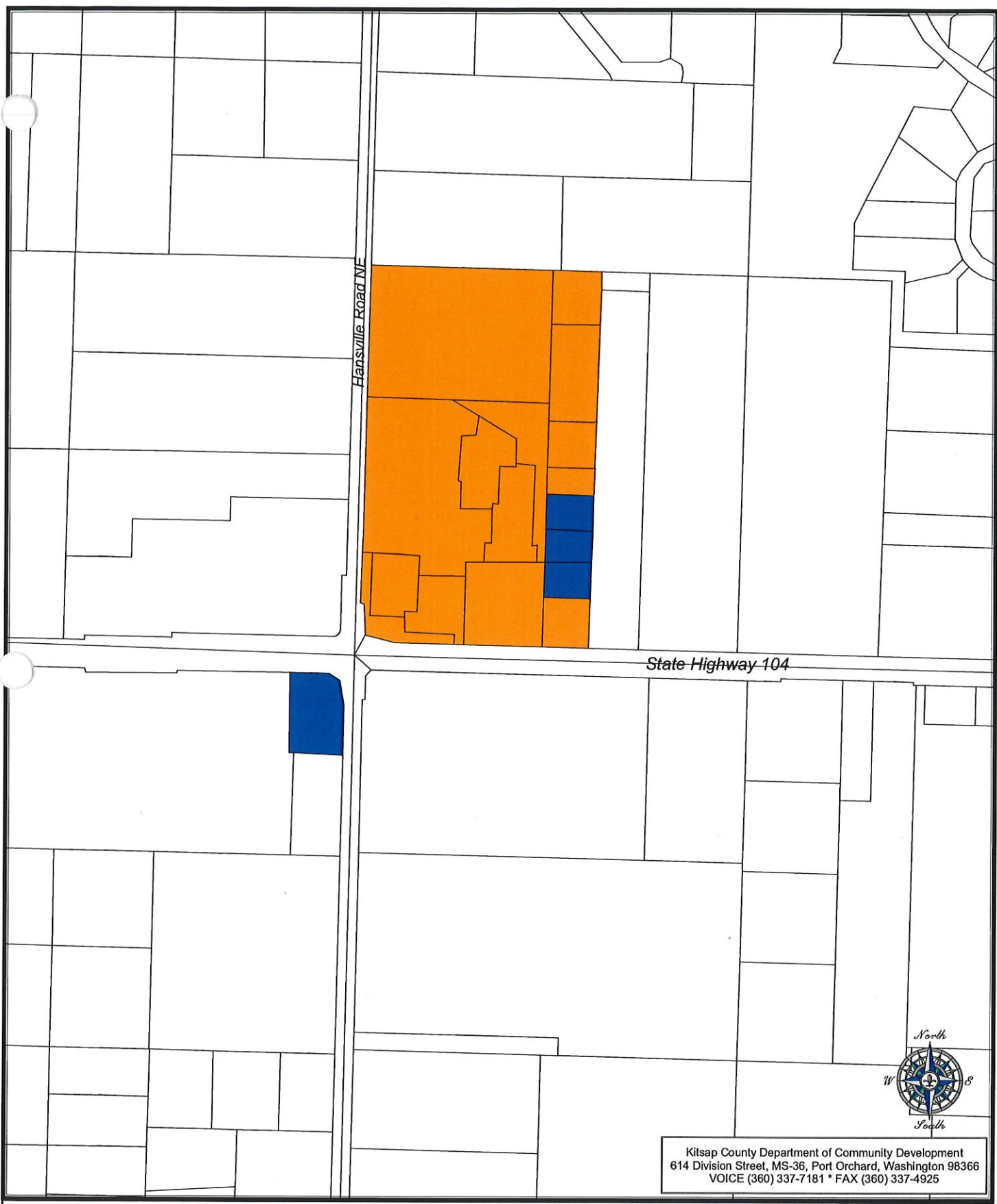
# George's Corner

## Commercial Development


Built prior to 1990



May 24, 2004



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-  Tax Parcel
-  Developed Commercial:  
Built prior to 1990
-  Developed Commercial:  
Built after 1990

# George's Corner

## Commercial Development

Built pre-1990 vs. post-1990













May 24, 2004














































# George's Corner






**Proposed LAMIRD Boundary  
Staff Recommendation**  
*Limited Area of More Intense Rural Development*

	Staff Recommendation LAMIRD Boundary
	River and Streams
	Water Type 1
	Water Type 2
	Water Type 3
	Water Type 4
	Water Type 5
	Undersaturated Water

	Wetlands
	Flood Insurance Rate Map Flood Zone A

	<b>Class I Salmon Habitat Protection Zones</b>
	Class I Wildlife Conservation Areas
	Class I Wetlands
	Class I Wetlands
	Class I Wetlands
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	Class I Wetlands
	Class I Wetlands
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	<b>WSDNR Water Types</b>
	Wetlands (DNR)
	Tidelands
	Open Salt Water
	Open Fresh Water

	<b>Geologically Hazardous Areas</b>
	Critical Areas Ordinance (KCC 19.400.410)
	High Geological Concern (KCC 19.400.410 A. 1a)
	Moderate Geological Concern (KCC 19.400.410 B. 2a-d)
	Hydro Soils (KCC 19.400.410 B. 2e)

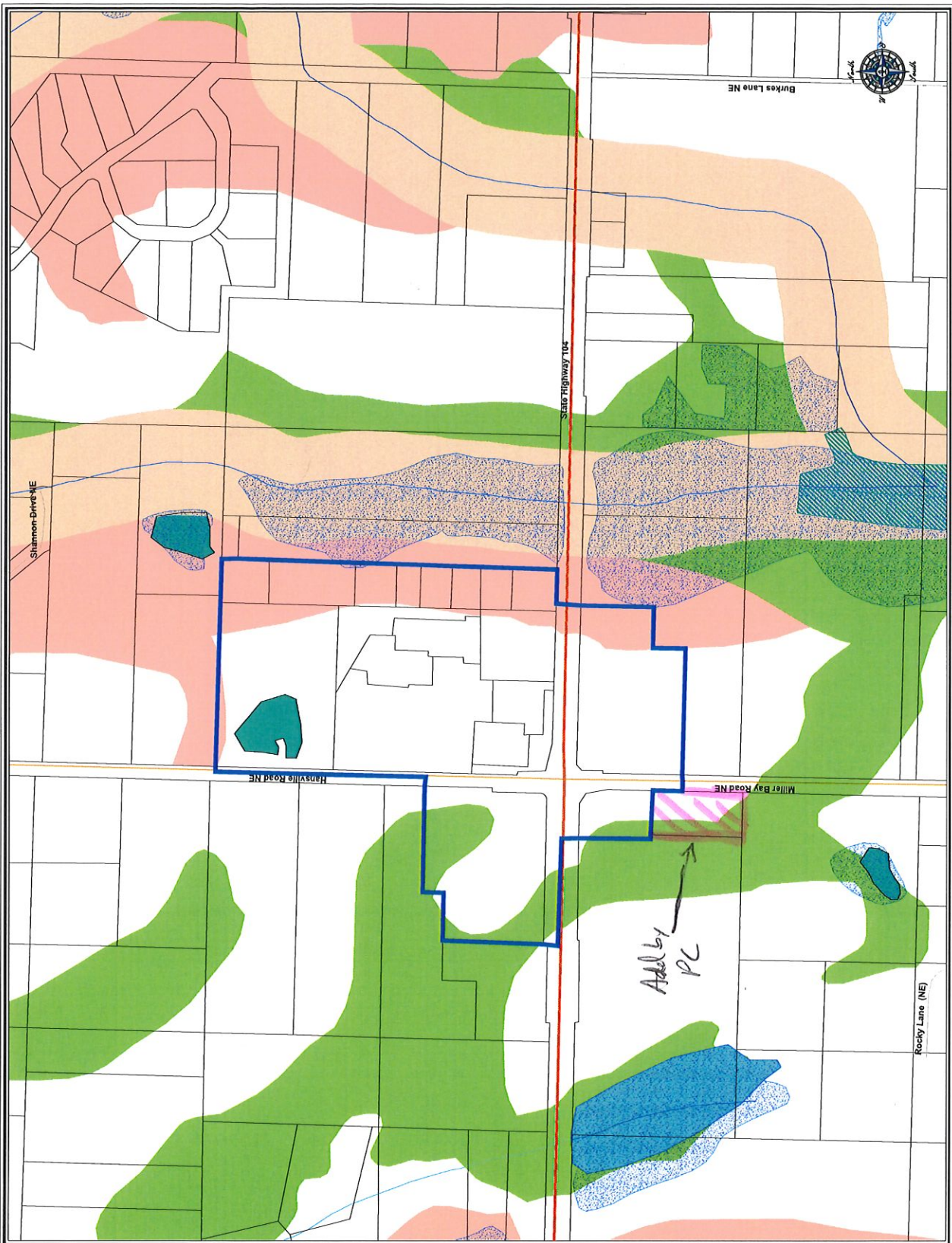
This map was created from existing map sources, not from field surveys. While great care was taken in using the most current map sources available, the user of this map assumes responsibility for its accuracy and is not a substitute for a professional survey. \*THIS MAP IS NOT A SUBSTITUTE FOR FIELD SURVEY\*

Data Sources:  
Ownership parcels created by Klamath County  
Map Date: February 20, 2004

**Draft**



Packet Page 332



Approved by BOCC



# George's Corner

## Building Limitations

### River and Streams

- Water Type 1
- Water Type 2
- Water Type 3
- Water Type 4
- Water Type 5
- Unclassified Water

### Wetlands

- Flood Insurance Rate Map
- Flood Zone A

### Class 1 Salmon Habitat Protection Zones

- Class 1 Wildlife Conservation Areas
- Wildlife Management Plan Mandatory
- per CAO - KCC 19.400.410 A. 1a
- Class 1 Wildlife Conservation Areas
- Wildlife Management Plan May be required
- per CAO - KCC 19.400.410 A. 4

### WSDNR Water Types

- Wetlands (DNR)
- Tidlands
- Open Salt Water
- Open Fresh Water
- DNR Hydro Buffers

### Geologically Hazardous Areas

- Critical Areas Ordinance (KCC 19.400.410)
- High Geological Concern
- (KCC 19.400.410 A. 1a)
- Moderate Geological Concern
- (KCC 19.400.410 B. 2a-d)
- Hydric Soils
- (KCC 19.400.410 B. 2e)

### Tax Parcel

This map was created from existing map sources, not from field surveys. While every effort was made to ensure accuracy, the map is provided as a guide only. No warranty of any sort, including accuracy, fitness, or merchantability, is made by the County of Klamath. The user of this map assumes responsibility for its use. \*THIS MAP IS NOT A SUBSTITUTE FOR FIELD SURVEY.\*

Data Sources:

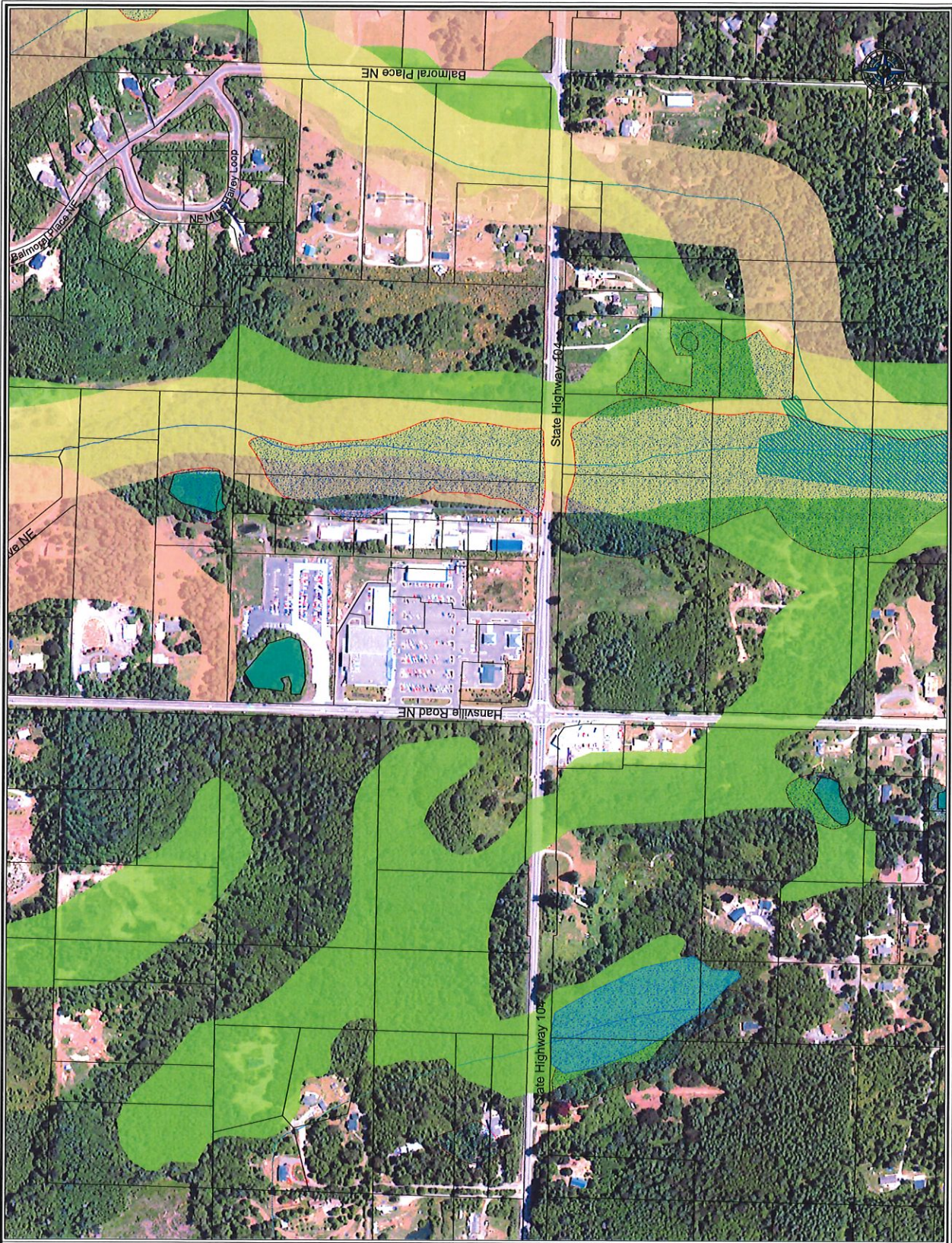
Ownership parcels created by Klamath County

Map Date: May 5, 2004

Draft

Klamath County Department of Community Development  
VOICE (916) 337-7111 FAX (916) 337-4352

150 0 150 300 450 Feet





# George's Corner

**Proposed LAMIRD Boundary  
Staff Recommendation**  
*Limited Area of More Intense Rural Development*

**Arterial Type**

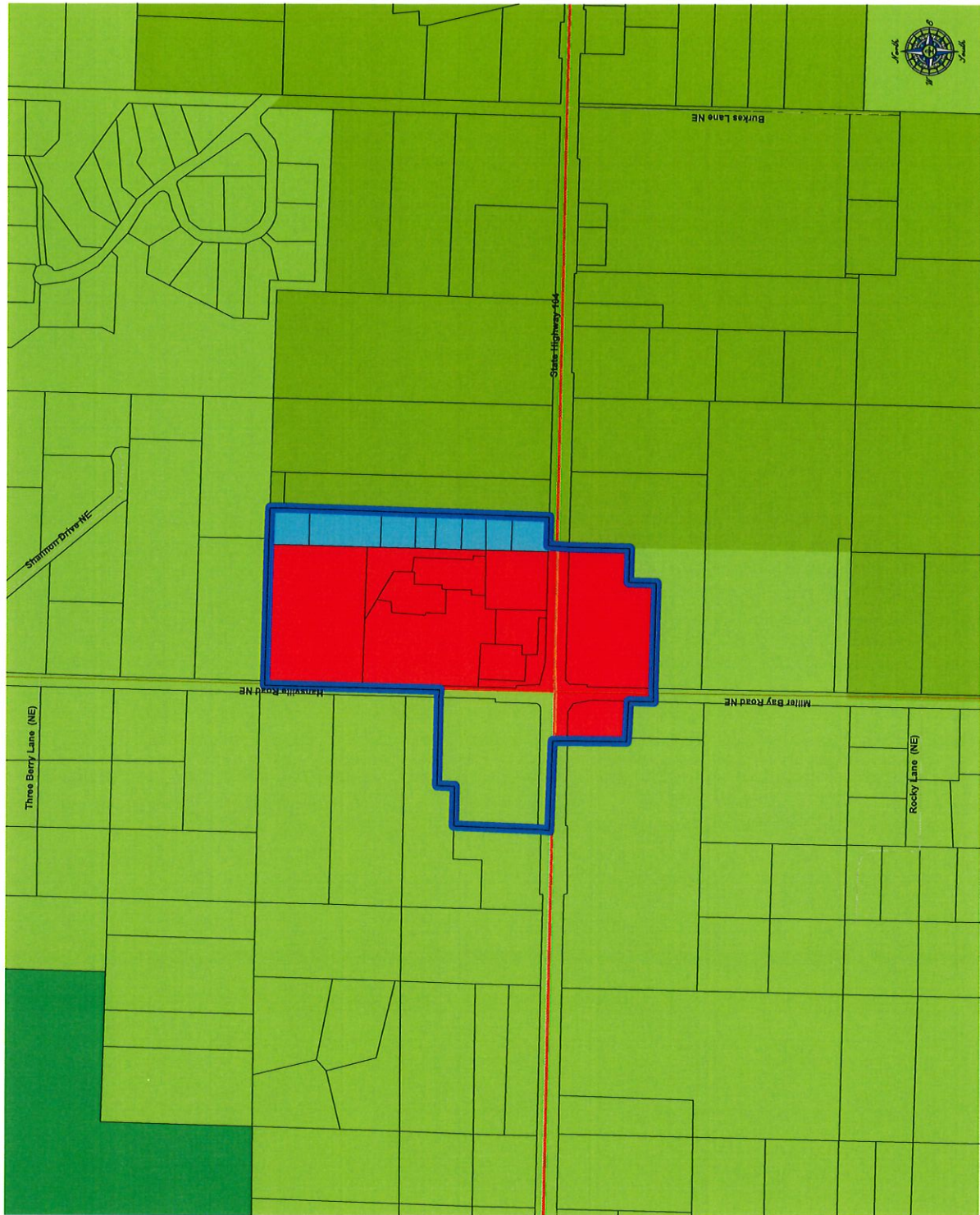
- State Highway
- Principal Arterial
- Major Arterial
- Major Collector
- Collectors
- Neighborhood Roads

**Proposed LAMIRD Boundary**

- Proposed LAMIRD Boundary
- Tax Parcels

**Comprehensive Plan**

- Rural Protection (1 DU/10 Ac)
- Rural Residential (1 DU/5 Ac)
- Neighborhood Commercial
- Industrial



May 24, 2004

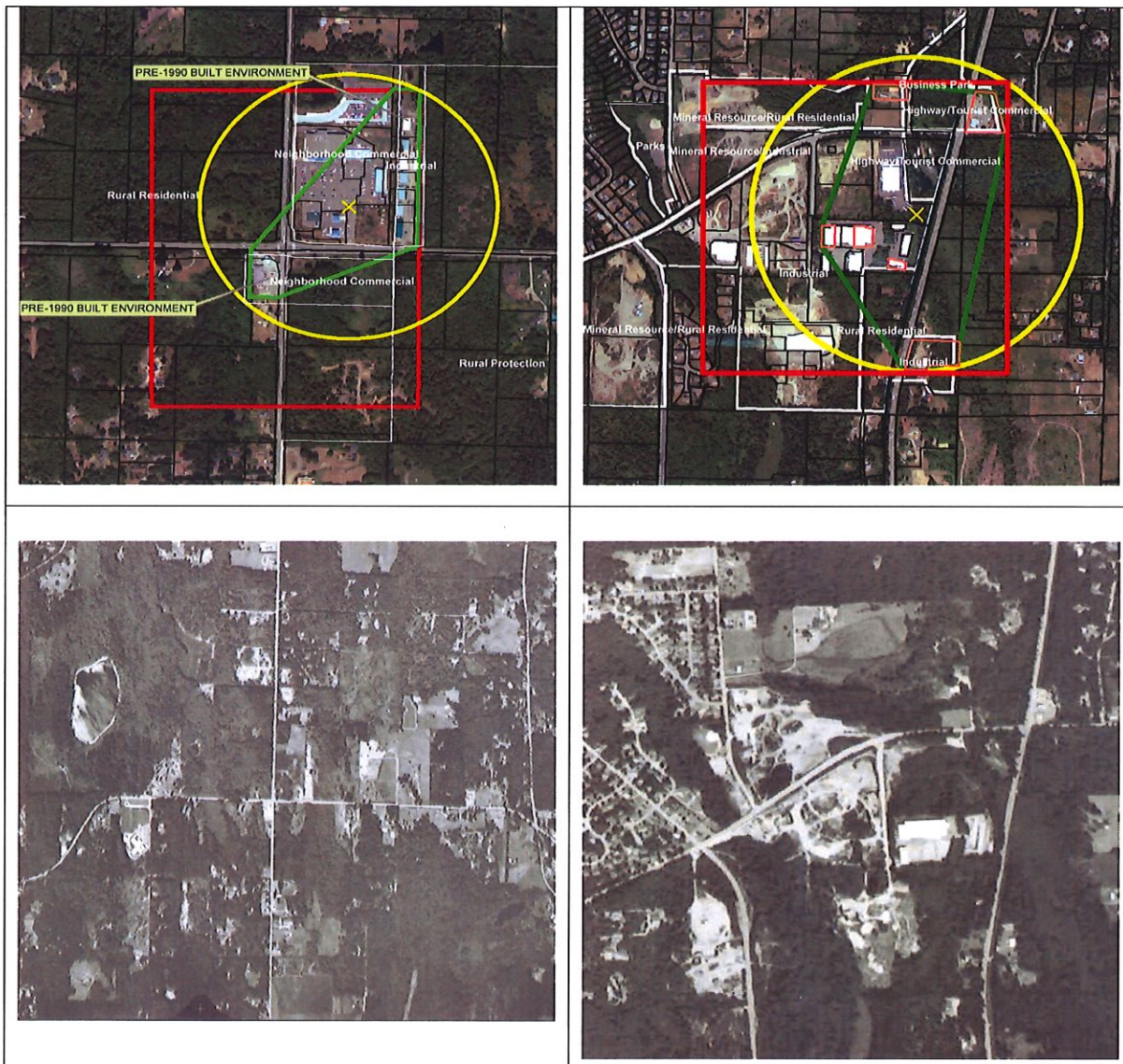
Proposed LAMIRD - 39.28 Acres

Kitsap County Department of Community Development  
614 Division Street, MS-36, Port Orchard, Washington 98366  
VOICE (360) 337-7181 • FAX (360) 337-4925





# Limited Area of More Intensive Development George's Corner & Pioneer Way Staff Report



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Prepared By:  
Kitsap County Department of Community Development  
Community Planning & GIS

May 20, 2003



## Introduction

The purpose of the report is to provide information to the Planning Commission and Board of County Commissioners regarding the George's Corner (intersection of Hwy 104 & Hansville Road) and Pioneer Way Commercial/Industrial areas consistent with language and direction contained in Ordinance No. 274-2002 - Relating to Growth Management, Amending the Comprehensive Plan and Map for 2001 and making corresponding amendments to the Kitsap County Zoning Code and Map.

**North Sound Bank Decision:** *The Board approves a Commercial land use designation and neighborhood Commercial zoning and directs staff to conduct a planning study of this area to determine whether it should be designated a Limited Area of More Intensive Rural Development (LAMIRD).*

**Nielson Decision:** *The Board approves a Industrial land use designation/ zoning with a Mineral Resource Overlay, and directs staff to conduct a study of this area to determine whether it should be designated a Limited Area of More Intensive Rural Development (LAMIRD).*

On June 10, 2002 the Board directed staff to provide an analysis of the Georges Corner intersection and Pioneer Way Industrial area for the potential designation as a LAMIRD, as provided for under the Growth Management Act [RCW 36.70A.070 (5)(d)]. On this date through formal motion (3-0 vote), the Board made clear their intent to examine the criteria established under GMA to allow for rural commercial and industrial areas.

## Local and Historic Context

As indicated in the original 1998 Kitsap County Comprehensive Plan Rural Appendix Issue Paper (at pg. A-294) Kitsap County's rural lands are characterized by parcels of undeveloped land, scattered low-density development... and limited low-intensity commercial and industrial uses. These areas are also not generally supplied or served with urban levels of service. "Commercial areas which generally consist of scattered pockets of small-scale grocery/convenience stores, limited light industrial, forestry or mineral extraction activities" and are what we consider as part of the rural character and makeup of Kitsap County. The Draft Issue Paper indicates that the existing characteristics of rural areas should be used to help develop criteria for designating appropriate Areas of More Intensive Development in the Comprehensive Plan, and to potentially draft regulations, design guidelines and other appropriate programs to ensure that these types and levels of growth are limited and contained consistent with the requirements of GMA.

The Issue paper further identifies Georges Corner and Pioneer Way as candidate/ examples of an existing Rural Commercial/Industrial Areas, which can be defined as:

*Areas that are dispersed throughout the county and include sites devoted to relative small-scale commercial or industrial uses. Examples include: crossroads*

*development (gas station, mini-mart or grocery store); neighborhood shopping centers, isolated commercial or industrial businesses; and small industrial parks that are not typically "rural" in character (ie: supporting agricultural or other "traditional" rural activities) and may be served by public or on-site sewer and water (pg A-296). Further, commercial uses in rural areas typically cater to the daily needs of the residents. (pg. A-300)*

## Identifying the "Limited Area of More Intensive Rural Development"

Direction for establishing limited areas is set forth in the Act under section 36.70A.070(5)(d), which provides in part:

...the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

- (i) Rural development consisting of infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas...A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection...An industrial area is not required to be principally designed to serve the existing and projected rural population;...
- (iv) A county shall adopt measures to minimize and contain the existing areas... Lands included in such existing areas... shall not extend beyond the logical outer boundary of the existing area... thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominantly by the built environment, but that may also include undeveloped lands if limited as provided in this section. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address: **(A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;**
- (v) For purposes of (d) of this subsection, an existing area...is one that was in existence: (A) on July 1, 1990...

The first step for a limited area of more intensive rural development is to define a logical outer boundary. This boundary is a **permanent boundary**, not subject to the review and revision procedures applicable to Urban Growth Area's (UGA's).

## Establishing the Logical Outer Boundary

Pursuant to the GMA [(RCW 36.70A.070(5)(d)(iv))] Kitsap County must adopt measures to minimize and contain existing area or uses within LAMIRDs and those areas shall not



extend beyond the logical outer boundary (LOB). While LAMIRDs must be delineated predominately by the pre-July 1, 1990 built environment they also may include undeveloped lands if limited in order to prevent further low-density sprawl. The GMA sets out four issues that must be addressed in establishing the LOB in addition to respecting the predominance of the pre-1990 built environment.

The analysis for **Georges Corner** includes review of the following:

- (A) The need to preserve the character of existing natural neighborhoods and communities: Preserving the character of the existing development was taken into consideration. The intersection is a classic example of a cross-roads development in rural Kitsap County. Although a majority of the development has taken place since 1990, there is evidence that supports historic commercial development on two parcels adjacent to the intersection.
- (B) Physical boundaries such as bodies of water, streets and highways, land forms and contours: This intersection area is considered a plateau region, with delineated drainage basins and headwaters for Grover's creek (ESA listed stream) and Gamble creek located on the east and west respectively. These areas can easily be depicted on the CAO map and include identifiable features such as wetlands, hydric soils, open water and forest cover (aerial photo's). The two arterials at this location could not be used in determining the boundary because they are considered principal arterials/collectors with no side streets in close proximity and run directly through the middle of the potential LAMIRD.
- (C) The prevention of abnormally irregular boundaries: The physical boundaries can be easily established by the non-built or natural environment, however, the built environment provides for more of the immediate challenge because of the lack of existing structures and infrastructure as indicated by the Pre-1990 conditions (listed below). In addition the unique parcel shape/size and associated property lines could lead to some irregularity, unless parcels were split.
- (D) The ability to provide public facilities and services in a manner that does not permit low-density sprawl: The immediate area is currently served by water facilities (installed between 1992-95) and on site septic systems. There is an existing roadside distribution system for power with a voltage of 12.5 Kv's. There is adequate service/capacity with no immediate plans for upgrades to any of these facilities.

The analysis for **Pioneer Way** includes review of the following:

- (A) The need to preserve the character of existing natural neighborhoods and communities: Preserving the character of the existing development was taken into consideration. This location is a classic

example of an existing mixed-use industrial development in Rural Kitsap County. As noted on the Pre-1990 conditions, a majority of the development has taken place since 1990, with little evidence supporting the historic industrial development requirements to establish a LOB for the industrial park.

(B) Physical boundaries such as bodies of water, streets and highways, land forms and contours: This industrial area is also considered a plateau region, with delineated drainage basins and headwaters for Jump-off Joe creek (non-ESA listed stream) and an un-named creek located on the east and north edges of the area respectively. These areas can easily be depicted on the CAO map and include identifiable features such as wetlands, hydric soils, steep slopes, open water and forest cover (aerial photo's). The two arterials at this location could not be used in determining the boundary because they are considered principal arterials/collectors with no side streets in close proximity and run directly through the middle of the potential LAMIRD.

(C) The prevention of abnormally irregular boundaries: The physical boundaries can be easily established by the non-built or natural environment, however, the built environment provides for more of the immediate challenge because of the lack of existing structures and infrastructure as indicated by the Pre-1990 conditions (listed below). In addition the unique parcel shape/size and associated property lines could lead to some irregularity, unless parcels were split.

(D) The ability to provide public facilities and services in a manner that does not permit low-density sprawl: The immediate area is currently served by water facilities (installed between 1988-present) and on site septic systems. There is an existing roadside distribution system for power with a voltage of 12.5 Kv's. There is adequate service/ capacity with no immediate plans for upgrades to any of these facilities.

For the purpose of a LAMIRD designation, RCW 36.70A(5)(d)(v)(A) requires that an existing area or use be one that was in existence on July 1, 1990. While the reference and discussion related to the Georges Corner commercial area and Pioneer Way industrial area was contained within the Rural Appendix Issue Paper, further evidence must be provided through the analysis of the built environment to determine the potential for identifying a "logical outer boundary" (LOB). The Plan notes, however, that its language discussing the designation was not intended to be definitive or exclusive.

In trying to establish the "LOB", the County used its Geographic Information System (GIS), 1992 and 2001 aerial photos and parcel specific Assessor's data. Data was gathered and analyzed as follows:



### **Pre 1990 Conditions (Georges Corner)**

1. Buildings – Four parcels contained existing structures on/prior to the date referenced above. The corner parcel (APN #282702-1-005-2004) located on the South East side of Hwy 104 and Hansville Road retained a Mini-mart and gas station facility and associated uses/businesses contained within a 5150 sq ft building constructed in 1985. This parcel historically has been identified as Country Corners landmark. The second parcel (APN #222702-3-040-2003) located on the North East corner (one parcel removed from the intersection) at 8246 NE St Hwy 104 contained a 3440 sq ft manufacturing building constructed in 1968. The third parcel (APN# 222702-3-041-2002) also located on the north east corner (one parcel removed from the intersection) at 8248 NE St Hwy 104 contained a 3528 sq ft Storage Warehouse constructed in 1990. The forth and final parcel meeting the pre-1990 condition is also in the same location as the previous two parcels with an address of 8252 NE St Hwy 104 and contains another 3528 sq ft storage warehouse constructed in 1988.
2. Electrical/power – All parcels had access to a roadside distribution system (12.5 Kv.) with no upgrades in the last 10 years.
3. Water – PUD provides the necessary service to the immediate areas. Water mains are located on the north side of Hwy 104 (10”) and on the east side of Hansville Road NE (8”). On-site mains for the Albertson’s parcel are all 8” in diameter. Sources for the North Peninsula system are Kingston #3, #4, #6 & Ritter Road respectively. Main extension along Hwy 104 and Hansville Road NE were completed around August 11, 1995. (See attached map)
4. Road Infrastructure – As noted by the 1992 aerial photos, Georges corner is characterized by a major arterial - State Hwy104 and a county collector - Hansville Road.

### **Pre 1990 Conditions (Pioneer Way)**

1. Buildings – Three parcels contained existing structures on/prior to the date referenced above. The most northern parcel (APN# 272701-1-017-2002) located on an easement road off of Pioneer Way contains a 4800 sq ft clubhouse and gathering area associated with the cemetery. The second notable parcel containing a 3894 sq ft convenience store and gas station (Hilltop gas/grocery) was constructed in 1948 (originally Hilltop tavern). The third parcel is the PUD well site, which contains a well site building and pump station to serve the localized area.
2. Electrical/power – All parcels had access to the roadside distribution system (12.5 Kv.) with no upgrades in the last ten years.
3. Water – PUD provides the necessary service to the immediate area. Water mains are located on the west side of twelve Tree Lane (12”) and the south side of Pioneer Way (12”). On-site mains for the industrial park are located in various areas and range in size from 8”-12”. Sources for the Vinland system are



Edgewater #4 & #5 and Vinland #2. Main extensions for the area in question started in approximately 1988 and have continued through the current date.

4. Road infrastructure – As noted by the 1992 aerial photos, 12-trees Industrial Park and other adjacent sites are served by a major arterial – Hwy 3 and a primary county collector – Pioneer way. The majority of the development that occurred in 12-trees Industrial Park is served by a minor arterial known as Olhava Lane.

## **Findings**

After careful consideration of statutory requirements for the potential designation of a LAMIRD, the following summary of findings are provided to assist/guide the decision making process. Therefore, based on the research conducted for this effort, the findings are as follows:

### **Georges Corner:**

1. Existing development (a.k.a.: built environment) was established prior to the July 1, 1990 date. One parcel located at the intersection of Hwy 104 and Hansville Road contained a non-residential use (with permits) and historic commercial zoning prior to GMA. The second parcel adjacent to the current Albertson's site (once removed from the intersection) contained 3 non-residential buildings (with permits) also in place prior to GMA (see maps).
2. The Albertson's site was constructed after the 1990 cutoff date and therefore can't be used as justification for determining the LOB. However, it can be viewed as infill development between the two existing developed parcels noted above. Note: the Albertson site contains development that has established a higher intensity use than those existing prior to GMA
3. The location of the potential LAMIRD contained two major arterials (Hwy 104/ Hansville Road) that provide the primary accessibility to the entire North Kitsap region, including; Kingston, Hansville, Port Gamble, Indianola and many locations in between.
4. The location and immediate area is served by existing PUD water, however this facility was not installed until 1992 (actual installation began in 92 and concluded in 95).
5. The development/uses, which were in place prior to GMA, utilized on-site septic systems and therefore can be used as further justification of the pre-1990 existing built environment requirements established under GMA.
6. Electrical power was provided to the immediate areas via a roadside distribution system that was in place long before the 1990 conception date.
7. The non-built or natural environment can provide useful assistance in delineating a LOB because this area is defined by a plateau region, with a delineated drainage basins located on either side of the intersection for Grover's and Gamble Creeks respectively (see critical areas map). Therefore, the existing development could contain the development using the natural environment as the maximum limits.

### **Pioneer Way:**

1. Existing development (a.k.a.: built environment) was established prior to the July 1, 1990 date. All the parcels containing structures are located outside of the existing 12-Trees Industrial Park. (Note: pre-1990 conditions above – see map)
2. The 12-Trees Industrial park was established and developed post-1990. However, a majority of the parcels were cleared and graded for preparation of site development prior to 1990.
3. Existing infrastructure is provided to the immediate areas, with water being provided by the PUD since 1988 and electrical power being provided by Puget Sound Energy via a roadside distribution system, which was in place well before the 1990 conception date.
4. The area is also served by a major North/South arterial (Hwy 3) which ties into a County collector (Pioneer Way) road network system.
5. The area is limited by the natural environment/constraints in all directions. This area is also considered a plateau region with associated drainage basins located on either side of the developed area (West/East respectively).
6. The qualifying parcels with development in place prior to the GMA, continue to utilize on-site septic systems and therefore indicate the presence of the built environment requirements established under GMA.

### **Recommendation:**

**Georges Corner/Pioneer Way:** The potential designation of a Commercial/Industrial LAMIRD in both locations could be justified on a limited basis. However, there is more evidence of historic built environment prior to GMA (July 1, 1990) at Georges Corner than that observed at Pioneer Way. The records indicate that a majority of the existing development has taken place since the conception of GMA and therefore should be taken into consideration. The natural constraints of each location provide the essential ingredient that would limit the size/scale of the LAMIRD. The boundaries could be drawn in a manner that would limit the irregular nature of the existing developed parcels. The potential for infill at each location would remain relatively low, based on the amount of undeveloped land contained within either LAMIRD and therefore, would not exceed the level or scale at which exists or is allowed under current county regulations. Both areas already have development that arguably exceeds that which was intended for our rural areas, outside our UGA's. However, if the overall impacts associated with infill of these areas were to exceed the Level of Service (LoS) standards and/or capacities of any existing public facility (water, roads, septic, storm-water) the development would not be supported through current policy direction and regulations. These rural areas have limited services and more restrictive development standards for a reason, that in itself would preclude further intensification or re-development beyond that which currently exists. It should be noted that these areas would also continue serving an important role for the existing and projected population needs of North Kitsap, by providing both employment opportunities and basic service needs for residents of the community.



The following recommendation can be viewed as a calculated risk, because the overall intent of the 1997 amendment to GMA allowing the designation of LAMIRDs was to recognize historical (Pre-GMA) development patterns that were not considered rural in nature. However, the County can't undo what has already taken place, but can utilize the guidelines established under the Growth Management Act to minimize the future impacts to the rural areas of Kitsap County. **Therefore, based on the aforementioned findings, staff would recommend approval of the LAMIRD designation for Georges Corner and would further recommend that Pioneer Way NOT be designated at this time, but rather be revisited as part of the overall Rural Policy discussion. (Note: Boundary determination would be subject to the outcome of the Bjarnson Site-Specific Amendment.) Attachment "A" provides a list of options for consideration.**



## **Attachment "A"**

### Options:

1. Designate a LAMIRD based on staff findings that recognize only the existing non-residential development (pre-1990) and natural limitations with limited infill opportunities. (Georges Corner Only)
2. Designate a LAMIRD based on staff findings that recognize the existing non-residential development (pre-1990), infill development (post-1990) and natural limitations with additional opportunities for infill. (Georges Corner and Pioneer Way)
3. Designate a LAMIRD based on staff findings, which expands the scope to recognize the existing residential (Edgewater estates) and non-residential development (pre-1990), infill development (post-1990) and the natural limitations with additional opportunities for infill development. (Pioneer Way only)
4. Consider not designating a LAMIRD at this time but rather implementing a county-wide analysis of all potential LAMIRDs using the overall Rural Policy process as the forum for resolving the issues.
5. Consider the "do nothing" approach which would allow development and requests for parcel specific rezones to continue in the same manner as allowed under the current process.
6. Consider not designating a LAMIRD at this time but rather identify NEW policy language in the Comprehensive Plan Rural and Resource Lands Chapter, such as: "limit additional non-residential Comprehensive Plan site-specific amendments in rural areas until such a time when it's determined or evident that additional land is necessary to serve the existing or planned rural population."

# George's Corner

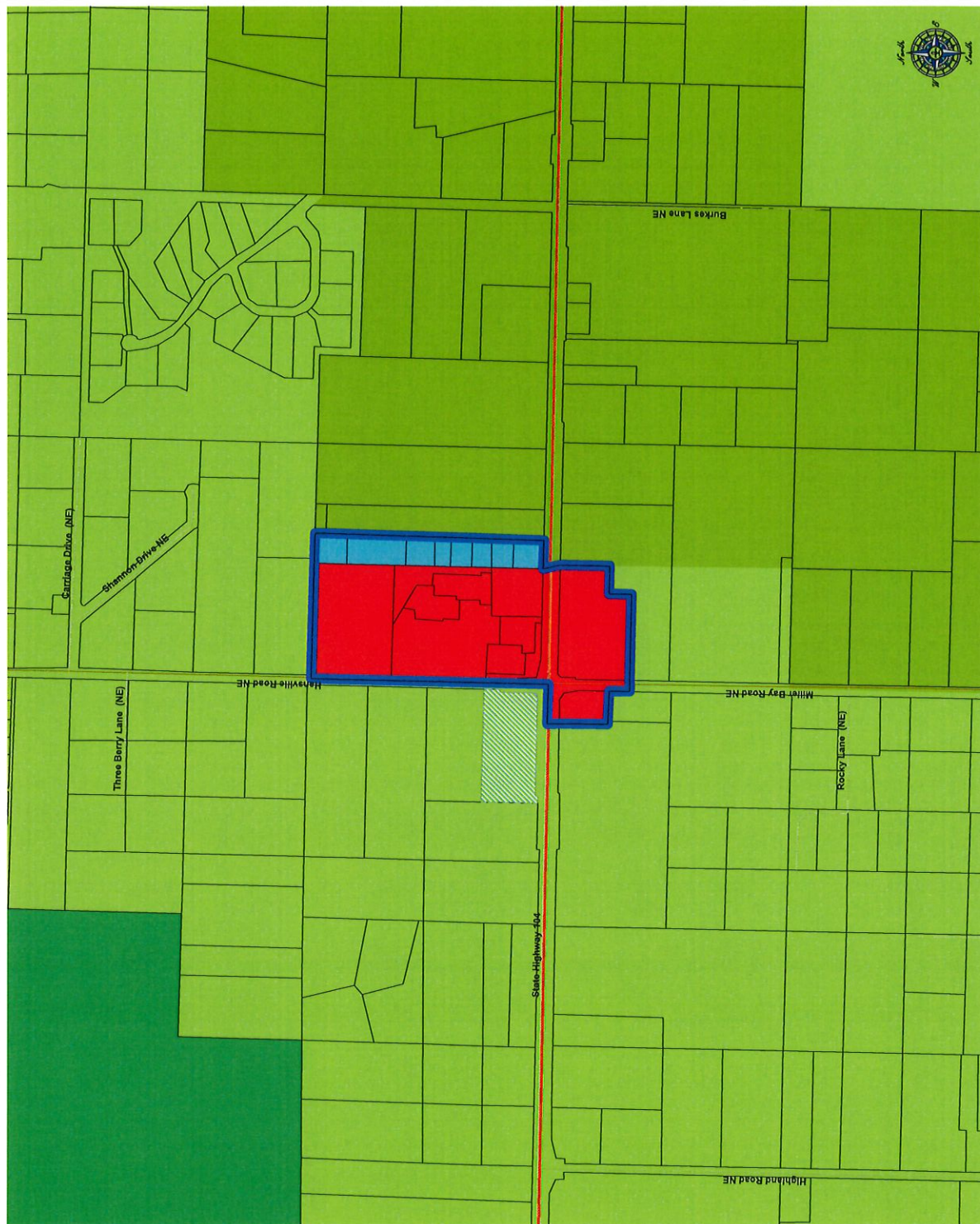
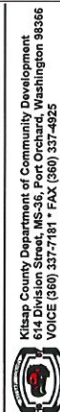
## Lamird Boundary *Limited Area of More Intense Rural Development*

- Arterial Type**
- State Highway
  - Principal Arterial
  - Major Arterial
  - Major Collector
  - Collectors
  - Neighborhood Roads

- Blamson Rezone (Option)
- Proposed LAMIRD Boundary
- Tax Parcels

**Comprehensive Plan**

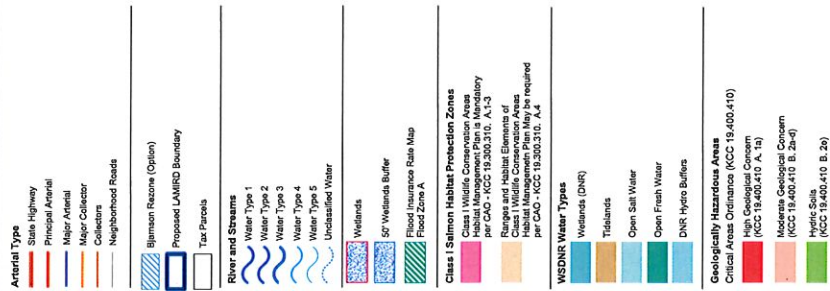
- Mineral Resource (1 DU/20 Ac)
- Forest Resource Lands (1 DU/40 Ac)
- Interim Rural Forest (1 DU/20 Ac)
- Rural Protection (1 DU/10 Ac)
- Rural Residential (1 DU/5 Ac)
- Limited Areas of More Intense Development
- Urban Restricted (1-5 DU/Ac)
- Urban Low Residential (5-8 DU/Ac)
- Urban Medium Residential (10-18 DU/Ac)
- Urban High Residential (19-24 DU/Ac)
- Urban Reserve (1 DU/10 Ac)
- Commercial
- Industrial
- Urban Industrial Reserve
- Business Park
- Parks (P)
- Public Facilities
- Airport (A)
- Incorporated Cities
- Tribal Lands / Military
- Pueblo Urban Transition Area
- Water





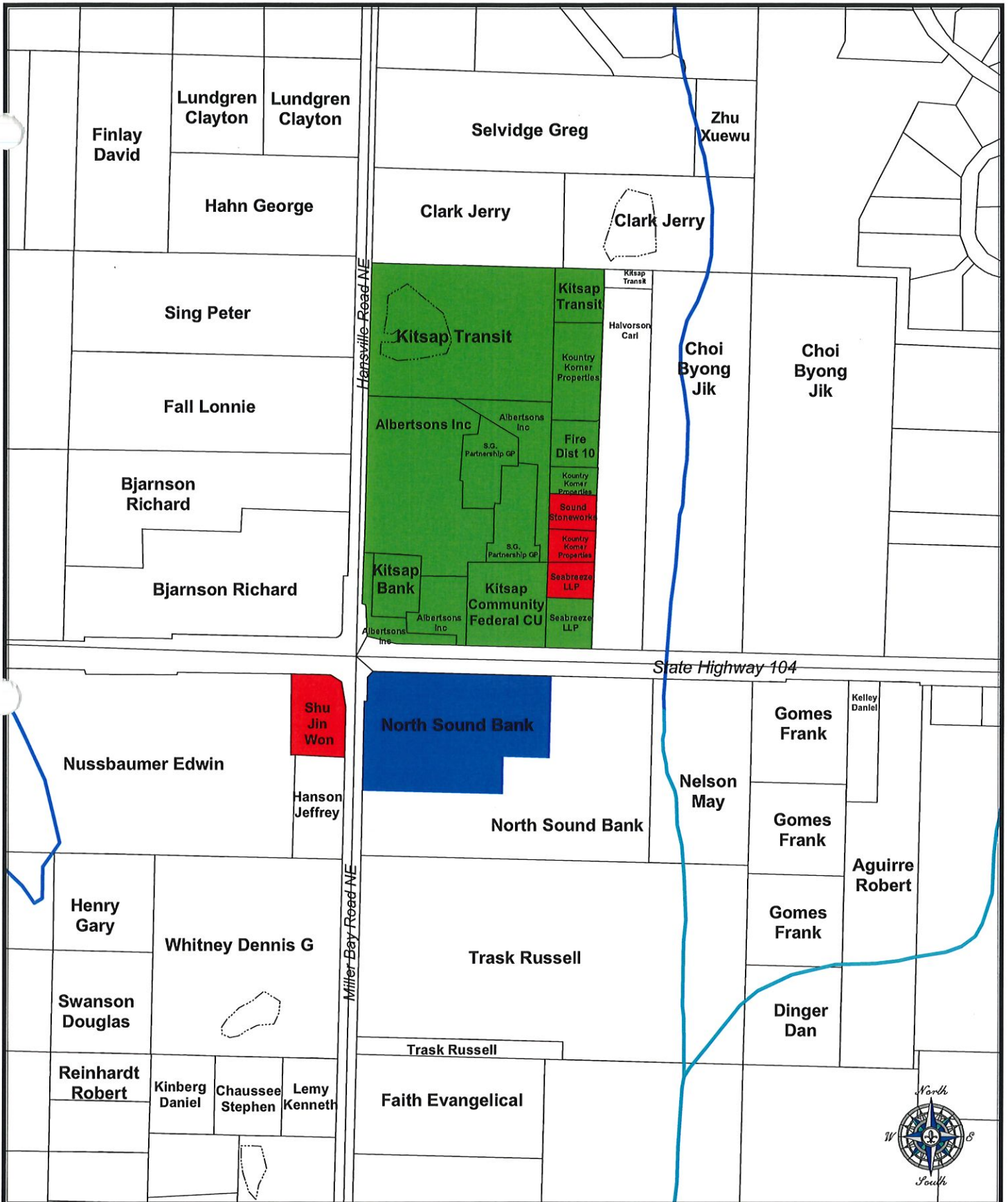
# George's Corner

## Lamird Boundary Limited Area of More Intense Rural Development



Kitsap County Department of Community Development  
614 Division Street, MS-36, Port Orchard, Washington 98366  
VOICE (360) 337-7181 • FAX (360) 337-4925





- Residential Parcels
- North Sound Bank
- Commercial Developed Parcels Built prior to 1990
- Commercial Developed Parcels
- Water Type 1
- Water Type 2
- Water Type 3
- Water Type 4
- Water Type 5
- Unclassified Water

## George's Corner

Kitsap County Department of Community Development  
614 Division Street, MS-36, Port Orchard, Washington 98366  
VOICE (360) 337-7181 \* FAX (360) 337-4925



# **Public Document Request**

**---**

## **Response #2**

**From:** [Amanda Walston](#)  
**To:** [Aaron Murphy](#); [Tom Nevins](#); [Kim Allen](#); ["Kimberly Allen"](#); [Karanne Gonzalez-Harless](#); [Jim Svensson](#); [Richard Shattuck](#); [Gina Buskirk](#); [Gina M. Buskirk](#); [Joe Phillips](#)  
**Subject:** RE: George's Corner LSMIRD boundary adjustment  
**Date:** Monday, August 06, 2018 9:53:00 AM  
**Attachments:** [Pldg - County's Prehearing Brief.pdf](#)

---

Please find the **KC brief to Central Puget Sound Growth Management Hearings Board**, which is one of the two remaining pieces of information requested by Karanne regarding George's Corner.

Thank you,

**Amanda Walston**  
**Clerk of the Hearing Examiner and Planning Commission**  
Kitsap County Department of Community Development  
(360) 337-5777 ext.3132  
619 Division St MS 36  
Port Orchard WA 98366



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**From:** Amanda Walston  
**Sent:** Tuesday, July 31, 2018 3:22 PM  
**To:** Aaron Murphy <aaronmurphy@co.kitsap.wa.us>; Tom Nevins <tnevins@co.kitsap.wa.us>; Kim Allen <kallen@co.kitsap.wa.us>; Kimberly Allen <allen\_kim13@hotmail.com>; Karanne Gonzalez-Harless <kgharless@co.kitsap.wa.us>; Jim Svensson <jsvensson@co.kitsap.wa.us>; Richard Shattuck <richardshattuck@co.kitsap.wa.us>; Gina Buskirk <ginabus Kirk@co.kitsap.wa.us>; Gina M. Buskirk <gina.buskirk5941@kitsap.onmicrosoft.com>; Joe Phillips <jphillips@co.kitsap.wa.us>  
**Subject:** FW: George's Corner LSMIRD boundary adjustment

Attached, please find information requested by Karanne regarding the proposed George's Corner LAMIRD amendment. For the items not provided here, please see Peter's notes below in red regarding actions taken.

Thank you,

**Amanda Walston**  
**Clerk of the Hearing Examiner and Planning Commission**  
Kitsap County Department of Community Development



(360) 337-5777 ext.3132  
619 Division St MS 36  
Port Orchard WA 98366



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---

**From:** Peter Best  
**Sent:** Monday, July 30, 2018 5:15 PM  
**To:** Amanda Walston <[awalston@co.kitsap.wa.us](mailto:awalston@co.kitsap.wa.us)>  
**Cc:** Dave Ward <[dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)>; Darren Gurnee <[dgurnee@co.kitsap.wa.us](mailto:dgurnee@co.kitsap.wa.us)>; Liz Williams <[lwilliam@co.kitsap.wa.us](mailto:lwilliam@co.kitsap.wa.us)>  
**Subject:** RE: George's Corner LSMIRD boundary adjustment

Amanda,

See my response below in **red**. As per our discussion, we will provide the response to all PC members.

Peter

---

**From:** Karanne Gonzalez-Harless  
**Sent:** Monday, July 30, 2018 10:18 AM  
**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>  
**Cc:** Amanda Walston <[awalston@co.kitsap.wa.us](mailto:awalston@co.kitsap.wa.us)>  
**Subject:** George's Corner LSMIRD boundary adjustment

Hello Peter,

Thank you for taking my call this morning. I would like a link to or a copy of the following documents.

Rick Bjornson Boundary Line Adjustment, (auditor's file number is fine)

**Attached**

KC Ord. 326-2004

**Attached**

Central Puget Sound Growth Management Hearings Board Decision, (found that one, lucky for you )  
Attached

KC brief to Central Puget Sound Growth Management Hearings Board

Requesting from the Prosecuting Attorney's office and will provide when available

DCD Staff report referenced in that case, (should be in the records index, wherever that mother ship is I do not know)

2003 Staff report related to the George's Corner matter (referenced as Index #24122 in the FDO) is attached

The 2004 staff report (supporting the process for Ordinance 326-2004) is also attached

Email or correspondence including but not limited to the landowner or their representative , Kitsap County and KCD CD regarding the split zone, change of zoning, application process and direction to the department and or staff as to how to process landowners request.

Will provide when available

I realize the correspondence request is a public records request. I tried to be precise to make it easier to fill the request.

Thank you for your time in this matter.

Karanne Gonzalez-Harless

1  
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4  
5  
6  
7  
8 BEFORE THE CENTRAL PUGET SOUND  
9 GROWTH MANAGEMENT HEARINGS BOARD  
10 STATE OF WASHINGTON

11 1000 FRIENDS OF WASHINGTON, KITSAP  
12 CITIZENS FOR RESPONSIBLE PLANNING,  
and JERRY HARLESS,

13 Petitioners,

14 -vs-

15 KITSAP COUNTY,

16 Respondent.  
17

NO. 04-3-0031c

RESPONDENT'S PREHEARING BRIEF

18  
19 **I. INTRODUCTION**

20 This brief addresses two major subjects that Petitioners 1000 Friends of Washington (now  
21 known as "Futurewise"), Kitsap Citizens for Responsible Planning (*hereafter collectively*  
22 "Futurewise") and Intervenor Jerry Harless have challenged: (1) the creation of a Limited Area of  
23 More Intense Rural Development (LAMIRD) at George's Corner in north Kitsap County; and (2)  
24 Kitsap County's recognition of adopted and implemented reasonable measures.  
25

26 Kitsap County will show that the George's Corner LAMIRD is appropriate because it meets the  
27 requirements of the Growth Management Act (GMA). The designation of a LAMIRD at this  
28



1 crossroads promotes the goals and policies of the GMA and the Kitsap County comprehensive plan  
2 because it limits and contains commercial development in the area, and ensures that such commercial  
3 development will primarily serve the rural area.  
4

5 With respect to the reasonable measures, Kitsap County will show that the requirements of  
6 RCW 36.70A.215 are intended to focus on and help achieve urban densities in the urban growth areas  
7 (UGAs). Over the years, Kitsap County has adopted many comprehensive plan, subarea plans and  
8 zoning measures to further encourage and direct growth in the urban areas. The fact that such  
9 provisions were not specifically labeled as “reasonable measures” should not create noncompliance.  
10 However, the County will continue to struggle with the problem of vested nonconforming rural lots, as  
11 allowed under Washington law, for many years to come. Kitsap County is continuing to make progress  
12 in its land use provisions and should be allowed to develop its GMA policies and through further  
13 planning efforts.  
14  
15

## 16 **II. LEGAL ARGUMENT**

### 17 **A. Standard of Review**

18 Burden of Proof and Standard of Review. Under RCW 36.70A.320(1), the Board’s review  
19 must begin with the presumption that a county’s actions taken pursuant to the GMA are valid. *See also*  
20 WAC 242-02-630. The burden of proving that an action is not in compliance with the GMA rests  
21 solely on the petitioner. RCW 36.70A.320(2); WAC 242-02-632; *City of Redmond v. Central Puget*  
22 *Sound Growth Management Hearings Bd.*, 116 Wn. App. 48, 55, 65 P.3d 337, review denied 150  
23 Wn.2d 1007 (2003).  
24  
25

26 GMA mandates that the Board “shall find compliance unless it determines that the action by the  
27 state agency, county, or city is clearly erroneous in view of the entire record before the board and in  
28

1 light of the goals and requirements of [the GMA].” RCW 36.70A.320(3); WAC 242-02-634. For the  
2 Board to find that an action is clearly erroneous, the Board must be “left with the firm and definite  
3 conviction that a mistake has been committed.” *Department of Ecology v. Public Utilities District No.*  
4 *1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993), *aff’d* 511 U.S. 700, 114 S. Ct. 1900, 128 L. Ed. 2d 716.  
5

6 Moreover, the Growth Boards have been instructed by the legislature to “apply a more  
7 deferential standard of review to actions of counties.” RCW 36.70A.3201. This deference is necessary  
8 to recognize the broad range of discretion that the county may exercise through its local planning  
9 efforts. *Id.* And the county’s discretion is necessary because of its unique characteristics, it is unlike  
10 the other counties within the Central Puget Sound region in terms of geography, economy and  
11 governance.  
12

13 The Court of Appeals recently held that a petitioner must clearly demonstrate how a county has  
14 violated the GMA and point to evidence in the record to support its argument before the Board can find  
15 a county’s action out of compliance with the GMA. *See generally, Redmond*, 116 Wn. App. 48. The  
16 Board cannot allow a petitioner to simply raise an issue and then look to the county to demonstrate the  
17 validity of the action. *Redmond*, 116 Wn. App. at 55-58. The Board must look beyond any attempt by  
18 the petitioners to “burden-shift” by simply making facile and conclusory arguments without pointing to  
19 substantial evidence in the record supporting their claims.  
20  
21

22 The petitioners must affirmatively show error in the record before the Board can require the  
23 county to undertake a defense of the 2004 Comprehensive Plan amendments. This is the goal of the  
24 legislature’s mandate that a comprehensive plan amendment, or other GMA action, is presumed valid.  
25 RCW 36.70A.320; *Redmond*, 116 Wn. App. at 55-58.  
26  
27  
28

1                                    **B. The George's Corner LAMIRD is GMA-Compliant**

2                    ***Legal Issue 1. Does adoption of Ordinance 326-2004, establishing the Georges***  
3                    ***Corner LAMIRD, fail to comply with RCW 36.70A.020(1), RCW 36.70A.020(2) and***  
4                    ***RCW 36.70A.070(5) when the LAMIRD contains predominantly land that was***  
5                    ***undeveloped in 1990, is not circumscribed by a logical outer boundary, fails to include***  
6                    ***measures to minimize and contain existing areas of more intensive development and***  
7                    ***otherwise fails to comply with GMA LAMIRD requirements?***

8                    Historical & Procedural Background. The George's Corner area of Kitsap County is located at  
9                    the crossroads of two major arterials (State Highway 104 and Hansville Road). George's Corner  
10                   historically has contained commercial development. Kitsap County has been considering George's  
11                   Corner area as a potential Limited Area of More Intensive Rural Development (LAMIRD) for a  
12                   number of years.

13                   In 1997, the legislature added a provision to the Act to allow for recognition of LAMIRDs.<sup>1</sup>  
14                   The following year, Kitsap County adopted a comprehensive plan that included a discussion of  
15                   potential LAMIRD sites. Kitsap County Comprehensive Plan, "Rural Issue Paper Appendix." Index  
16                   #20539. The Rural Issue Paper noted that there were a number of pre-existing small  
17                   commercial/industrial areas "dispersed throughout Kitsap County." *Id.* at 296. The Rural Issue Paper  
18                   noted that the first step was to identify such areas, and, once identified, to "develop criteria for  
19                   designating and *controlling* limited areas of more intensive rural development." *Id.* at A-291  
20                   (emphasis added).  
21

22                   In 2002, the Kitsap County Board of County Commissioners (*hereafter* "BOCC"), directed staff  
23                   to study the George's Corner crossroads area for its potential designation as a LAMIRD. Index #24412  
24

25  
26  
27                   <sup>1</sup> Engrossed Substitute House Bill 6094, codified at RCW 36.70A.070(5)(d).  
28



1 at Attachment 2 (Ord. 274-2002).<sup>2</sup> The George's Corner LAMIRD was considered by the BOCC in  
2 2003, but deferred until the 2004 annual amendment process to allow for additional citizen  
3 involvement and public participation. Ordinance 311-2003 at 8, §4, ¶ 4. (Core Document).<sup>3</sup>  
4

5 In its review of the George's Corner area, the County used its Geographic Information System  
6 (GIS), review of historic aerial photographs, and assessor's records specific to each parcel in the area.  
7 Index #24412 at 5. The record shows that there was historical, pre-1990 commercial development on  
8 the southwest corner of the intersection constructed in 1985 (the "Country Corners landmark"), and  
9 three parcels located in the vicinity of the northeast corner of the intersection. Of the three parcels in  
10 the northeast quadrant of the intersection, one contained a manufacturing building constructed in 1968,  
11 and the other two contained storage warehouses constructed in 1988 and 1990. Subsequent to 1990,  
12 additional commercial development was constructed in the vicinity of the intersection, including a  
13 grocery store and a bank.<sup>4</sup> As of 2002, three of the four corners of the crossroad intersection included  
14 commercial and industrial development. See Index #24412 at Attachment 3 (Map entitled "George's  
15 Corner 2002 Comprehensive Plan Designations.") The LAMIRD designation creates a boundary  
16  
17  
18  
19  
20  
21

22 <sup>2</sup> Kitsap County has provided the entire staff report on George's Corner located at 24412, only portions were attached to  
23 Futurewise's brief.

24 <sup>3</sup> The BOCC also considered an additional proposal for a LAMIRD in 2003, the "Pioneer Way" site, but disapproved it,  
25 finding insufficient information to establish that it met the statutory and local criteria for LAMIRD designation. Ord. 311-  
26 2003 at 8, §4, ¶ 2. The BOCC also rejected a proposal for a commercial rezone of property near the George's Corner  
27 intersection in 2003, and subsequently did not include that property within the LAMIRD boundary. See Ordinance 311-  
28 2003 at 4, §4 ¶5.c (Choi Property).

<sup>4</sup> Land use applications for much of the post-1990 development on the northeast corner were initially filed several years  
prior to the enactment of the GMA, vesting in 1988. However, the proposal went through a protracted appeals process, and  
were not finally approved until 1993. Pursuant to WAC 242-02-660(2), the Board may take official notice of the Court of  
Appeals decision concerning that development, which is attached as Exhibit A.

1 around the existing and future commercial development in the area, thus limiting and containing  
2 further potential growth.

3  
4 In designating the George's Corner LAMIRD, the County carried out an extensive public  
5 review. A George's Corner "Boundary Advisory Group" was formed, which met several times to  
6 consider an appropriate LOB for the site. Index #24412 at 7-8. The George's Corner advisory group  
7 developed a number of alternatives that the County considered prior to designating the LOB pursuant  
8 to GMA standards. The Kitsap County Planning Commission held work study sessions and joint  
9 public hearings with the Board of County Commissioners (BOCC) on the George's Corner LAMIRD  
10 proposal. Index #27143 at 3-4. As more fully described below, the BOCC also added language to the  
11 zoning code to ensure that any proposal for development in the LAMIRD would be reviewed to ensure  
12 that it is consistent with the character of the existing area.  
13  
14

15 *The LAMIRD Boundary was Established after Appropriate and Reasoned Consideration.*

16 Petitioner Futurewise acknowledges that a LAMIRD is appropriate at the George's Corner site,<sup>5</sup>  
17 but disagrees with the location of the Logical Outer Boundary (LOB). Futurewise's primary argument  
18 is that the LAMIRD should not include vacant parcels. This is directly contrary to the statute, which  
19 provides:  
20

21 (d) Limited areas of more intensive rural development. Subject to the  
22 requirements of this subsection and except as otherwise specifically  
23 provided in this subsection (5)(d), the rural element may allow for  
24 limited areas of more intensive rural development, including necessary  
25 public facilities and public services to serve the limited area as follows:

26 (i) Rural development consisting of the *infill, development, or*  
27 redevelopment of existing commercial, industrial, residential, or mixed-

28 <sup>5</sup> Futurewise Prehearing Brief (PHB) at 9.

1 use areas, whether characterized as shoreline development, villages,  
2 hamlets, rural activity centers, or crossroads developments.<sup>6</sup>

3 RCW 36.70A.070(5)(d)(i).

4 Futurewise first argues that the purpose of LAMIRDs is solely to recognize the existence of more  
5 intense development and to confer grandfather recognition on those areas. But the statute specifically  
6 references infill and development, both of which imply the use of vacant land. RCW  
7 36.70A.070(5)(d)(i). There is no dispute that the statute provides that existing areas of more intense  
8 development are those areas “that are clearly identifiable and contained and where there is a logical  
9 boundary *delineated predominately by the built environment.*” RCW 36.70A.070(5)(d)(iv) (emphasis  
10 added). However, Futurewise largely ignores the remainder of that sentence, which states “*but that*  
11 *may also include undeveloped lands if limited* as provided in this subsection.” *Id.* (emphasis added)  
12  
13

14 Shortly after the LAMIRD statutory provisions were enacted, this Board noted that they allow  
15 infill development:

16 [W]hile some accommodation may be made for infill of certain "existing areas" of more  
17 intense development in the rural area, that infill is to be "minimized" and "contained"  
18 within a "logical outer boundary." With such limitations and conditions, more intense  
19 rural development in areas where more intense development already exists could  
20 constitute permissible compact rural development; without such limitations and  
21 conditions more intense rural development would constitute an impermissible pattern of  
22 urban growth in the rural area.

23 *Bremerton, et al., v. Kitsap County et al.*, CPSGMHB No. 95-3-0039c coordinated with No. 97-3-  
24 0024c, Finding of Noncompliance and determination of Invalidity in *Bremerton* and Order Dismissing  
25 *Port Gamble* (9/8/97).

26 Since it is clear that the statutory provisions expressly allow inclusion of vacant areas within the  
27 LAMIRD, Futurewise’s conclusory allegation that a LAMIRD cannot contain such areas is simply  
28

---

<sup>6</sup> There is no dispute that George's Corner is a “Type 1 LAMIRD,” pursuant to RCW 36.70A.070(5)(d)(i).



1 wrong. Likewise, Futurewise distorts the meaning of the “predominately” – redefining it in this case to  
2 mean “solely,” and even then asks the Board to ignore the developed southwest corner.

3  
4 The key term in designating a LAMIRD boundary is that it be *logical*. Futurewise gives  
5 passing acknowledgement to the fact that a LAMIRD may include “limited” undeveloped lands, but  
6 brushes off this statutory provision by stating, without legal or factual basis: “[i]n Kitsap County’s case  
7 [the LOB] must be the built environment in 1990.” Futurewise PHB at 10. Futurewise provides  
8 absolutely no support for this argument.

9  
10 Futurewise’s LOB proposal would result in an *illogical* LAMIRD boundary. Futurewise argues  
11 that the northwest corner, the Bjarnson property,<sup>7</sup> should be excluded simply because it is vacant. It  
12 also contends that property on the southwest corner should also be excluded, despite the fact that  
13 commercial development exists on the property. Futurewise’s argument regarding the exclusion of the  
14 southwest corner rests solely on its conclusory statement that inclusion of that site “is illogical and  
15 violates the Growth Management Act.” Futurewise PHB at 11.

16  
17 The Act recognizes “crossroads developments” as candidates for LAMIRDs, which implies  
18 inclusion of the four corners of a crossroads. To exclude two of the four corners would result in an  
19 irregular “S-shaped” area. RCW 36.70A.070(5)(d)(i). The Act instructs the County to prevent  
20 abnormally irregular boundaries when determining the LOB. RCW 36.70A.070(5)(b)(iv)(C). In  
21 contrast, Futurewise is asking that an abnormally irregular boundary be substituted based on nothing  
22 but conclusory statements. Moreover, it is in the best interest to include all of the commercial sites that  
23 currently exist, which will further contain and limit the area.

24  
25  
26  
27 <sup>7</sup> Notably, the County took caution to limit the inclusion of the Bjarnson property, including a requirement that a boundary  
28 line adjustment be done, as described in more detail below.

1 The record shows that the County thoroughly considered the appropriate LOB, evaluated a  
2 number of alternatives to the LOB, took steps to eliminate proposals that were not logical, and also  
3 took steps to further reduce the boundary. First, the staff report reviewed each of the criteria for setting  
4 an LOB specified in RCW 36.70A.070(5)(d)(iv):  
5

6 In establishing the logical outer boundary the county shall address (A)  
7 the need to preserve the character of existing natural neighborhoods and  
8 communities, (B) physical boundaries such as bodies of water, streets  
9 and highways, and land forms and contours, (C) the prevention of  
10 abnormally irregular boundaries, and (D) the ability to provide public  
11 facilities and public services in a manner that does not permit low-  
12 density sprawl.

11 Index #24122 at 5.

12 In addressing the need to preserve the character of existing natural neighborhoods and  
13 communities, the County noted that this location is a classic example of a crossroads development, and  
14 there is evidence that supports historic commercial development in the area. *Id.* The County also  
15 considered physical boundaries, noting that it is a plateau region, delineated by bodies of water  
16 (Grover's Creek and Gamble Creek) on the east and west sides. *Id.* at 5-6. In considering the  
17 prevention of abnormally irregular boundaries, the County noted that relying solely on the pre-1990  
18 built environment could result in an irregular boundary, and that consideration should be given to both  
19 the built and natural environment in setting the boundary. *Id.* at 6, 9. Finally, consideration was given  
20 to the ability to provide public facilities and public services in a manner that does not permit low-  
21 density sprawl. The County noted under this criterion that there is adequate service area and no  
22 immediate plans for upgrades. *Id.* The site is serviced by on-site septic systems, which will further  
23 limit and contain development within the boundary. Staff recommended a LOB that would contain the  
24 existing development, and add the fourth corner of the intersection to create a more regular boundary.  
25  
26  
27  
28

1 However, the property on the fourth corner (the Bjarnson property) would be required to be  
2 reconfigured through a boundary line adjustment to *further limit* the commercial development and to  
3 preserve critical areas located on that property. Ord. 326-2004 at 18, §9, ¶ 3.d.i.

4  
5 The Planning Commission reviewed the record and concurred with the staff's recommendation,  
6 with a minor modification. During the course of the public process, evidence was presented regarding  
7 an additional commercial use that existed prior to 1990 located adjacent to the recommended LOB.  
8 This property was a tackle shop located directly south of the Country Corners landmark. It historically  
9 was a commercial property and would provide an opportunity to further serve the rural community.  
10 Index #27041. Futurewise has not challenged this action.  
11

12 The BOCC considered the George's Corner LAMIRD proposal. The BOCC adopted the  
13 Planning Commission's recommendation and made specific findings that the George's Corner  
14 LAMIRD complied with RCW 36.70A.070(5)(d)(i). Ordinance 326-2004 at 8. It found that the  
15 LAMIRD would help preserve the rural area, would be of assistance in preserving critical areas, and  
16 would be served by those public facilities needed and in a manner that would not promote low-density  
17 sprawl. Ordinance 326-2004 at 8, ¶¶ 4, 5, 6.  
18  
19

20 Futurewise argues that it is "too late" to designate a LAMIRD – essentially asking this Board to  
21 amend the statute and impose an additional statutory deadline. Futurewise cites to *Anacortes v. Skagit*  
22 *County*, WWGMHB No. 00-20049c, Compliance Order (1/31/02) in support of this argument.  
23 However, the *dicta* in *Anacortes* is not an order and was apparently in response to the Western Board's  
24 official notice of particular Skagit County applications. No facts are presented regarding the  
25 circumstances of those applications, and legal conclusions cannot be drawn from that *dicta*. Moreover,  
26 the Western Board's decisions are not binding on this Board. *See Kitsap County v. OFM*, CPSGMHB  
27  
28



1 No. 94-3-0014, Final Decision & Order (3/27/95); RCW 36.70A.250(2). In any event, as shown  
2 above, the County began the process of identifying potential LAMIRDs within a year of the enactment  
3 of the statutory provision. It went through an extensive public participation process and review before  
4 designating George's Corner as a LAMIRD. There is no legitimate argument that the County is "too  
5 late."

7 Futurewise makes several vague arguments that because the LAMIRD is not served by sewer, it  
8 is non-compliant. Futurewise PHB at 8 (lines 5-7); 9 (line 5), 10 (lines 16-17). Futurewise appears to  
9 be confusing LAMIRDs with urban areas. By definition, a LAMIRD is not urban growth. RCW  
10 36.70A.030(17). Sanitary sewer systems, by definition, are urban services. RCW 36.70A.030(19).  
11 Thus, the fact that public sewer does not serve the site has no bearing on whether it is appropriate to be  
12 designated a LAMIRD. As this Board noted in one of the earlier cases addressing the LAMIRD issue:  
13

15 For Petitioners to complain that Port Gamble is, in effect, "too urban" reveals a  
16 fundamental misunderstanding of the very nature of such settlements. . . . While these  
17 'more intensive' rural settlements are in the rural area, they are different from the  
18 surrounding rural area in the intensity and range of uses. It is logical that they would  
19 also be different in visual character.

20 *Burrow v.. Kitsap County et al*, CPSGMHB No. 99-3-0018 Coordinated with Consolidated Case No.  
21 98-3-0032c, Order On Compliance In A Portion of *Alpine* and Final Decision & Order in *Burrow*  
(3/29/2000)

22 Futurewise seems to argue on the one hand that public sewers are needed, but also cites to  
23 another Western Board case warning against developing LAMIRDs as "mini-UGAs." Not only is it  
24 legal that no public sewer serves the George's Corner LAMIRD, it is highly appropriate. The absence  
25 of public sewer will further contain and limit the growth in the area, limiting both the parcel coverage  
26 of development and the types of development. *See Robison, et al. v. City Of Bainbridge Island*,  
27 CPSGMHB No. 94-3-0025, Final Decision & Order (5/4/95) ("For example, excessive use of five acre  
28

1 lots, septic tanks and easement roads could inappropriately preclude subsequent development at urban  
2 densities, or urban levels of street and utility services.”)

3  
4 Futurewise cites to *Hensley IV* in support of its argument that the LOB is not appropriate.  
5 *Hensley & McVittie v. Snohomish County*, CPSGMHB No. 01-3-0004c, Final Decision & Order  
6 (8/15/01). In that case, Snohomish County designated a LAMIRD that essentially included two  
7 crossroads developments, with 27 acres of vacant land between them. This Board found that the  
8 county had not taken adequate steps to minimize and contain the LAMIRD. *Id.* However, there is  
9 more to this story that Futurewise fails to mention.  
10

11 On remand, the county removed the 27 acres of vacant land and designated the two crossroads  
12 as LAMIRDs. *Hensley & McVittie v. Snohomish County*, CPSGMHB No. 01-3-0004c consolidated  
13 with 02-3-0004, Order Finding Compliance in *Hensley IV* and Final Decision & Order in *Hensley V*  
14 (6/17/02). Petitioners then made the same arguments Futurewise makes here: that including  
15 undeveloped land as infill is improper and that including all four corners of the main intersection was  
16 “irregular.” This Board disagreed:  
17

18 In response to the Board’s FDO in *Hensley IV*, the County appropriately removed the 27-  
19 acres of land connecting the two crossroad commercial nodes. Also, the Board’s review  
20 of the delineation of the two Clearview LAMIRDs as depicted in Ordinance No. 01-133  
21 and the map indicating the “Built Environment Clearview Commercial Study Area”  
22 correlate very closely.

23 The “Built Environment” map depicts: 1) commercial areas or uses in existence in July  
24 of 1990; 2) permitted or vested commercial uses prior to 1990; 3) permitted or vested  
25 uses between 1990 and 2000; and 4) institutional use. These areas are all clearly  
26 identifiable and contained within the two nodes delineated in the Clearview LAMIRDs  
27 by Ordinance No. 01-133. Additionally, the Board finds that although the LOBs for the  
28 two LAMIRDs are not “regular” due to their alignment along SR-9, they are not  
abnormally irregular as that term is used in RCW 36.70A.070(5)(d)(iv). Also, the use of  
lot or property lines to delineate the LOBs is logical and is not prohibited by this section  
of the Act. Further, as anticipated and allowed by .070(5)(d)(i) and (iv), the two LOBs

1 appropriately include undeveloped land for infill development or redevelopment of  
2 existing commercial areas and uses within the LOBs. The areas included within the  
3 LOBs are minimized and contained within the LOBs. Plan Policies LU-6.I.1 through  
4 LU-6.I.8 provide further appropriate policy guidance for minimizing and containing  
these LAMIRDs.

5 *Id.* at \*12 (footnotes omitted).

6 Futurewise also cites to an Eastern Board case in support of its arguments, *1000 Friends of*  
7 *Washington et al. v. Spokane County*, EWGMHB No. 03-2-0003, Final Decision & Order (5/24/04).  
8 That case addressed several LAMIRDs (some called Rural Activity Centers). One, the “Bridges and  
9 Newport Highway Rural Activity Center” was similar to George's Corner, in that it was a crossroads  
10 development with one empty corner. Petitioners there argued, as here, that the vacant lot could not be  
11 included. The Eastern Board disagreed:

12  
13 The subject parcel is on a vacant corner of a busy rural crossroads. Even though the  
14 land is undeveloped and is not completely surrounded by developed land, it serves as  
15 appropriate infill for the businesses and built environment that already exist on the other  
16 three corners of this intersection. . . . This parcel serves as part of a logical outer  
boundary of the Rural Activity Center.

17 *Id.* at 9.

18 The facts regarding George's Corner are very similar to those in *Hensley IV* after Snohomish  
19 County took action to bring the LAMIRD into compliance, and in *1000 Friends v. Spokane County*.  
20 As it did in the *Hensley IV* Order on Compliance, this Board must find that George's Corner also  
21 complies with RCW 36.70A.070(5)(d).  
22

23 *Kitsap County has Implemented Development Restrictions on Property within the LAMIRD.* It  
24 is undisputed that the George's Corner LAMIRD is a commercial area. Futurewise alleges that Kitsap  
25 County did not enact provisions to ensure that future development in the George's Corner LAMIRD is  
26 principally designed to serve the existing and projected rural population. This allegation is incorrect.  
27  
28



1 First, the LAMIRD has been zoned "Neighborhood Commercial," which in itself limits the type of  
2 development that can occur. The stated purpose of Neighborhood Commercial (NC) zoning restricts  
3 the use:  
4

5 These commercial centers occur on smaller sites and are intend to  
6 provide for the *quick stop shopping needs for the immediate*  
7 *neighborhood* in which they are located. New centers should be based  
8 upon demonstrated need and shall be compatible with a residential  
9 setting.

KCC 17.355.010.A (emphasis added).

10 The NC zone use table shows that the types of commercial establishments allowed are those  
11 that will serve the general neighborhood. *See attached* Exhibit B. Large retail establishments are  
12 entirely prohibited, as are many other types of commercial facilities. In fact, the only type of  
13 development that is permitted outright in an NC zone are existing residences that are allowed to be  
14 remodeled only if density does not increase. *See* Exhibit B, Commercial Use Table KCC  
15 17.355.020A.2. All other permitted uses require either a Site Plan Review (SPR) or a Conditional Use  
16 Permit (CUP). It is through these permit processes that compliance with Ordinance 326-2004 and the  
17 GMA is achieved. These types of permit processes provide for an individualized review of  
18 compatibility with the surrounding area. Moreover, Ordinance 326-2004 shows that the BOCC made  
19 specific finding:  
20  
21

22 The Board of Commissioners finds that proposed commercial uses in the George's  
23 Corner LAMIRD should be the types of commercial uses principally designed to serve  
24 the rural community. Any development or redevelopment within the George's Corner  
25 LAMIRD shall be consistent with the character of the existing area in terms of building  
26 size, scale, use or intensity.

27 Ordinance 326-2004 at 8; § 4 ¶ 9. The Ordinance further states:  
28

1 Adopt the 2004 Text and Policy Revisions relating to the George's Corner  
2 LAMIRD as amended in Attachment 1. The Board hereby designates George's  
3 Corner as a LAMIRD, and redesignates/rezones the property within the  
4 LAMIRD boundary as Neighborhood Commercial, subject to a Boundary Line  
5 Adjustment for the Bjarnson property, as set out in the June 4, 2004, staff report.  
6 The Zoning Code shall also include a provision that requires any new  
development or redevelopment within the George's Corner LAMIRD to be  
consistent with the character of the existing area in terms of building size, scale,  
use or intensity.

7 Ordinance 326-2004 at 17, §9 ¶ 1.<sup>8</sup> (emphasis added).

8  
9 In making the argument that the George's Corner does not principally serve the existing  
10 community, Futurewise goes on to claim that the added commercial development somehow creates an  
11 imbalance between the rural and urban commercial areas. And in making this argument, Futurewise  
12 sets out a red herring, claiming that the BLR shows only 10% of the cities having commercial growth.  
13 In fact, Kitsap County's largest commercial area, Silverdale, is located in an unincorporated UGA. The  
14 BLR shows that the commercial growth within all UGAs amounted to 77%. Futurewise's claim that  
15 approving a limited amount of additional commercial development within the LAMIRD somehow  
16 deprives the cities of commercial opportunities is meritless.

17  
18 *Futurewise has not met its Burden to show George's Corner LAMIRD is not in compliance with*  
19 *GMA.* As shown above, there is abundant evidence in the record to demonstrate that the George's  
20 Corner LAMIRD meets the requirements of the Act. Petitioners alleging noncompliance must *clearly*  
21 *demonstrate* by showing in the record where the County's action are not GMA-compliant. Futurewise  
22 has fallen woefully short of the minimum evidence it must present to invalidate the George's Corner  
23  
24

25  
26  
27 <sup>8</sup> A footnote is to be added to the Commercial Land Use Table that would state that development proposals for George's  
28 Corner LAMIRD shall be consistent with the character of the existing area in terms of building size, scale, use or intensity.  
That footnote has not yet been codified.

LAMIRD. Futurewise bases its arguments on errors of law and misconstrued facts. Instead of violating the Act, the George's Corner LAMIRD *promotes* GMA goals because it limits and contains commercial growth in the area, and restricts the types of commercial uses that can occur within its contained boundary. The LOB is the most logical alternative considered – merely because Futurewise disagrees does not make it non-compliant. *See Gagnier, Swensen, Factoria Area Coalition for Tomorrow v. City of Bellevue (FACT)*, CPSGMHB No. 02-3-0014, Final Decision & Order at \*10 (3/17/03) (Fact that petitioner preferred a stricter development regulation is not enough to meet burden of proof to show noncompliance with GMA). The Board should deny Futurewise's appeal on this issue.

**C. Kitsap County Has Adopted and Implemented Reasonable Measures**

In accordance with the Petitioners' briefing, Kitsap County addresses Legal Issues 2 and 3 together, as they are interrelated.

***2. Does adoption of Resolution 158-2004 fail to comply with RCW 36.70A.020(1), RCW 36.70A.020(2) and RCW 36.70A.215 when a buildable lands report shows an inconsistency between the county's comprehensive plan, development regulations and on-the-ground development that has occurred since the adoption of the comprehensive plan and development regulations and the Resolution fails to adopt and implement measures reasonably likely to increase consistency as required by the GMA?***

***3. Did Kitsap County fail to adopt and implement measures reasonably likely to address the inconsistency between the County's comprehensive plan and development regulations and on the ground development that has occurred since their adoption when the County is required under RCW 36.70A.215 and RCW 36.70A.130 to adopt such reasonable measures no later than December 1, 2004?***

Background. In 1997, the legislature adopted RCW 36.70A.215 which requires six western Washington counties, including Kitsap County, to prepare what is commonly termed a "buildable lands report" (BLR). The two stated purposes of the buildable lands program is to:

- 1       ➤ determine whether the County is achieving urban densities within the urban growth area (UGA)  
2       by comparing the growth and development assumptions, targets and objectives in the  
3       Countywide planning policies and the County's comprehensive plan with the actual growth that  
4       has occurred, and  
5       ➤ identify reasonable measures, other than adjusting urban growth areas, that will be taken to  
6       comply with the GMA.

7       RCW 36.70A.215(1); *see also* Exhibit C, CTED Buildable Lands Report at 5.<sup>9</sup>

8       The first buildable lands report was due on September 1, 2002. Kitsap County prepared a  
9       buildable lands report that covered development over the years 1995 through 1999. Kitsap County's  
10      BLR was not challenged, and showed that Kitsap County was approaching the required densities within  
11      the urban areas (average was 3.89 dwelling unit per acre (dua) throughout the UGAs, including  
12      Bainbridge Island).

13      RCW 36.70A.215(3) sets forth the minimum requirements that a BLR must include:

14      (a) Determine *whether there is sufficient suitable land* to accommodate the county-wide  
15      population projection established for the county pursuant to RCW 43.62.035 and the  
16      subsequent population allocations within the county and between the county and its cities and  
17      the requirements of RCW 36.70A.110;

18      (b) Determine the *actual density of housing* that has been constructed and the *actual amount*  
19      *of land developed for commercial and industrial uses within the urban growth area* since the  
20      adoption of a comprehensive plan under this chapter or since the last periodic evaluation as  
21      required by subsection (1) of this section; and

22      (c) *Based on the actual density of development as determined under (b) of this subsection,*  
23      *review commercial, industrial, and housing needs by type and density range to determine the*  
24      *amount of land needed* for commercial, industrial, and housing for the remaining portion of the  
25      twenty-year planning period used in the most recently adopted comprehensive plan.

26      (Emphasis supplied). Thus, by the statutory terms, the BLR is to evaluate the densities, commercial

27      <sup>9</sup> This document was apparently omitted from the County's record, but the Board may take judicial notice of it pursuant to  
28      WAC 242-02-660(2).



1 and industrial development that have occurred within the UGAs over the past five years. The County  
2 is then to use that evaluation to determine whether the UGAs have enough density for accommodating  
3 the remaining twenty-year period. In *Hensley VI*, this Board recognized that a BLR is to focus on the  
4 statutory components set forth above. *Hensley and 1000 Friends of Washington v. Snohomish County,*  
5 *et al.*, CPSGMHB No. 03-3-0009c, Final Decision & Order at 12 (9/22/03). This Board went on to  
6 state:  
7

8         The review and evaluation program is designed to require the assessment of at least the  
9 three most significant consumers of *urban land* – residential, commercial and industrial  
10 uses. These three use types provide the core of *urban development* and the basis for the  
11 possible expansion of UGAs.

12 *Id.* (emphasis added). The statute deals solely with development within the UGAs – it does not  
13 require a review of the entire comprehensive plan, county-wide planning policies and the development  
14 regulations. If it did, it would duplicate RCW 36.70A.130(1) and (3). Such an interpretation would  
15 also require a complete review every five years (.215); every seven years (.130(1)) and every ten years  
16 (.130(3)).  
17

18         The adoption and implementation of reasonable measures is required if the evaluation *of the*  
19 *three specific criteria* set forth in RCW 36.70A.215(3) show an inconsistency, then the county must  
20 adopt and implement reasonable measures. RCW 36.70A.215(4).  
21

22         If the evaluation required by subsection (3) of this section demonstrates an  
23 inconsistency between what has occurred since the adoption of the county-wide  
24 planning policies and the county and city comprehensive plans and development  
25 regulations and what was envisioned in those policies and plans and the planning goals  
26 and the requirements of this chapter, as the inconsistency relates to the evaluation  
27 factors specified in subsection (3) of this section, the county and its cities shall adopt  
28 and implement measures that are reasonably likely to increase consistency during the  
subsequent five-year period. If necessary, a county, in consultation with its cities as  
required by RCW 36.70A.210, shall adopt amendments to county-wide planning  
policies to increase consistency. The county and its cities shall annually monitor the

1 measures adopted under this subsection to determine their effect and may revise or  
2 rescind them as appropriate.

3 *Id.* The stated purpose of the section .215 is to ensure that urban densities are being achieved in its  
4 urban areas, which Kitsap County was close to achieving in 1999 at 3.89 dwelling units per acre.

5 As part of its 2004 GMA compliance review,<sup>10</sup> Kitsap County recognized that its Buildable  
6 Lands Report did not include an identification of possible measures that would be implemented if the  
7 review showed inconsistencies.<sup>11</sup> Thus, the County prepared a list of identified measures that could be  
8 used if the next BLR showed that urban densities were not being met within the UGA.<sup>12</sup> This list of  
9 possible reasonable measures was intended to be included as a supplement to the BLR to bring it into  
10 compliance with RCW 36.70A.215(1)(b).  
11

12  
13 Just before the BOCC was to make a decision on its 2004 comprehensive plan amendments,  
14 this Board ruled that Kitsap County was required to not only *identify* reasonable measures, but that its  
15 BLR showed inconsistencies that required Kitsap County to *adopt and implement* such measures. The  
16 Board based its conclusion on the fact that the Kitsap Countywide Planning Policy (CPP) set a *target*  
17 of 5/6 (83.3%) of the growth going into the urban areas. Kitsap County's original target was ambitious  
18 and made with good intent, but it became apparent to the BOCC that this was a target the County will  
19 not be able to meet in the near future. Thus, Kitsap County has since adopted a new CPP that lowered  
20 that lofty goal, but still strives to direct the majority of growth into the urban areas. *See* Ordinance No.  
21  
22

23  
24  
25 <sup>10</sup> RCW 36.70A.130(1).

26 <sup>11</sup> The BLR explains that the identification of reasonable measures was not completed due to funding limitations; in 2002,  
state funding for the six counties required to prepare BLRs was withdrawn. Index #27372 at 1.

27 <sup>12</sup> Prior to the direction in this Board's ruling in August 2004, Kitsap County regarded its BLR as providing baseline data,  
as it covered a period of time before Kitsap County came into compliance with the GMA.  
28

327-2004 at Attachment A at 14 (Core Document)(target now is 76% of new growth going into urban areas).

Kitsap County Has Taken Appropriate Action to Implement Reasonable Measures. Kitsap County has adopted and implemented many reasonable measures since it came into compliance with the GMA – it’s only “error” was that it did not denominate each with the identifying appellation of being a “reasonable measure.” Thus, in addition to the list of possible reasonable measures identified for addition to the BLR, and those included in Ordinance 326-2004, the Board of Kitsap County Commissioners recognized, through Resolution 158-2004, some of those reasonable measures that had already been implemented.<sup>13</sup> Despite having the issue dismissed, Petitioner Harless continues to frame his arguments regarding reasonable measures as the County’s “failure to act.” Harless PHB at 5-7. However, in 2004, Kitsap County took three separate actions concerning reasonable measures:

- Supplemented the BLR to include the list of possible reasonable measures;<sup>14</sup>
- Adopted Ordinance 326-2004, which includes several reasonable measures, although they are not specifically labeled as such;
- Recognized some reasonable measures that have already been adopted and implemented though Resolution 158-2004.

Adopted and Implemented Reasonable Measures. In 1998, Kitsap County adopted a new comprehensive plan that established new UGA boundaries and land use designations county-wide. Also in 1998, Kitsap County adopted a completely new zoning code to implement the comprehensive plan. Kitsap County has adopted zoning provisions for the unincorporated UGAs that include many

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<sup>13</sup> There are other, additional adopted and implemented reasonable measures that were not listed in Resolution 158-2004. Many examples are discussed in this brief.

<sup>14</sup> While there appears to be some confusion by the Petitioners regarding the list added to the BLR and those reasonable measures adopted and implemented, there appears to be no challenge to the list supplementing the County’s BLR.

1 provisions that can be considered reasonable measures. For example, the “urban low” and “urban  
2 cluster” residential zoning classification include *minimum* zoning densities of 5 dwelling units per acre  
3 (dua), and *no* minimum lot requirement. KCC 17.330.060(A); 17.335.030. The Urban High  
4 Residential zoning includes a *minimum* density of 19 dua. KCC 17.350.050.  
5

6 Since the major extensive comprehensive plan revisions in 1998, Kitsap County has  
7 concentrated on planning through its subarea plans. To date, six subarea plans have been completed.  
8 Through the subarea planning process, the County has been able to focus on smaller geographic areas.  
9 This has allowed more precise GMA planning, including more accurate land capacity analyses, and  
10 implementing the appropriate measures for each specific subarea. As this Board has noted:  
11

12 [A] subarea plan . . . may refine the land use, housing, utility, capital  
13 facility or transportation policies or projects affecting the subarea.  
14 However, these refinements must be consistent with the jurisdiction's  
15 comprehensive plan and comply with the goals and requirements of the  
16 Act. Where the subarea plan modifies only certain portions of the  
17 jurisdiction's comprehensive plan for the subarea, the unaffected  
provisions of the comprehensive plan continue to apply and govern in the  
subarea.

18 *Master Builders Association of Pierce County, et al. v. Pierce County*, CPSGMHB No. 02-3-0010,  
19 Final Decision & Order, (2/4/2002) (quoting *Lawrence Michael Investments LLC v. Town of*  
20 *Woodway*, CPSGMHB Case No. 98-3-0012, Final Decision & Order, at 51 (1/8/1999)).

21 In 2003, Kitsap County adopted several subarea plans, the Kingston, South Kitsap ULID #6 and  
22 South Kitsap Industrial Area (SKIA) subarea plans. Those subarea plans include policies and goals  
23 that promote increasing urban densities and serve as reasonable measures. Excerpts from these subarea  
24 plans are attached hereto as Exhibit D (Index #25559). As the excerpts show, there were many adopted  
25 policies and goals designed to promote urban densities and to further advance Kitsap County on the  
26 path to ideal post-GMA conditions. However, as discussed *infra*, Kitsap County still has many vested  
27  
28



1 pre-GMA lots in the rural areas that create obstacles to immediate post-GMA land use conditions.  
2 Kitsap County has made considerable progress over the years to bring its comprehensive plan and  
3 zoning regulations into GMA-compliance, but the translation of those requirements to “on the ground”  
4 development may take many years.  
5

6 Additional development regulations were promulgated in 2003 for both the ULID #6 and SKIA  
7 subarea plans. These regulations are attached hereto as Exhibit E Index #25559) and include a number  
8 of measures designed to further GMA goals and to increase density in the UGAs. For example, in both  
9 SKIA and South Kitsap ULID #6 subarea plans, master planning for development is required. Master  
10 Planning ensures that development is concurrent with the infrastructure and other urban amenities.  
11 Other 2003 additions to the zoning code included design standards, specific transportation standards,  
12 and provisions for urban amenities, all of which can be considered reasonable measures. Again, while  
13 these regulations were not specifically labeled as “reasonable measures,” they were intended to further  
14 the goals of GMA and to promote densities into the UGAs.  
15

16 In addition to the reasonable measures already implemented, Ordinance 326-2004 also included  
17 several reasonable measures, albeit not specifically labeled as reasonable measures. For example, in  
18 2004, the County considered an increased demand for commercial and industrial lands, particularly in  
19 the south end. Specific land capacity analyses were conducted for these types of land, showing a  
20 severe deficit. Index #27321. Three sites within UGAs were re-designated commercial to  
21 accommodate additional commercial development activity.<sup>15</sup> Ordinance 326-2004 at 17, §9, ¶3.c. In  
22  
23  
24

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25  
26  
27 <sup>15</sup> Of course, these redesignations also removed some residential land from the UGA inventory, for which land capacity  
28 analyses adjustments were made. If the UGAs are proposed for further expansion for residential purposes, these numbers  
will be adjusted.

1 addition, the Sherrard property was redesignated to a higher residential density, an amendment that the  
2 BOCC formally recognized as a reasonable measure for the Kingston UGA. *Id.* Instead of recognizing  
3 the serious need for commercial property and the re-designations within the UGAs for that purpose,  
4 Harless complains that it is further removing residential property – in direct contrast to Futurewise’  
5 arguments regarding George's Corner “taking away” commercial property from the cities’ UGAs.  
6

7         Petitioner Harless argues extensively that Kitsap County’s formal recognition of previously-  
8 implemented reasonable measures is inadequate because many of these provisions are similar to earlier  
9 zoning provisions. However, Harless fails to mention that in 1998, the entire comprehensive plan and  
10 zoning code were completely revised. Thus, it is not possible to take zoning provisions from an earlier  
11 code and compare it to the current code – the zoning classifications are completely different, the  
12 standards for approval are completely different, and the conditions imposed are completely different.<sup>16</sup>  
13

14         Instead of addressing each of Petitioner Harless’ claims that the reasonable measures will not  
15 possibly work, we ask that the Board note that Harless provides very little factual or legal support to his  
16 allegations. Such conclusory statements do not meet the burden of proof. For example, Harless flatly  
17 states, without support, that provisions encouraging mixed uses will not work, and that urban  
18 amenities such as parks and playgrounds will have no effect,<sup>17</sup> and so on and so on.  
19

20         Interestingly, Harless dismisses accessory dwelling units as a reasonable measure, despite the  
21 fact they are permitted outright within UGAs, but subject to conditions and individualized review if not  
22 in a UGA. Harless claims that the urban clustering provisions are not reasonable measures, but  
23

24  
25  
26 <sup>16</sup> For example, in the old zoning ordinance cited by Harless, Section 4, “Establishment of Zones,” shows that rural zones  
varied only from 1 to 2.5 acre lot sizes.

27 <sup>17</sup> Harless’ argues that urban parks have no effect because there are “ample recreational amenities in rural areas,” citing to  
28 the thousands of acres of state parks, state lands, and Kitsap County open space throughout the rural areas. Harless PHB at  
20. These facts actually support Kitsap County’s program of preserving rural open space.

1 provides no evidence that support his arguments, and references former zoning provisions that have no  
2 comparable zones in the current land use codes. In fact, the zoning code provides that the purpose of  
3 the Urban Cluster Residential zone is intended to  
4

5 give flexibility to locate urban residential development in areas suitable for such uses by  
6 promoting a variety of housing choices, and to encourage affordable housing through  
7 innovative design. It allows a combination of single family, townhouse, duplex, and  
8 multiple-family housing, and zero lot line development, in order to encourage clustering of  
9 appropriate densities of residential housing in areas suitable for such development . . . .

KCC 17.335.010.

10 Relying on flawed data in Supplemental Exhibit 3,<sup>18</sup> Harless claims that more duplexes have  
11 been permitted in rural areas. Duplexes are permitted in rural areas, but only on “double the minimum  
12 lot area required for the zone.” KCC 17.302.020(5) (Rural Use Table). For example, a duplex in an  
13 rural area with a minimum 5 acre lot could only be developed on a 10 acre lot – clearly preserving  
14 more open space and preserving rural character.  
15

16 With little to no factual support, Petitioner Harless makes a sweeping allegation that the Kitsap  
17 County provisions to encourage Urban Centers and Urban Villages will discourage urban infill. The  
18 Urban Centers and Urban Villages concept is one that is applied during the subarea planning process  
19 and is a widely-accepted strategy to maintain distinctive neighborhood character and to facilitate  
20 transportation centers. Harless argues that the County should be providing more capital facilities, such  
21 as sewers, with no acknowledgement of the complexities and enormous costs involved in such  
22 undertakings. He dismisses the provisions concerning annexation strategies and Urban Growth  
23 Management Agreements as not having any effect, because they “are governance issues.” To the  
24  
25  
26

27 <sup>18</sup> As shown below, Supplement Exhibit 3 cannot be used to determine countywide data.  
28

1 contrary -- such governance issues are integral to providing proper urban services, such as those  
2 Harless claims are required.

3  
4 Finally, the entire purpose of the reasonable measures requirements is to implement such  
5 measures *other than expanding a UGA*. RCW 36.70A.215(1)(b). In briefing the reasonable measures  
6 issues, both Petitioners focus solely on the residential densities in their briefs. Since the 2003  
7 amendments that were challenged and upheld by this Board in *Bremerton II*, there have been no UGA  
8 expansions for residential purposes. In 2004, there were several minor UGA expansions for  
9 commercial and industrial lands. The record fully supports the need for those adjustments, and  
10 Petitioners have not challenged those UGA expansions.<sup>19</sup>

11  
12 *Vested Lots*. While Kitsap County has made considerable progress to encourage growth in the  
13 urban areas through its comprehensive plan and zoning regulations, the fact remains that there are  
14 many pre-GMA “legacy lots” in the rural areas. And while many people are still seeking housing in the  
15 rural areas, the ratio between permits issued for the urban areas and the rural areas is steadily  
16 decreasing. Supplemental Exhibit 2.

17  
18 Short of issuing a total moratorium on development in the rural areas, there is little Kitsap  
19 County can do to preclude development of these lots. Washington courts and legislators have adhered  
20 to a very strong vested rights doctrine that requires the County to recognize the right to build on non-  
21 conforming lots, and Kitsap County may be liable if it denies permits for such lots. *See Smoke v.*  
22 *Seattle*, 132 Wn.2d 214, 937 P.2d 186 (1997)(city held liable for refusing to recognize two separate  
23 lots); *Hoberg v. Bellevue*, 76 Wn. App. 357, 884 P.2d 1339 (1994)(city wrongly refused variance for a  
24  
25

26  
27 <sup>19</sup> Furthermore, the commercial/industrial expansions allowed in 2004 were adopted prior to December 1, 2004, and thus  
28 cannot be challenged as failing to include reasonable measures.



1 building permit on a nonconforming lot). Moreover, both the GMA and other state and federal law  
2 recognize that denying use of property could result in a constitutional taking. RCW 36.70A.020(6);  
3 *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992);  
4 *Guimont v. Clarke*, 121 Wn.2d 586, 854 P.2d 1 (1993); *Powers v. Skagit County*, 67 Wn. App. 180,  
5 835 P.2d 230 (1992). Finally, this Board itself has noted the existence of vested property rights:

7 The Board is aware that there are many 1-and 2.5-acre parcels throughout the region. These  
8 can be shown on a current land use map and continue with whatever rights are guaranteed  
9 by state and local law, such as the vested rights doctrine and continued use under a legal  
10 nonconforming status. However, the county's future land use map and zoning regulations  
may not permit the future creation of such lot sizes.

11 *Bremerton, et al. v. Kitsap County et al.*, (“*Bremerton I*”) CPSGMHB No. 95-3-0039c Coordinated  
12 With Case No. 97-3-0024c, Final Decision & Order (10/6/95)(emphasis added).

13 And in a case involving nonconforming uses, this Board stated:

15 However, by the same token, although not favored in the law, nonconforming uses are  
16 vested property rights which are protected. *Summit-Waller Assn. v. Pierce County*, 77 Wn.  
17 App. 384, 388, 895 P.2d 405 (1995); *Van Sant v. Everett*, 69 Wn. App. 641, 649, 849 P.2d  
1276 (1993).

18 *Peninsula Neighborhood Ass’n v. Pierce County*, (“*PNA II*”), CPSGMHB No. 95-3-0071, Final  
19 Decision & Order (3/20/96).

20 The State Department of Community, Trade and Economic Development (“CTED”) recognized  
21 that nonconforming lots are a factor in its “Buildable Lands Program: 2002 Evaluation Report – A  
22 Summary of Findings” issued in June 2003. Index #27372. That report states:

23 Jurisdictions with a large inventory of lots create before GMA plans began to be carried  
24 out may have a lower achieved density until that inventory is replaced over time with  
25 subdivisions that meet the counties’ requirements under their GMA plans.

26 *Id.* at 1. As noted, this Board has previously acknowledged Kitsap County’s issue on several  
27 occasions:

1 Kitsap County has attempted in its Plan to meet the Act's requirements while including  
2 mechanisms to meet the history-based desires of some of its landowners. *Pre-existing*  
3 *parcelization cannot be undone*, however there is no reason to perpetuate the past (i.e.,  
4 creation of an urban land use pattern in the rural area) in light of the GMA's call for  
change.

5 *Bremerton, et al. v. Kitsap County et al.*, CPSGMHB No. 95-3-0039c Coordinated With Case No. 97-  
6 3-0024c, Finding of Noncompliance and Determination of Invalidity in *Bremerton* and Order  
Dismissing *Port Gamble* at \*18 (9/8/97).

7 In *Bremerton I*, this Board held that Kitsap County could not allow further subdivision of lots  
8 in the rural area under “grandfather” and “rural infill” provisions. Those provisions were  
9 subsequently removed from the County’s comprehensive plan. In 1999, this Board found Kitsap  
10 County’s current rural zoning designations in compliance in GMA. *Bremerton et al. v. Kitsap*  
11 *County*, CPSGMHB 98-3-0032c, Order Rescinding Invalidity in *Bremerton* and Final Decision &  
12 Order in *Alpine* (2/8/99). And in compliance with the GMA, Kitsap County no longer allows *the*  
13 *creation* of such nonconforming lots. Nevertheless, as this Board noted, the remaining  
14 nonconforming lots “cannot be undone.” This comports with the Board’s statement that “while  
15 counties have authority to allow pre-existing urban-intensity uses to continue in the rural area, the  
16 expansion or enlargement of such uses would constitute prohibited new urban growth.” *Bremerton,*  
17 *et al., v. Kitsap County*, CPSGMHB No. 95-3-0039c Coordinated With Case No. 97-3-0024c,  
18 Finding of Noncompliance and Determination of Invalidity in *Bremerton* and Order Dismissing *Port*  
19 *Gamble* at \*17 (9/8/97) (citing to *PNA II*, at 17 and 27). As shown above, Kitsap County has taken  
20 steps to prohibit new urban growth in the rural areas.

21 Given that the County cannot “erase” these lots from the property inventory, it will simply take  
22 time in order for the nonconforming lots to be absorbed. Kitsap County has already zoned all of its  
23 rural areas for rural densities, so all new lots that are created in those areas will be considered rural.  
24

1 Because of Kitsap County's unique geography and limited land area, it cannot be compared to the  
2 larger counties in the Central Puget Sound region.

3  
4 *The Supplemental Exhibits are of Extremely Limited Value.* As noted in the Declaration of  
5 David W. Nash, the supplemental exhibits that Petitioners rely upon are of very limited value in a  
6 "new" or "updated" buildable lands report. These documents were not prepared in an effort to  
7 "supplement" the BLR, and are not the types of data used in a land capacity analysis. These data can  
8 not be used as substitutes for those types of analyses, as both Futurewise and Harless attempt to do.  
9

10 Both Harless and Futurewise cite to the relative number of lots between the urban and rural  
11 areas shown in Supplemental Exhibit 1. First, Kitsap County acreage consists primarily of non-UGA  
12 areas. Of the 254,220 acres comprising Kitsap County, only 22% of that total is located within a given  
13 UGA.<sup>20</sup> It makes sense that there are more vacant parcels in the rural area than in the UGA. Further,  
14 the gross number of vacant parcels within a UGA tells us nothing about how densities are being  
15 achieved. Since the *minimum* density within a UGA is 5 du/a, a vacant parcel of 1 acre could result in  
16 5, 10 or 20 dwelling units, depending upon zoning. Finally, the raw number of vacant parcels cannot  
17 predict, as Harless attempts to do, the population those "parcels" will accommodate. There is no  
18 deduction for unbuildable lots, lots unavailable for other reasons, or lots that may be publicly owned –  
19 the actual number of these lots that might accommodate residential construction could be far lower  
20 than that shown on the chart.  
21  
22  
23  
24  
25

26  
27 <sup>20</sup> Both Futurewise and Harless make much of the fact that the BLR shows more "permitted acres" outside a UGA than  
28 inside. This is not surprising, nor illegal, given the larger total acreage in rural incorporated Kitsap County, and the zoning requirements for larger lot sizes in the rural areas.

1 Futurewise and Harless cite to Supplement Exhibit 2 as evidence that the majority of all new  
2 residential construction has occurred outside the urban areas. Futurewise PHB at 23; Harless PHB at 8.  
3 These assertions are misleading. Supplemental Exhibit 2 reflects only residential construction in  
4 *unincorporated* Kitsap County. As noted above, the majority of acreage in Kitsap County is in the  
5 rural area. Of the 22% of total Kitsap County acreage located within a UGA, only a third of that  
6 acreage is within an *unincorporated* UGA. Looking at it another way, Kitsap County's permitting  
7 authority over urban areas consists of only 7% of the total acreage in the County. Thus, in  
8 *unincorporated* Kitsap County there are 18,889 acres within a UGA, compared to 198,903 acres in the  
9 *unincorporated* rural area. So, again, trying to convert these raw and incomplete numbers into a  
10 "supplemental Buildable Lands Report" has major problems.

11  
12 The next BLR is due in 2007. That BLR will show if the County's slow and steady progress  
13 toward meeting GMA goals countywide is moving forward.<sup>21</sup> The Board should acknowledge that  
14 meeting the ideals of GMA may take many years, and recognize all that Kitsap County has done to  
15 meet these goals.

16  
17  
18 **D. Neither George's Corner LAMIRD nor Resolution 158-2004 substantially interfere**  
19 **with GMA Goals**

20 ***Legal Issue 4. Does the County's adoption of Ordinance 326-2004 and Resolution***  
21 ***158-2004 and the County's failure to adopt reasonable measures per RCW***  
22 ***36.70A.215 substantially interfere with the goals of the GMA such that these actions***  
23 ***should be held invalid by this Hearings Board?***

24 Both Petitioners have requested that the Board find "invalidity" on the part of the County, but  
25 neither state precisely what they are asking the Board to declare "invalid." Kitsap County has shown

26  
27 <sup>21</sup> Even Petitioner Harless acknowledges that Kitsap County has seen "some reduction in rural densities." Harless PHB at  
28 8.



1 that George's Corner LAMIRD complies with the GMA, and actually *further*s the goal. With respect to  
2 reasonable measures, the vast majority of the reasonable measures are pre-existing measures. Moreover,  
3 the statute provides only that the County must implement and adopt prior to expanding a UGA. Thus,  
4 there is nothing to invalidate – and invalidating the measures that have already been taken will do more  
5 harm than good.

7 A determination of invalidity is permitted in only limited circumstances and, in all cases, is  
8 discretionary. RCW 36.70A.302(1). A board may only declare part or all of a comprehensive plan or  
9 development regulation invalid when there is more than mere non-compliance; the continued validity  
10 of the plan or regulation, in whole or in part, must *substantially interfere* with the fulfillment of GMA  
11 goals. RCW 36.70A.302(1)(b)(emphasis added); *see also 1000 Friends of Washington v. Snohomish*  
12 *County*, CPSGMHB Case No. 04-3-0018 (*1000 Friends IV*) Final Decision & Order at 14 (December  
13 13, 2004).

16 In some past cases, this Board has based its determination of substantial interference on the  
17 likelihood that future development applications will vest under the non-compliant plan or regulation.  
18 *See e.g., City of Bremerton v. Kitsap County*, CPSGMHB Case No. 04-3-0009c (*Bremerton II*) Final  
19 Decision & Order (8/9/2004) (no threat of vesting showed no need to determine portions of the  
20 comprehensive plan invalid); *Jensen v. City of Bonney Lake*, CPSGMHB Case No. 04-3-0010 Final  
21 Decision & Order (9/20/2004); *Laurelhurst Community Club, et. al. v. City of Seattle*, CPSGMHB  
22 Case No. 03-3-0016 Final Decision & Order (3/3/2004); *Bennett v. City of Bellevue*, CPSGMHB Case  
23 No. 01-3-0022c Final Decision & Order (4/8/2002). This Board has also limited its assessment of  
24 substantial interference to the period of remand. *Master Builders Association of Pierce County, et al.*  
25 *v. Pierce County*, CPSGMHB Case No. 02-3-0010 (*MBA and Brink*) Final Decision & Order at 2  
26  
27  
28

1 (February 4, 2002)(“The question now becomes whether the continued validity . . . during the period of  
2 remand, would substantially interfere . . .”).

3  
4 Futurewise asserts that the George’s Corner LAMIRD frustrates and thwarts GMA Goals RCW  
5 36.70A.020(1), encouraging urban growth, and RCW 36.70A.020(2), reducing sprawl, because the  
6 LAMIRD fails to include measures that will contain and minimize existing development. However,  
7 Futurewise failed to brief this issue in its arguments alleging that the LAMIRD is not GMA-compliant.  
8 Futurewise has therefore failed to meet its burden to show invalidity is merited.  
9

10 As discussed in section B above, infill development is expressly allowed in LAMIRDs by RCW  
11 36.70A.070(5)(d)(i), and so to say that allowing some infill substantially interferes with GMA Goals  
12 would render the GMA internally inconsistent. This is surely not what the Legislature intended.  
13 Futurewise also asserts that the LOB will encourage a commercial strip, but fails to point to any  
14 evidence in the record that supports this claim, much less provide a detailed analysis. In fact, the  
15 County’s act of placing a boundary around this area promotes the GMA goals since it limits and  
16 contains the commercial area. This Board has previously held that to satisfy their burden on invalidity,  
17 petitioners must cite to evidence in the record to that supports a finding that the plan or regulation  
18 substantially interferes with GMA goals; mere argument will not suffice. *1000 Friends IV* at \*14.  
19 Futurewise has not done so here.  
20  
21

22 Finally, Futurewise asserts that “Ordinance 326-2004” thwarts GMA goals and therefore the  
23 action of adopting this Ordinance should be declared invalid. The only legal arguments challenging  
24 Ordinance 326-2004 were made with respect to George's Corner LAMIRD. The Ordinance covers  
25 more than just adopting the LOB for the George’s Corner LAMIRD. At no time does Futurewise  
26  
27  
28

1 mention, much less analyze with any reference to the record, any of the other actions taken through  
2 Ordinance 326-2004.

3  
4 RCW 36.70A.302(1) specifically allows the board to consider “all or part” of a comprehensive  
5 plan or development regulations, and many past decisions by this Board have been limited to narrow  
6 issues of a plan or regulation before it. RCW 36.70A.290(1), in a similar vein, prohibits the Board  
7 from issuing opinions on issues not before it, and the Board clearly wishes not do to so. Prehearing  
8 Order at 8. While Futurewise framed Legal Issue 4 as including the entirety of “Ordinance 326-2004”,  
9 it has only briefed that portion relating to the George’s Corner LAMIRD. Futurewise has therefore  
10 abandoned any argument that it may have had regarding the compliance and validity of the remainder  
11 of Ordinance 326-2004. *See* WAC 242-02-570(1) (“Failure by . . . a party to brief an issue shall  
12 constitute abandonment of the unbriefed issue.”); *see also Hensley v. Snohomish County (Hensley VI)*,  
13 Final Decision & Order (9/22/03).<sup>22</sup>

14  
15  
16 Petitioner Futurewise and Intervenor Harless seem to argue, concurrently and without clear  
17 distinction, that Resolution 158-2004’s reasonable measures do not comply with the GMA and that the  
18 County failed to adopt reasonable measures, and that therefore, “the failure to adopt reasonable  
19 measures” should be declared invalid. Futurewise PHB at p 26; Harless’ PHB at p. 28. Here, both  
20 parties do not specifically challenge the action taken, they simply argue that it was not good enough,  
21 that *additional* action should have been taken. There is nothing to be declared invalid where there  
22  
23

24  
25 <sup>22</sup> Even if the Board finds this argument to be unpersuasive, the invalidation of Ordinance 326-2004 in its entirety would be  
26 excessive, unnecessary and would do much more harm than good. The Ordinance included the County’s compliance review  
27 amendments to bring the comprehensive plan into compliance with current law, including textual amendments regarding the  
28 Critical Areas Ordinance, the siting of Essential Public Facilities, Airports, Capital Budget Decisions, etc. None of these  
actions were objected to or briefed by the petitioners.

1 was no action that has been challenged. *Low Income Housing Institute v. City of Lakewood*,  
2 CPSGMHB Case No. 00-3-0017 at \*12 (*LIHI*) Final Decision & Order (3/9/2001) (“[U]ntil and unless  
3 the City takes action to adopt development regulations . . . there is no action for the board to determine  
4 noncompliant, much less invalid . . .”).

5  
6 Even if the Board finds that the County’s adopted reasonable measures fail to comply with the  
7 GMA, they still do not substantially interfere with GMA goals. None of the County’s reasonable  
8 measures were challenged as substantially interfering with the act. There is no risk that development  
9 permits would inappropriately vest because of allegedly non-compliant reasonable measures.  
10 Moreover, a blanket declaration of invalidity would result in no plan or regulations at all, clearly doing  
11 more harm than good.  
12

13  
14 While Resolution 158-2004 was mentioned within Ordinance 326-2004, Futurewise does not  
15 mention the Ordinance anywhere in its discussion of reasonable measures. Intervenor Harless only  
16 does so twice in its discussion of Legal Issues Nos. 2 and 3, and both are only for factual support. In  
17 neither prehearing brief is there any argument that Ordinance 326-2004, in whole or in part, does not  
18 comply with the GMA on the reasonable measures issue. As noted above, any issue not presented and  
19 supported in the prehearing brief cannot be ruled upon by the Board. Accordingly, Ordinance 326-  
20 2004, in whole or in part, cannot be invalidated based on any non-compliance on reasonable measures.  
21 Petitioner Futurewise and Intervenor Harless therefore have merely sought invalidity on Resolution  
22 158-2004, and for the reasons noted above, these requests should be denied.  
23  
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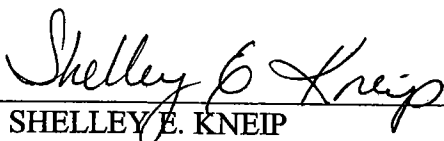
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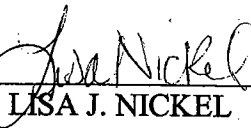
### III. CONCLUSION

Petitioner and Intervenor have not met their burden to show that the George's Corner LAMIRD or the County's adoption and implementation of reasonable measures do not comply with GMA. Their appeals to this Board should be denied.

RESPECTFULLY SUBMITTED this 18 day of April, 2005.

RUSSELL D. HAUGE  
Kitsap County Prosecuting Attorney

  
SHELLEY E. KNEIP  
WSBA No. 22711  
Deputy Prosecuting Attorney  
Attorney for Respondent Kitsap County

  
LISA J. NICKEL  
WSBA No. 31221  
Deputy Prosecuting Attorney  
Attorney for Respondent Kitsap County

## LIST OF EXHIBITS

Index Number	Title/Description of Document
20539	Areas of More Intensive Rural Development Issue Paper – January 30, 2998
24412	2003 Staff Report for George's Corner Limited Area of More Intensive Development (June 4, 2004)
27143	Findings of Fact, Conclusions and Recommendations of the Kitsap County Planning Commission to the Board of Commissioners of Kitsap County, Washington Regarding the Proposed Adoption of Comprehensive Plan Amendments – July 20, 2004
27041	May 24, 2004 letter from Jeff and Nancy Hanson to the Board of County Commissioners
27321	Addendum -- Industrial and Commercial Land Capacity Analysis
27372	State of Washington Department of Community, Trade and Economic Development – Building Lands Program: 2002 Evaluation Report – A Summary of Findings
Exhibit A	Court of Appeals Decision – <i>Bjarnson v. County of Kitsap, et al</i> , Cause No. 33781-5-1; July 24, 1995
Exhibit B	Zoning Code Provisions re: Neighborhood/Commercial
Exhibit C	Washington State Community, Trade and Economic Development Building Lands Program Guidelines
Exhibit D	Excerpts from Subarea Plans (Ord. 311-2003; Index #25559)
Exhibit E	Excerpts from 2003 Development Regulations/Reasonable Measures

# **Public Document Request**

**---**

## **Response #3**

**From:** [Tarah Dofelmier](#)  
**To:** [Karanne Gonzalez-Harless](#)  
**Subject:** Kitsap County DCD Public Records Request – Gonzalez-Harless  
**Date:** Monday, August 20, 2018 5:20:00 PM  
**Attachments:** [PDR Gonzales Harless.pdf](#)

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Hi Karanne,

Thank you for your request for records regarding George's Corner LSMIRD boundary adjustment received on 7/30/2018 by the Department of Community Development. The responsive records are attached.

Please be aware that some documents within Kitsap County's possession may be protected by intellectual property rights (e.g., copyright) or other property interests held by third parties. Kitsap County makes no warranty or guarantee as to these rights and, by production of any document, does not authorize any action that would violate these rights. You are solely responsible for using any produced documents in accordance with any protected rights.

We now consider your request completed and closed. If the records do not satisfy your request, please let me know and we would be happy to conduct another search upon receiving further clarification.

If you have any further questions, please feel free to contact our department at (360) 337-5777.

Sincerely,

Tarah Dofelmier  
Office Support Supervisor  
Department of Community Development  
[tdofelmi@co.kitsap.wa.us](mailto:tdofelmi@co.kitsap.wa.us)  
360-337-4640



**From:** [Amanda Walston](#)  
**To:** [Darren Gurnee](#); [Dave Ward](#); [Liz Williams](#); [Peter Best](#); [Louisa Garbo](#); [Jim Bolger](#)  
**Subject:** FW: Additional Documents RE: George's Corner Letter  
**Date:** Wednesday, September 5, 2018 9:16:46 AM

---

Links to the emails/documents received from Karanne early this morning and forwarded to the Planning Commission. Thanks -Amanda

---

**From:** Amanda Walston  
**Sent:** Wednesday, September 05, 2018 9:14 AM  
**To:** Aaron Murphy <aaronmurphy@co.kitsap.wa.us>; Tom Nevins <tnevins@co.kitsap.wa.us>; Kim Allen <kallen@co.kitsap.wa.us>; Karanne Gonzalez-Harless <kgharless@co.kitsap.wa.us>; Jim Svensson <jsvensson@co.kitsap.wa.us>; Richard Shattuck <richardshattuck@co.kitsap.wa.us>; Gina Buskirk <ginabus Kirk@co.kitsap.wa.us>; Gina M. Buskirk <gina.buskirk5941@kitsap.onmicrosoft.com>; Joe Phillips <jphillips@co.kitsap.wa.us>  
**Subject:** Additional Documents RE: George's Corner Letter

Good Morning,

Due to file size and mailbox limits, please use the links below to access additional documents received from Karanne, relating to the letter regarding George's Corner submitted and discussed at last night's Planning Commission.

This link will take you to the folder, where you can open each item individually  
<https://www.dropbox.com/sh/j4870go92szviuv/AACAPRhq5hEAOGUY0veFEnFXa?dl=0>

This link will take you directly to the combined file, consisting of the emails and all 5 attachments.  
[https://www.dropbox.com/s/g246kmiearq2rx4/2018.09.05%20-%20KGH%20EMAILwAtt%201-5\\_RE%20George%27s%20Corner%20Supp%20Docs.pdf?dl=0](https://www.dropbox.com/s/g246kmiearq2rx4/2018.09.05%20-%20KGH%20EMAILwAtt%201-5_RE%20George%27s%20Corner%20Supp%20Docs.pdf?dl=0)

Thank you,

**Amanda Walston**  
**Clerk of the Hearing Examiner and Planning Commission**  
Kitsap County Department of Community Development  
(360) 337-5777 ext.3132  
619 Division St MS 36  
Port Orchard WA 98366



NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this e-mail account may be a public record. Accordingly, this e-mail, in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim

of confidentiality or privilege asserted by an external party.

**From:** [Renee Watkins](#)  
**To:** [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)  
**Subject:** 15 00378 Reclassification Request Staff Report  
**Date:** Wednesday, January 06, 2016 2:34:06 PM  
**Attachments:** [15 00378 3N Kingston Reclassification Request Staff Report.pdf](#)

---

Good Afternoon,

Please see the attached Reclassification Request Staff Report for permit 15 00378.

Very Respectfully,  
Renee Watkins  
Department of Community Development  
Executive & Long Range Planning Support  
(360)337-5777 Ext. 4819



Larry Keeton  
DIRECTOR

Jeffrey L Rowe,  
CBO, CFM  
DEPUTY DIRECTOR

## KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

*To enable the development of quality, affordable, structurally safe and environmentally sound communities.*

January 6, 2016

Bill Broughton  
9057 Washington Ave  
Silverdale, WA 98383

RE: Kitsap County Land Use Reclassification Request

Dear Bill:

This letter is to inform you the final staff report for your Land Use Reclassification Request is available for review. The report analyzes how your request compares with state and local land use and environmental regulations and with state growth management laws. As a reminder, individual Land Use Reclassification Requests are being considered as part of Kitsap County Comprehensive Plan 8-Year Update, which is due to be completed on June 30, 2016.

Regardless of whether or not a Land Use Reclassification Request is recommended for approval or denial, all reclassification requests will receive a public hearing before the Kitsap County Planning Commission and Board of County Commissioners in Spring of 2016. You will receive notice and invitation to participate in these hearings as these dates become final.

### **Next steps**

We would like to extend an invitation to have you and/or your representative visit our office to answer questions or discuss the staff report. Staff are available for 30-minute meetings on either Friday, January 15 or Friday, January 22 between 1:00pm and 3:30pm. These meetings must be scheduled in advance and walk-in appointments are not available. To schedule a session, please contact Office Administrator, Renee Watkins, via email at [rwatkins@co.kitsap.wa.us](mailto:rwatkins@co.kitsap.wa.us) or 360-337-5777 ext. 4819.

Sincerely,

Jeffrey L. Rowe, CBO  
Deputy Director, Chief Building Official, Flood Plain Administrator  
Department of Community Development

619 Division Street, MS-36 • Port Orchard, Washington 98366-4676 • (360) 337-5777 • FAX (360) 337-4925  
[www.kitsapgov.com/dcd](http://www.kitsapgov.com/dcd)

2011 Governor's  
Smart Communities  
Award Kitsap  
County  
'Year of the Rural'







## STAFF REPORT

### Permit Number: 15 00378 | DJM Construction

**DATE:** November 9, 2015

**TO:** Kitsap County Board of Commissioners; Kitsap County Planning Commission

**FROM:** Katrina Knutson, AICP, Senior Planner, DCD and

Jeff Arango, AICP, Senior Associate, BERK Consulting

**RE:** DJM Construction Reclassification Request

---

### APPLICATION INFORMATION

1. **Applicant Name:** Bill Broughton, DJM Construction Co. Inc. (applicant and owner)
2. **Parcel Number:** 272702-2-047-2003
3. **Address or location information:** Near the corner of Miller Bay Rd. NE and NE State Highway 104; see Attachment 1. Commissioner District 1.
4. **Current Land Use:** Undeveloped; see Attachment 3.
5. **Current Comprehensive Plan Map Designation:** Rural Residential/Rural Protection
6. **Proposed Comprehensive Plan Map Designation:** Urban Low-Intensity Commercial/Mixed-Use
7. **Current Zoning:** Rural Residential (RR)/Rural Protection (RP); see Attachment 4.
8. **Proposed Zoning:** Neighborhood Commercial (NC); see Attachment 5.
9. **Lot Area / Size:** 8.36 acres
10. **Comprehensive Plan Alternatives:** Request included with Comprehensive Plan Update 2016 Supplemental Environmental Impact Statement (SEIS) Alternative 3.

### Submitted Application Materials

- Project Application
- Reclassification Request Criteria
- Environmental Checklist
- Ownership Certification

## Application Request

The applicant is requesting to amend both the Comprehensive Map and zoning designations. The existing designation is Rural Residential (RR) and Rural Protection (RP) and the applicant is requesting inclusion in the adjacent George's Corner Limited Area of More Intense Development (LAMIRD). The applicant is also requesting to amend the zoning designation from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial (NC). The applicant states in the application that the existing designations and LAMIRD boundary may be due to a mapping error which is outside of the scope of this process.

## BACKGROUND

The adjacent George's Corner LAMIRD boundary was established in 2004. After appeal and adjudication in 2004, the Washington State Growth Management Hearings Board made specific notice of the boundary, which is adjacent to the subject parcel. The Growth Board excerpt is below:

*The County chose to use the physical contours of the land and the presence of wetlands to define the boundary of the LAMIRD. Consistent with .070(5)(d)(iv)(B), this is likely to result in permanent boundaries that are less subject to pressures for commercial expansion and sprawl. The wetlands and critical areas may help buffer the commercial uses from the surrounding rural lands. The County required a lot-line adjustment on the Bjarnson property to further contain the LAMIRD.*

*Futurewise, Harless, KCRP v. Kitsap County, CPSGMHB 04-3-0031c, Final Decision and Order (FDO) (6/28/05).*

The existing LAMIRD boundary was based in part on the presence of wetlands and geologic hazards on the subject property as shown in Attachment 2. The complex of wetlands is directly associated with Grover's Creek, an important fish-bearing stream which empties into Miller Bay. (Wetland delineation mapping attached).

As shown in maps included in this report, a Short Plat (200511300408/409) was recorded following the establishment of the LAMIRD that resulted in the creation of new lots and split-zoning. This split-zoning (RP, RR, NC) was not created by an action of the County.

## Surrounding Zoning and Land Use

The site abuts NC zoning to the north and west but RR and RP to the east and south.

**Exhibit 1. Summary of Surrounding Areas Current Zoning and Land Use**

Surrounding Areas	Current Zoning	Current Land Use
<b>North</b>	• NC	• Trade (Commercial) and Government Services
<b>East</b>	• RP	• Undeveloped
<b>South</b>	• RR/RP	• Undeveloped
<b>West</b>	• NC	• Residential and Trade (Commercial)

Source: Kitsap County GIS; BERK Consulting 2015

## Current Future Comprehensive Plan and Zoning Designations

The subject property is currently designated as Rural Residential and Rural Protection on the Comprehensive Plan Map. The Comprehensive Plan describes the designations as:

- **Rural Protection (RP):** This designation is intended to allow low-density development in keeping with rural character and to protect significant environmental features, including visual, historic, and natural features; wildlife corridors; steep slopes; wetlands; streams; and adjacent critical areas. It is implemented by the RP zone.
- **Rural Residential (RR):** This designation is intended to allow low-density residential development consistent with rural character, and primarily focuses on single-family dwellings. This designation is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features, and also recognizes areas that are already committed to a pattern of smaller rural lots. The RR designation is implemented by the Rural Residential zone.

According to the Kitsap County Code (Chapter 17.305 Kitsap County Code (KCC)), the RP zone is intended to “promote low-density rural development that is consistent with rural character and protects environmental features such as significant visual, historical, natural features, wildlife corridors, steep slopes, wetlands, streams and adjacent critical areas.” This zone allows for residential, commercial, resource, and recreational uses that are compatible with rural character. The maximum density is 1 dwelling unit per 10 acres.

The RR zoning designation (Chapter 17.310 KCC) promotes “low-density residential development consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services.” RR has a maximum density of 1 dwelling unit per 5 acres. This zone allows for residential and limited commercial, resource and recreational uses that are compatible with rural character.

Rural character is referenced in both designations and zones. Chapter 3 Rural and Resources Lands of the Comprehensive Plan has a detailed description of rural character as well as goals and policies. Some of the characteristics defining rural character include:

- Relatively undeveloped nature
- Lots 5 acres and over
- Agricultural and forest activities
- Land for wildlife and nature
- Personal open space for tranquility (enjoyment of personal property)
- Responsive public services, sense of being self-sufficient
- Wooded trail systems
- Views of the Hood Canal, Puget Sound, the Olympics and Mount Rainier
- Small businesses serving the local population
- Small, intimate communities
- Low population density
- Large forested areas
- Quiet two lane roads

## Proposed Future Comprehensive Plan and Zoning Designations

As described in the current Comprehensive Plan, the proposed Comprehensive Plan Map Designation is Limited Area of More Intense Rural Development (LAMIRD) – Type I. The Comprehensive Plan describes the designation as follows:

- **Type I.** The only type of LAMIRD currently designated in Kitsap County prior to 2010, this designation is characterized as infill development or redevelopment of existing commercial,

industrial, residential, or mixed-use areas, whether as shoreline development, villages, hamlets, rural activity centers, or crossroads. Any industrial development within a Type 1 LAMIRD must be principally designed to serve the rural population. Any new development or redevelopment must be consistent with existing character of the area with respect to building size, scale, use, or intensity. Type 1 LAMIRDs must have been established as more densely developed areas as of July 1990, and they must include pre-GMA existing development. Type 1 LAMIRDs also must be bounded by a “logical outer boundary” that mirrors the limits of the pre-existing development.

The list of allowable uses differs substantially between NC and RR/RP. This relates to the intent of the NC for commercial uses and RR/RP for large lot rural residential uses.

### Exhibit 2. Selected Allowed Uses (KCC 17.381.040.B and .E)

Selected Uses	NC (proposed zoning)	RR/RP (current zoning)
<b>Residential Uses</b>		
• Single family dwelling, detached	X	X
• Mixed use development	ACUP	X
• Hotel/motel	C	X
<b>Commercial/Business Uses</b>		
• Financial, banking, mortgage and title institutions	P	X
• General office and management services – 4,000 to 9,999 s.f.	ACUP	X
• General retail merchandise stores – less than 4,000 s.f.	P	X
• General retail merchandise stores – 10,000 to 24,999 s.f.	C	X
• General retail merchandise stores – 25,000 s.f. or greater	X	X
• Restaurants	P	X
• Tourism facilities, including outfitter and guide facilities	X	X

Legend: P = Permitted, X = Prohibited, ACUP = Administrative Conditional Use, C = Conditional Use

Zoning development standards show a denser pattern of development for NC than for RR/RP. For example, mixed use development at 10-30 units per acre is allowed in the NC zone whereas single family residential development at 1 unit per 5 or 20 acres is allowed in the RR/RP zones respectively.

### Exhibit 3. Selected Development Standards Comparison (KCC 17.381.040)

Density and Dimensions	NC (proposed zoning)	RR/RP (current zoning)
Base density (du/acre)	10	1 Unit/5 Acres (RR) 1 Unit/10 Acres (RP)
Maximum Density (du/acre)	30	NA
Minimum lot size (acre)	NA	NA
Lot width (feet)	NA	140
Lot depth (feet)	NA	140
Maximum height (feet)	35	35



## PUBLIC COMMENTS

*Three tribal and agency comments were received regarding the proposal during the SEIS public comment period. The Suquamish Tribe, Point No Point Treaty Council and the Washington Department of Fish and Wildlife do not support the proposal due to the expansion of a Type I LAMIRD and environmental constraints. The easterly portion of the subject parcel contains wetlands associated with Grovers Creek, which drains to Miller Bay where the Suquamish Tribe operates a Chinook and chum salmon hatchery. The Tribe's comment letter describes recent monitoring efforts associated with the creek and hatchery, and states concern regarding potential further degradation of Grovers Creek (including fish passage opportunity) if wetland, riparian and stormwater protection functions are not maintained throughout the Grovers Creek watershed.*

## EVALUATION

Site specific reclassification requests to the Comprehensive Plan must be reviewed in accordance with the criteria outlined in the Kitsap County Code (KCC) Chapter 21.08. Applicable review criteria for site specific reclassification requests are in sections KCC 21.08.070.A and KCC 21.08.070.D.

### General Criteria (KCC 21.08.070.A)

**A. General.** For each proposed amendment to the Comprehensive Plan the review authority, the planning commission in reaching its recommendation, and the board of commissioners in making its decision, shall develop findings and conclusions, which demonstrate:

**1. How circumstances related to the proposed amendment and/or the area in which the property affected by the proposed amendment is located have substantially changed since the adoption of the Comprehensive Plan or applicable development regulations;**

Circumstances related to the proposed amendment or the area in which the property is located have not substantially changed since adoption of the Comprehensive Plan.

**2. How the assumptions upon which the Comprehensive Plan is based are no longer valid, or there is new information available which was not considered during the adoption of, or during the last annual amendment to, the Comprehensive Plan or development regulations; and**

The assumptions upon which the Comprehensive Plan is based are still generally valid. Updated growth targets and capacity analysis is being conducted as part of the 2016 Comprehensive Plan update, but in general that process will not change the assumptions relative to the subject property and proposed amendment.

**3. How the requested redesignation is in the public interest and the proposal is consistent with the Kitsap County Comprehensive Plan.**

The amendment request is not in the public interest as it would expand the logical outer boundary of the existing Type I LAMIRD boundary to include an undeveloped forested property with significant environmental constraints and building limitations. See analysis under criteria 1.f below for consistency with the Comprehensive Plan.

### Reclassification Request Criteria (KCC 21.08.070.D)

**D. Site-Specific Amendments.** In addition to the findings and conclusions in subsection (A) of this section, a proposed site-specific map amendment may be recommended for approval by the planning commission and may be approved by the board of commissioners if the following findings are made:

**1. All Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.**

- a. The proposed amendment meets concurrency requirements for transportation, sewer and water, and will not result in significant adverse impacts on adopted level of service standards for other public facilities and services, such as police, fire and emergency medical services, park services, and general government services;**

The proposed amendment involves expanding a LAMIRD boundary to include an additional 8.36 acres of undeveloped property that contains wetlands and moderate geologic hazard areas. The LAMIRD area currently has water service, but not sanitary sewer. While the expansion of the LAMIRD would not significantly impact levels of service for public services overall within the County, it would expand the area that may be served by more intense public services ~~is to be served by urban services~~ and increase the area that is to be served. The area is studied cumulatively for NC in the 2016 Comprehensive Plan Update SEIS. The site is located near segments of Hansville Road NE and SR 104 with projected transportation deficiencies under Alternative 3. Increased commercial density at the proposed site would add trips beyond what was reflected in the 2036 travel demand forecasts. Therefore, the proposal would result in an impact to transportation. However, the transportation improvement projects identified to address deficiencies expected without the proposal would also be expected to address the additional impacts resulting from the proposal. Any reclassification proposal would be subject to a more specific analysis of transportation impacts and would be subject to meeting County concurrency requirements at the time of development.

Kitsap County has submitted this application to the Washington State Department of Transportation for their review and comment, as the site is located on a state highway.

- b. The proposed amendment is consistent with the balance of the goals, policies and objectives of the current Kitsap County Comprehensive Plan and reflects the local circumstances of the County;**

**Kitsap County Comprehensive Plan Chapter Vision**

Kitsap County's Comprehensive Plan shows the relationship between chapter concepts and the comprehensive plan vision. See Exhibit 4.

**Exhibit 4. County Vision for Rural and Urban Areas**

Vision	Rural Chapter Relationship to Vision
<b>Rural Areas.</b> Rural areas and communities where unique historical characters, appearances, functions, and pioneering spirits are retained and enhanced. Natural resource activities, such as forestry, agriculture, and mining continue to contribute to the rural character and economy. Rural recreation opportunities are enhanced, including equestrian facilities, trails, and others.	<ul style="list-style-type: none"> <li>• Maintain low residential densities in rural areas and provides policy guidance for development standards which help to preserve the County's rural character. Foster small sustainable farms and agricultural enterprises that provide locally-grown food and fiber for Kitsap citizens.</li> </ul>
<b>Economic Development.</b> A stable, prosperous and diversified economy that provides living wage jobs for residents, supported by adequate land for a range of employment uses and that encourages accomplishment of local economic development goals.	<ul style="list-style-type: none"> <li>• Preserve opportunities for resource-based economic activities within the County.</li> <li>• Allow for limited commercial and industrial uses in rural areas, while preserving rural character.</li> </ul>

**Natural Environment.** Natural ecosystems – including interconnected wetlands, streams, wildlife habitat, and water quality – that are rehabilitated, protected, and enhanced and that allow for flexible and innovative development to meet environmental and growth goals. In developed areas, the growth pattern supports conservation of non-renewable energy and minimizes impacts on air quality and climate.

Provide for protection of natural ecosystems in rural areas through rural designations, through compliance with Kitsap County “Water as a Resource” Policy (Res.109-2009), and with lower levels of development and lower availability of public services.

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Source: Kitsap County Comprehensive Plan (December 2012).

Expanding the Type I LAMIRD Boundary and up zoning 8.36 acres of undeveloped property with significant wetlands appears contrary to the vision statement with respect to the natural environment. The proposed action would also alter the logical outer boundary of the LAMIRD and could affect the local character which currently has a visual separation between the LAMIRD and abutting rural large lots to the east and south. While at least one Growth Management Hearing Boards has stated that the LOB for a Type I LAMIRD may conceivably be enlarged after its initial establishment, such an expansion must meet the same criteria as required for the initial establishment. *1000 Friends of Washington v. Snohomish County*, CPSGMHB Case No. 03-3-0026, (*1000 Friends II*), FDO, (June 21, 2004). There is no evidence that the addition of this property to the LAMIRD meets the criteria for establishing the initial boundary. There is no evidence that this property included pre-existing development prior to 1990. Under GMA, the purpose of establishing LAMIRDs is to limit development, adding vacant parcels at the fringes of an established LAMIRD could contravene the GMA provisions.

### Kitsap County Comprehensive Plan 2036 Goals and Policies: Chapter 3

The proposed zoning amendment supports the following current Comprehensive Plan Goals:

#### **3A.2.1B Limited Areas of More Intensive Rural Development**

- Goal 7. Allow for the designation of LAMIRDs outside of the UGA based on existing rural residential communities or villages, areas of mixed use activity, isolated areas of small and moderate-scale commercial/industrial activity, and historic towns.
- **Policy RL-25 Prohibit designating a LAMIRD adjacent to an UGA.**

The subject properties are adjacent to a Type I LAMIRD, but not adjacent to a UGA. The area was evaluated as part of LAMIRD options in 2004 and the present boundary that excludes the site was established and upheld by the Growth Management Hearings Board.

- **Policy RL-27 Encourage changes to zones in LAMIRDs to occur via a local community planning process. This process should incorporate local knowledge, experience and preferences to determine appropriate area-specific land uses, development standards, design guidelines, and public service needs. Specific issues that should be considered in this planning process include:**

- **Appropriate logical outer boundaries as required by GMA**

The appropriate logical outer boundary of the existing George’s Corner LAMIRD was subject to review by the Growth Management Hearings Board in 2005 and upheld. The proposed amendment would expand the logical outer boundary to undeveloped forested land that contains wetlands and a stream corridor. Therefore, extending the appropriate logical outer boundary to include the subject property appears unjustified.

- **Rural character of the subject area and surrounding area.**

The subject property and surrounding area with an RR/RP designation maintain a rural character. Applying the NC designation to the subject property, which is undeveloped and contains relatively intact ecological functions would affect rural character incrementally.

- **Appropriate mix of uses, densities and intensities.**

The specific mix of uses, densities and intensities allowed in the NC zone are appropriate for properties within the LAMIRD boundary. However, as discussed above the extension of the logical outer boundary to include the subject property is not supported by GMA goals and local regulations and so, therefore, is not an appropriate mix of uses, densities and intensities.

- **Feasibility, cost and need for public services.**

The site is served with public water service, but not sanitary sewer service.

- **Significant natural constraints or features to be preserved.**

The subject property is undeveloped forested land that contains wetlands and a stream corridor, both regulated under Kitsap County Code Title 19 (Critical Areas) which responds to state requirements for local governments to protect the functions and values of critical areas and their buffers

- **Provision for a monitoring and evaluation process.**

As a condition of approval if the request is approved, the County should work with the applicant to develop a monitoring and evaluation process.

- **Benefits to the local community.**

The benefits of approving the request may include allowing greater commercial opportunities at the crossroads for the Kingston-area community; given the preference in County plans for focus growth in the Kingston UGA and other UGAs, and the environmental and rural character concerns, the benefits of expanding the George's Corner LAMIRD do not appear to outweigh the disadvantages. The applicant has not demonstrated any benefits to the local community. The subject parcel(s) is suitable for the requested land use designation based upon, but not limited to, access, provision of utilities, consistency with existing and planned uses, environmental constraints and compatibility with the neighborhood. However, the subject parcel is not suitable for the requested land use designation based on environmental constraints and is inconsistent with the GMA criteria for establishing the logical outer boundary of the LAMIRD.

**c. The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning, and reflects local circumstances in the county;**

The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning and reflects local circumstances in the County.

**d. The proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall area of the urban growth area;**

The proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall are of the urban growth area. See criteria D.1.a.

**e. The proposed amendment is consistent with the GMA, Kitsap County-wide Planning Policy, state and local laws and other applicable inter-jurisdictional policies or agreements.**

The following state and local policies and laws are applicable to the applicant's zoning amendment request.



### **Growth Management Act Planning Goals (RCW 36.70a.020)**

**(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.**

The proposed amendment is inconsistent with above GMA goal by expand the boundary of a LAMIRD to an undeveloped forested site with environmental constraints.

### **Growth Management Act – Designating Limited Areas of More Intense Development (RCW 36.70A.070(5)(d))**

The GMA establishes the criteria for establishing the logical outer boundary for a LAMIRD in RCW 36.70A.070(5)(d)(iv) and (v):

*The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;*

*(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:*

*(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;*

The subject property was not developed prior to July 1, 1990. Expanding the outer logical boundary on the edge of the LAMIRD to include undeveloped forested land that includes significant environmental constraints appears contrary to the criteria above. (e.g. using bodies of water, land forms and contours to define boundaries).

### **Kitsap County-wide Planning Policies**

#### **Element D: Rural Land Uses and Development Patterns**

##### **D-2. Preserving rural land use and development patterns:**

- a. Rural Communities are already-existing residential and commercial areas of more intensive rural development designated in the Kitsap County Comprehensive Plan under RCW 36.70A.070.5. In-fill is expected. Rural Communities should be serviced by transportation providers and other services consistent with the Levels of Service adopted by Kitsap County for roads and by Kitsap Transit for transit upon their designation as an area of more intensive rural development.**

The proposed amendment is inconsistent with the above County-wide Planning Policy because it is not part of the already developed area within the existing Type I LAMIRD and would require the extension of the logical outer boundary to include undeveloped forested land with environmental constraints.

**3. Rural Commercial/Industrial and Type III LAMIRD Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.**

**a. Demonstration of an unmet need for the proposed land use designation in the rural area.**

No unmet need has been identified by the applicant. The applicant stated an intent to develop a fast-food establishment or similar type land use if the amendment request is approved.

**b. Demonstration that Kitsap County's rural character will be preserved or unaffected by the change of designation.**

The subject property is undeveloped forested land that is along the outer boundary, but outside, of the Type I LAMIRD Boundary. The proposed amendment would increase the likelihood that the subject property is developed at urban intensities that may negatively impact the rural character in the County. See the description of rural character under "Present Comprehensive Plan Designations."

**c. Demonstration that the proposed designation will principally serve the rural area.**

It is likely this site would provide commercial uses at the cross roads to serve north Kitsap County. However, there are other already developed areas in the LAMIRD and in the Kingston UGA that could fill that need.

**d. Demonstration that appropriate rural services are available (i.e., water, wastewater disposal, etc.) and that urban services will not be required for the proposed designation.**

See Response D.1.a.

**e. Demonstration that the proposal is contiguous to existing industrial or commercial zoning. (Exceptions to this policy must demonstrate a unique or exceptional need for the proposed land use designation.)**

The site abuts other NC properties to the north and west. However, there is no exceptional or unique need to add this property in light of the logical outer boundary requirements for Type I LAMIRDs.

**f. Demonstration that the property is sized appropriately for the proposed land use designation.**

The site is constrained and would not allow for significant added commercial uses without creating potential significant environmental impacts, and there are other opportunities in the LAMIRD and Kingston UGA to add commercial uses.

**g. Demonstration that there is a lack of appropriately designated and available sites within the vicinity.**

The applicant has not demonstrated a lack of available sites. In fact there are 3 vacant lots currently within the LAMIRD, one 6.85 acres in size. The Comprehensive Plan intends to focus growth in UGAs. LAMIRDs are only provided to recognize existing development not to create added capacity for growth.

## Findings of Fact

1. The applicant, Bill Broughton, submitted the application to Kitsap County on February 2, 2015.
2. The applicant seeks a Comprehensive Plan Amendment to change the Comprehensive Plan Map Designation from Rural Residential (RR) and Rural Protection (RP) to Low-Intensity Commercial/Mixed-Use. This would also entail an expansion of the Logical Outer Boundary of the George's Corner Type I LAMIRD.

3. The applicant seeks a Zoning Map Amendment from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial and to extend the adjacent Type I LAMIRD boundary to include the subject property.
4. The subject property is located near the corner of Miller Bay Rd. NE and NE State Highway 104.
5. The subject property is adjacent to the George's Corner Type I LAMIRD to the west and properties zoned Neighborhood Commercial (NC).
6. The subject property is currently undeveloped.
7. The subject property has environmental constraints including wetlands and a stream corridor.
8. The subject property was not developed prior to July 1, 1990.
9. The Logical Outer Boundary (LOB) of the adjacent Type I LAMIRD was reviewed and upheld by the Growth Management Hearings Board in 2005. Any change to the LOB must comport with the same criteria as the initial designation was subject to.

## Conclusion of Law

The application is inconsistent with the Washington Growth Management Act, the Kitsap Countywide Planning Policies, the Kitsap County Comprehensive Plan, and other state and local regulations.

## Recommendation

Based on the findings of fact and conclusion of law staff recommends denial of application #15 00378.

In order to be consistent with the adopted LAMIRD plan and to correct the noted split zones created by the above referenced short plat, staff recommends parcel 272702-2-047-2003 be rezoned entirely to RP and the remaining residential portion of parcel 272702-2-046-2004 be RP.

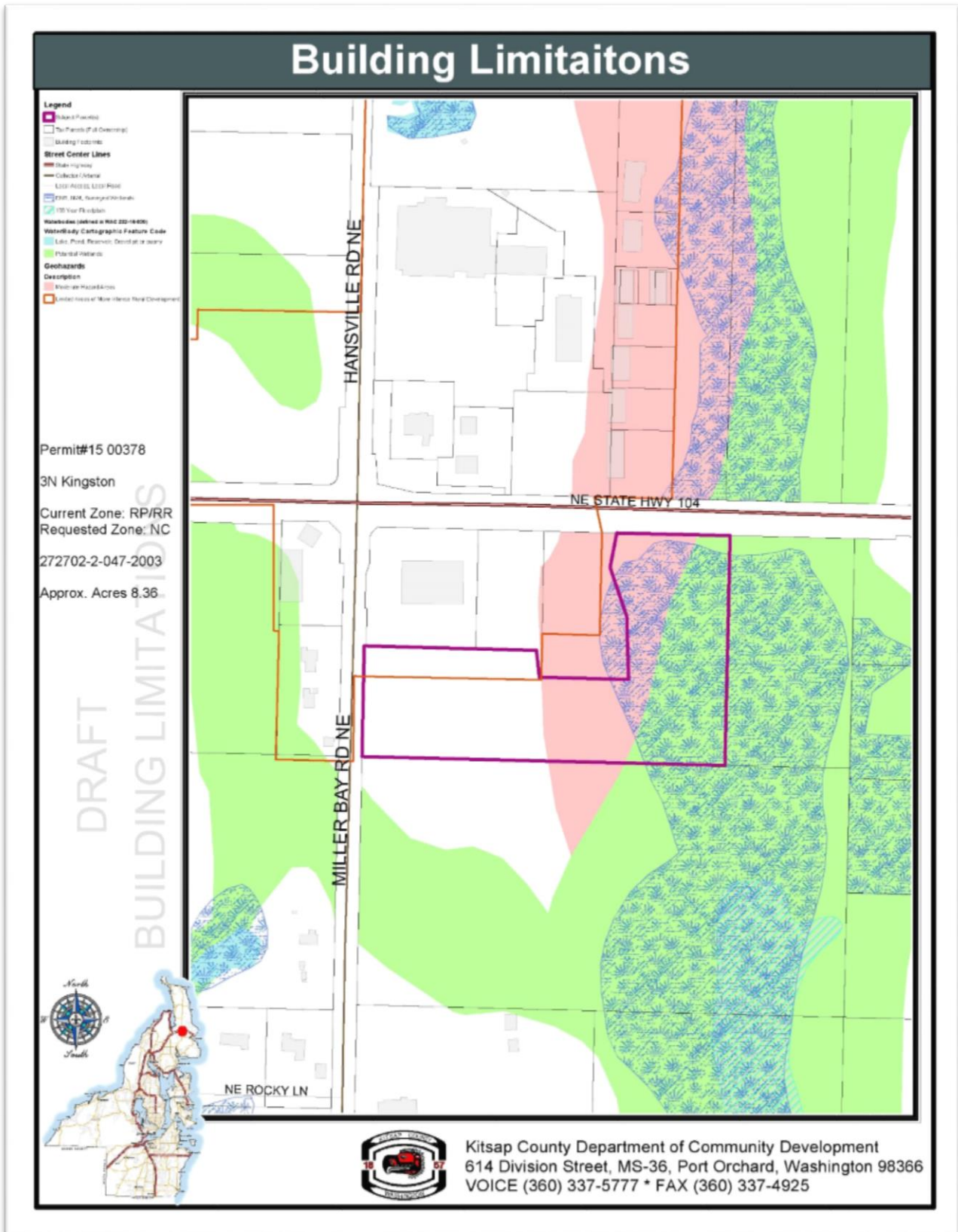
## ATTACHMENTS

### Attachment 1. Aerial Imagery

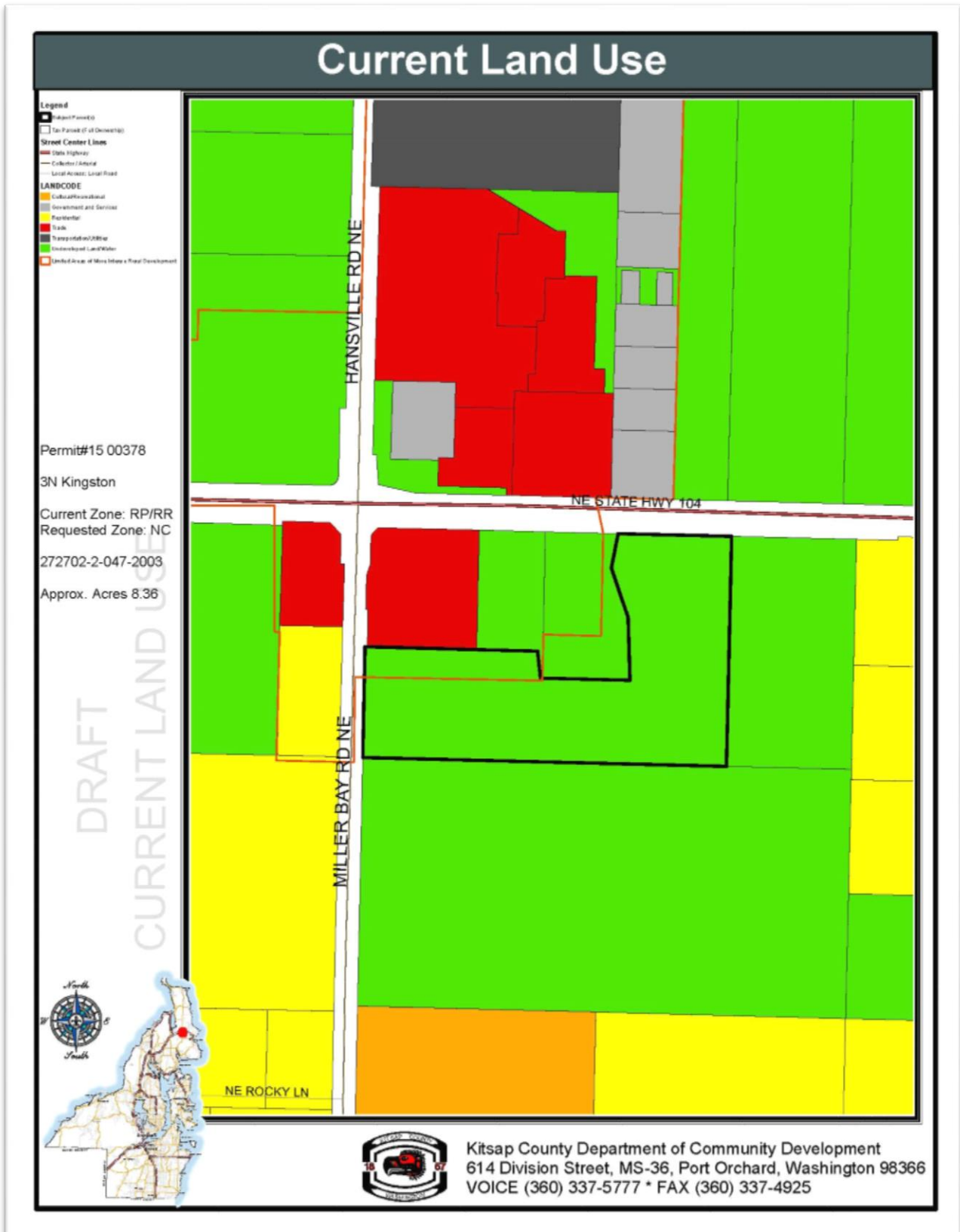




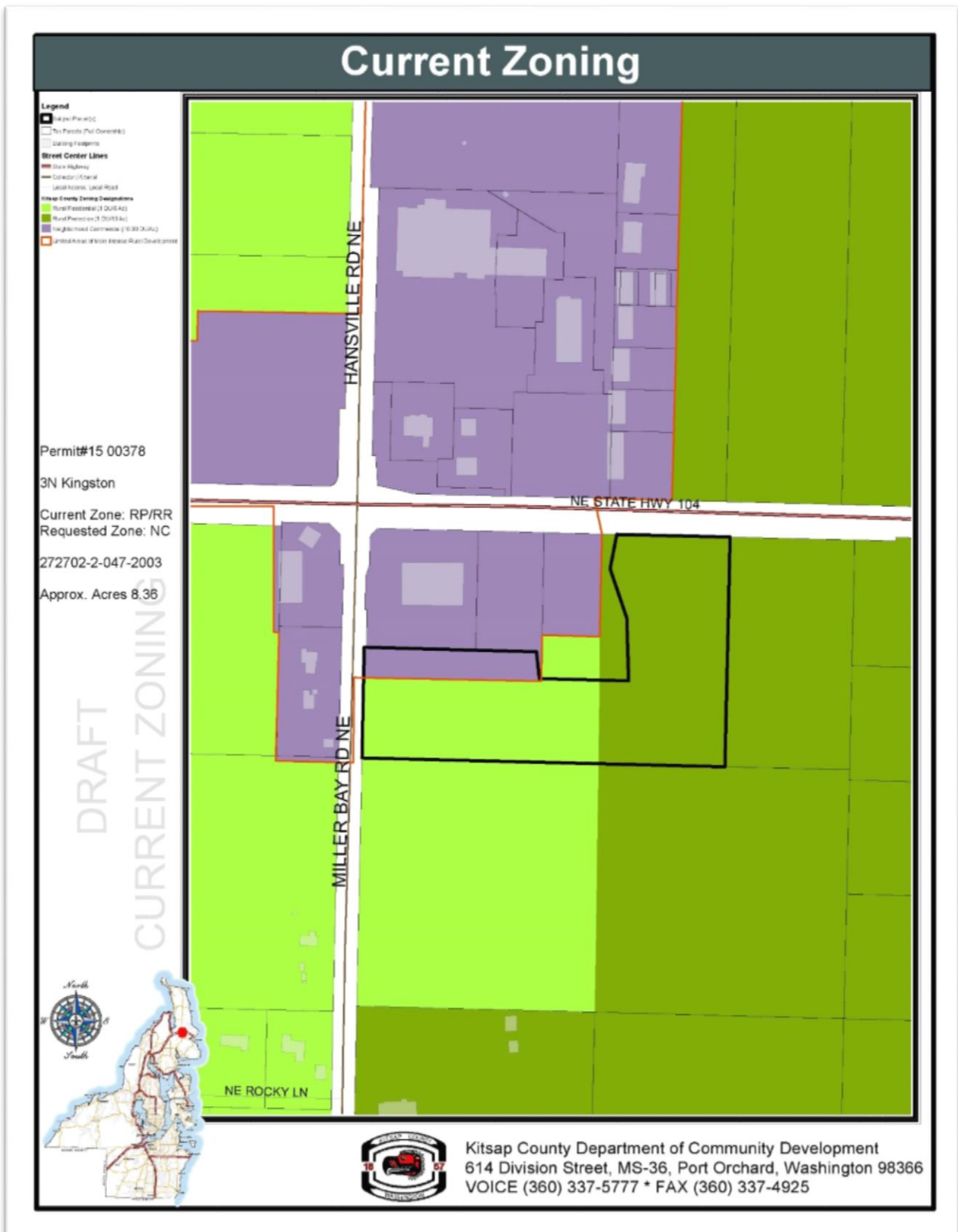
Attachment 2. Building Limitations



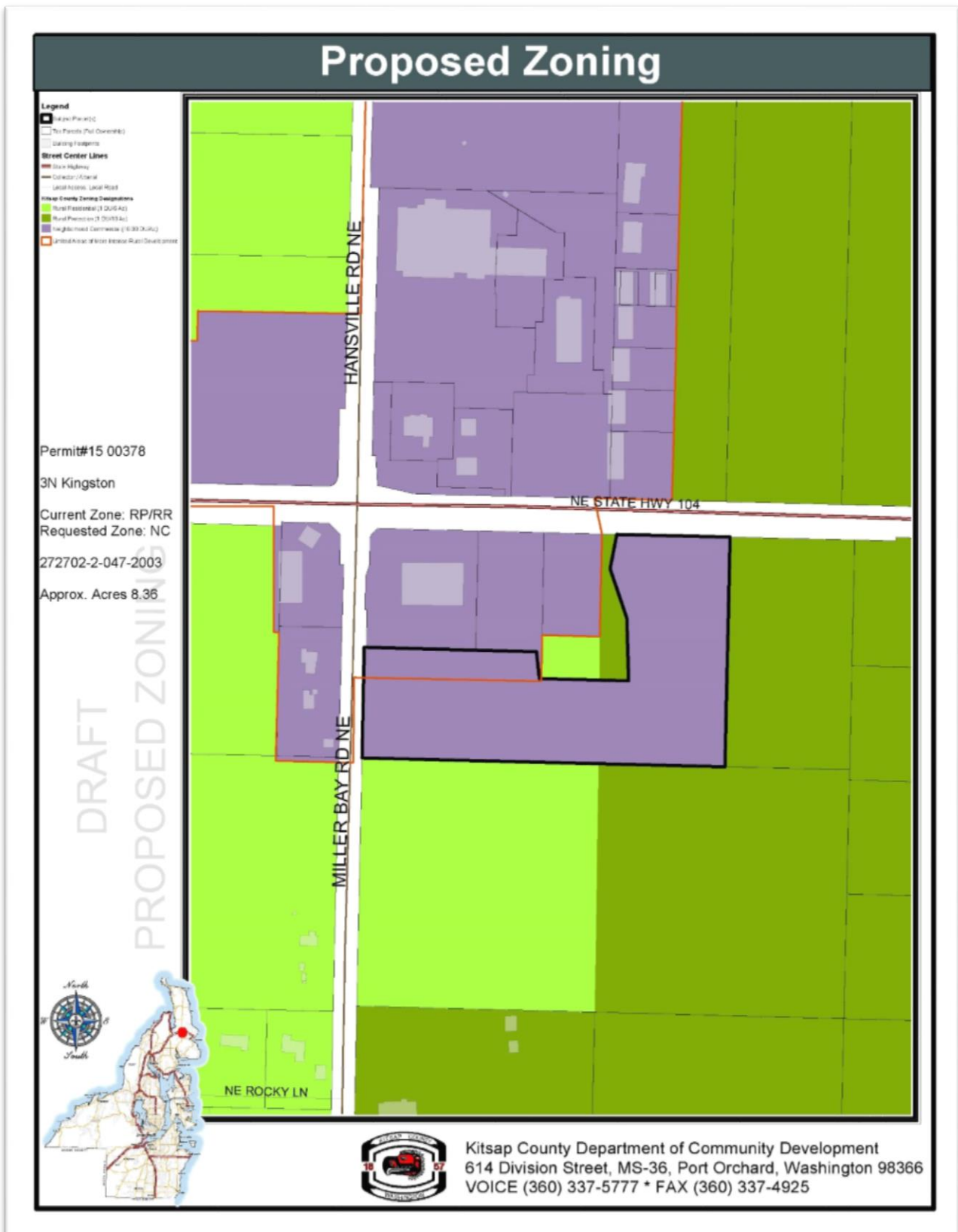
Attachment 3. Current Land Use



## Attachment 4. Current Zoning



## Attachment 5. Proposed Zoning





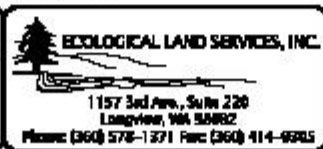
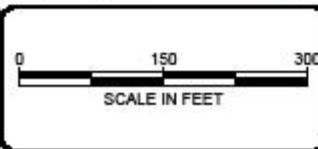
**NOTE(S):**

1. Aerial from Google Earth™.

Wetland Boundary

TP-4● Test Plot Location

Wetland Buffer



DATE: 8/13/15  
DWN: JLL  
REQ. BY:  
PRJ. MGR: JB  
CHK:  
PROJECT NO:  
2289.01

Figure 2  
SITE MAP  
Kountry Korners Delineation  
Bill Broughton  
Kingston, Kitsap County, WA  
Section 27, Township 27N, Range 2E, W.M.



**From:** [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Cc:** [dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us); [SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us); [compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)  
**Subject:** 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Thursday, January 18, 2018 11:22:57 AM  
**Attachments:** [2018 CPA - Summary Schedule 2018-01-16.pdf](#)

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Mike,

Thanks for the call today. Again, my apologies if there were any miscommunications or misunderstandings regarding the decision making around the 2017 docket. There were a number of items under consideration for the 2017 docket and in the end the Board decided to not do an annual amendment to the Comprehensive Plan because there simply was not enough time to complete the required process in 2017. The Board immediately began developing an initial docket for 2018, which was adopted on 12/27/2018, and includes a County-sponsored amendment to review and adjust the southeast boundary of the George's Corner LAMIRD.

As promised, attached please find the summary schedule for the annual Comprehensive Plan amendment process for 2018. Please note that this schedule and the timeframes discussed below are subject to change. You can learn more about the process at our [Online Open House](#). I believe you are already receiving notifications regarding this project. If not, you can [subscribe to receive future notifications](#).

As we discussed, this is a legislative process that the County can do only once per year and includes a variety of County-sponsored amendments as well as site-specific applications. All Comprehensive Plan amendments must be processed and considered as a batch. As a result of the batching requirement and other procedural requirements in state law and County code, it will take a full year to complete the annual amendment process, with ordinance adoption planned in December 2018. As a legislative process, the Board has the discretion to approve, approve with modifications, approve with conditions, deny, or defer any amendment.

I will be preparing a proposal for the George's Corner LAMIRD boundary amendment before the end of March, which I will share with you when it is available. As part of that process, I will need to conduct a site visit and will be in touch with you about that in the near future.

In April, the Board of County Commissioners will decide whether to continue with the initial docket of amendments or may adopt a final docket, deciding which amendments will continue through the process.

Following the publication of a State Environmental Policy Act (SEPA) determination and staff report in June, there will be a public comment period (open for at least 60 days and may include open houses) as well as public hearings as the amendments are considered by the Planning Commission and then the Board of County Commissioners. You are encouraged to attend the public hearings and submit comments regarding the amendment.

The County has received comments regarding this amendment (summarized below) during the preparation of the docket, of which you should be aware. Other comments may be received as the

amendments are considered during the latter half of 2018.

- I believe you are aware there was tribal interest in the establishment of the George's Corner LAMIRD boundary, particularly regarding commercial development in rural areas and in relation to critical areas. Tribal staff have requested to be consulted during this boundary adjustment amendment. If you would like to directly contact staff at the Suquamish and Port Gamble S'Klallam tribes, I can provide you contact information.
- Another County-sponsored amendment in 2018 is a review of the Urban Village Center (UVC) zone covering downtown Kingston. We have received comments stating concern about possible expansion of the commercial development at George's Corner which could affect the planned growth within the Kingston urban growth area (UGA).

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,  
Peter

**Peter Best** | Planner  
Kitsap County Department of Community Development  
[Planning and Environmental Programs](#)  
619 Division St, MS 36  
Port Orchard, WA 98366  
(360) 337-5777 x7098 | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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## 2018 Comprehensive Plan Amendment (CPA) Schedule

		2018														Outcomes
		Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
General Phasing		Scoping														Overall scope and process are defined
			Development												Amendments are fully developed (including alternatives, if applicable)	
					Analysis									Individual and cumulative effects are understood		
									Consideration					Community input and policy deliberations lead to well-reasoned decisions		
Public Milestones	CPA Docket		ID			FD										(ID) Initial Docket; (FD) Final Docket
	CPA Application Period			4-weeks												Interested parties submit applications
	County Proposal Process															County-sponsored proposals developed, with public engagement
	SEPA & Staff Reports															Cumulative effects analyzed and staff recommendations
	Comment Period/Open House									30+ days						Communities are informed and comment on CPAs
	PC Work Study															PC understands CPAs and staff recommendations
	PC Public Hearing															PC understands CPAs and reviews staff recommendations
	PC Recommendation															PC receives public comment and deliberates
	BoCC Work Study															PC deliberates and makes recommendation
	BoCC Public Hearing															BoCC receives public comment and deliberates
	BoCC Decision															BoCC deliberates and adopts CPA ordinance
	Communications		*			*		*	*		*	*	*		*	

### Acronyms

BoCC: Board of County Commissioners  
 CPA: Comprehensive Plan Amendment  
 PC: Planning Commission  
 SEPA: State Environmental Policy Act

1/16/2018



**From:** [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Subject:** Automatic reply: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Thursday, January 18, 2018 8:20:29 PM

---

I will be out of the office on Friday, January 19th for a Department-wide staff retreat.

**From:** [DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)  
**To:** [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)  
**Subject:** Commissioner Wolfe  
**Date:** Wednesday, April 11, 2018 4:07:20 PM

---

Ed asked me to set up a phone or in person meeting with you regarding property at George's Corner..he could meet with you here on April 19<sup>th</sup> at 2pm if that would work for you. Please let me know but I will hold on his calendar until I hear from you. Thanks.

Deanna Erstad, Administrative Specialist  
Kitsap County Board of Commissioners Office  
614 Division St. MS-4  
Port Orchard, WA 98366  
360 337-4426  
Office Hours: Mon- Fri. 8:00-4:30



**From:** [dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Subject:** Comprehensive Plan Amendments  
**Date:** Friday, July 20, 2018 3:08:24 PM

---

Mike,

Thanks for the conversation today.

Here is a link directly to the public comments page.

[https://spf.kitsapgov.com/dcd/Pages/2018\\_CompPlan\\_Comments\\_page.aspx](https://spf.kitsapgov.com/dcd/Pages/2018_CompPlan_Comments_page.aspx) The public comments received so far are in the "View Submitted Comments Here" link about 2/3 the way down the page. Documents describing each proposed change can be reached by clicking the orange box near the top of the page.

The comments from Tuesday's Planning Commission hearing have not been entered yet, but we hope to get them done next week.

Here is a link to the Planning Commission members. Please note that Spencer Stegmann just resigned, so his seat is now vacant.

<https://spf.kitsapgov.com/dcd/PCDocs/Kitsap%20County%20Planning%20Commission%20Terms%2020180702.pdf>

I look forward to meeting you on the 31<sup>st</sup>.

**Dave Ward**  
**Planning and Environmental Programs Manager**  
**Kitsap County, Department of Community Development**  
[dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)  
360-620-3695

**From:** [SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us)  
**To:** [rgelder@co.kitsap.wa.us](mailto:rgelder@co.kitsap.wa.us); [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Cc:** [jbolger@co.kitsap.wa.us](mailto:jbolger@co.kitsap.wa.us); [dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)  
**Subject:** Docket for George's Corner  
**Date:** Tuesday, August 08, 2017 4:34:53 PM

---

Gentlemen:

We are pulling together a preliminary docket for two items, of which the realignment of zoning of the SE corner of George's Corner is one.

Moving forward, Dave Ward, Manager, Planning and Environmental Programs, will be submitting the docket for Board approval and then, presuming authorization to move forward, directing the staff for this review. Dave is Cc'd above and can also be reached at 360-337-3833.

Please let us know if there are any questions.

Regards,

Scott Diener  
Manager, Development Services and Engineering  
SEPA Responsible Official

Dept of Community Development  
Kitsap County  
614 Division St, MS-36  
Port Orchard, WA 98366

[sdiener@co.kitsap.wa.us](mailto:sdiener@co.kitsap.wa.us)

t: 360-337-5777

f: 360-337-4415

[kitsapgov.com/DCD](http://kitsapgov.com/DCD)

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**From:** [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Subject:** FW: Annual Comprehensive Plan Amendment Process for 2018  
**Date:** Monday, December 04, 2017 4:32:19 PM

---

Mr. McCown,

I wanted to make sure you received the announcement below. If you did not receive this announcement directly, than I would encourage you to subscribe to receive future notifications.

You will see that the adjustment to the George's Corner LAMIRD boundary is included in the [draft docket](#). If you have comments for the Board of County Commissioners, please see below for more information.

Let me know if you have any questions.

Cheers,  
Peter

**Peter Best** | Planner  
Kitsap County Department of Community Development  
[Planning and Environmental Programs](#)  
619 Division St, MS 36  
Port Orchard, WA 98366  
(360) 337-5777 x7098 | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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---

**From:** Kitsap County [mailto:kitsapcounty@public.govdelivery.com]  
**Sent:** Friday, December 1, 2017 2:03 PM  
**To:** Peter Best <pbest@co.kitsap.wa.us>  
**Subject:** Annual Comprehensive Plan Amendment Process for 2018

## Annual Comprehensive Plan Amendment Process for 2018



Kitsap County Department of Community Development

Project Message #1

December 1, 2017



STAY INFORMED! [Click to subscribe](#) to receive future notifications.



### What is the Comprehensive Plan?

The [Kitsap County Comprehensive Plan](#) describes the 20-year vision for unincorporated Kitsap County and how that vision will be achieved. The plan covers land use, economic development, environment, housing, human services, transportation, capital facilities and utilities, as well as parks and recreation and open space. The Comprehensive Plan is mandated by the Washington State Growth Management Act (RCW 36.70A).

### How often does the Comprehensive Plan get changed?

Major Comprehensive Plan updates are mandated by the state every 8-years. The last major update of the [Kitsap County Comprehensive Plan](#) was adopted in 2016. In-between major updates, the County may choose to consider minor amendments to the Comprehensive Plan on an annual basis. The Board of County Commissioners have opened the annual Comprehensive Plan amendment process for 2018. [Learn more about the annual amendment process for 2018.](#)

### Where are we in the annual amendment process for 2018?

We are currently in the first phase of the process, called the scoping phase, which will determine what amendments will be considered in 2018. The Board of County Commissioners do this through the adoption of a docket resolution for the annual Comprehensive Plan amendment process. The docket resolution describes what types of amendments will be considered. The Board of County Commissioners intends to adopt the docket resolution by the end of December 2017.

### How can I comment?

A public comment period is currently open on the staff recommendation.

Oral and written **public testimony** may be made during a public hearing scheduled for 5:30 PM on Monday, December 11, 2017 in the Chambers, Kitsap County Administration Building (see office location below).

**Written comments** submitted in advance of the public hearing are due by 11:59 PM on Sunday, December 10, 2017 and may be submitted:

[Online via computer or mobile device \(preferred method\)](#)

By email to [compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)

- By mail (see mailing address below)

Dropped off at the Department of Community Development (see office location below)

[View Submitted Comments](#)

### What will happen next?

The next phase of the annual amendment process, called the development phase, is when most county-sponsored amendments (including alternatives, if appropriate) are developed. If the docket allows for the submittal of applications from interested parties, they will be accepted during a short application period beginning in January 2018.

### How can I stay informed throughout the process?

An online open house will be kept current and available throughout the process and notifications will be sent to everyone that subscribe to Comprehensive Plan Announcements. Subscribe now to ensure you receive future notifications.

### CONTACT

Department of Community Development

Planning & Environmental Programs

(360) 337-5777 (Kitsap1)

[compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)

### Mailing Address

614 Division Street - MS36  
Port Orchard, WA 98366

### Office Location

619 Division Street  
Port Orchard, Washington

Media Contact: Natalie Marshall



### KITSAP COUNTY

Kitsap County government exists to protect and promote the safety, health and welfare of our citizens in an efficient, accessible and effective manner.

### DEPARTMENT OF COMMUNITY DEVELOPMENT

The mission of the Department of Community Development is to enable the development of quality, affordable, structurally safe and environmentally sound communities.

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619 Division Street · Port Orchard, WA 98366 · 360-337-5777





**From:** [Scott Diener](#)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Subject:** George's Corner - Q about southern boundary  
**Date:** Tuesday, May 23, 2017 11:10:00 AM

---

Mike:

You note and ask in a recent inquiry with DCD:

There was an error in transferring LAMIRD Boundary across the south end of the property from paper format to electronic format resulting in decrease NC zoning. What is the process to return the electronic copy to the original boundary?

This is not the first time the issue has been raised for discussion (it has been raised and debated a lot, since the southern boundary (below Rite-Aid) is not consistent with the zoning boundary). There was also push to move the boundary during the recent Comp Plan update, which did not materialize.

It is staff's recollection that the boundary for the zone was agreed upon in 2004 and was adopted and it was a subsequent short plat by Gary Lindsey that revised the boundary lot line to the south.

Map corrections occur when what was adopted by the Board does not match what was presented by staff (in the companion adopting ordinance) or when staff shows a zone boundary that does not match what was adopted by the Board (in the ordinance). Staff looked into this some years ago to determine there was not a conflict between what staff presented and what was adopted and the boundary explicitly matches what was approved.

However, in spite of the years of examination on this property, you have a right to demonstrate there was an error in 2004. If you have evidence that there was an error, please provide that along with a timeline associated with the 2004 approval.

I left a voicemail at 2 phone numbers. Please contact me if Qs.

Regards,

Scott Diener  
Manager, Development Services and Engineering  
SEPA Responsible Official

Dept of Community Development  
Kitsap County  
614 Division St, MS-36  
Port Orchard, WA 98366

[sdiener@co.kitsap.wa.us](mailto:sdiener@co.kitsap.wa.us)

t: 360-337-5777

f: 360-337-4415

[kitsapgov.com/DCD](http://kitsapgov.com/DCD)

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**From:** [Berni Kenworthy](#)  
**To:** [David Greetham](#)  
**Cc:** [Katrina Knutson](#); [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com); [Joanne Bartlett](#)  
**Subject:** George's Corner Reclassification  
**Date:** Monday, March 21, 2016 1:24:07 PM  
**Attachments:** [16.03.21\\_1122\\_NCRelocate.pdf](#)

---

Hi Dave,

Some responses/comments to your questions from Friday:

- 1) I spoke with Joanne Bartlett and the 100-foot "Buffer Conversion Area" is a buffer that was established as a result of the Rite-Aid wetland fill (I have copied her in case she needs to clarify my interpretation of our conversation). It is a buffer required by the Army Corps that is established from the edge of development where the fill occurs. In this case, the edge of development was the southern boundary of the parcel, and since the parcel to the south was in common ownership, the 100-foot buffer was located on Lot D. This buffer is indicated on the face of the short plat and is required whether or not the LAMIRD boundary encompasses it or not (it looks like that's why the LAMIRD boundary was drawn in that location). In this case, the buffer overlaps Wetland A and its buffer. No matter how you slice it, development along this north boundary is encumbered by either this Buffer Conversion Area or Wetland A/buffer.
- 2) Wetland mitigation for the Rite-Aid fill was conducted across SR104 along Balmoral. The "Wetland Restoration Area" shown on the short plat east of Wetland A is not related to the Rite-Aid fill, but was required because some trees had been removed in this area and were required to be replaced (you indicated you are familiar with the violation that had occurred). The wetland mitigation has gone through the required monitoring period and has been signed off by the Army Corps. Neither the wetland mitigation at Balmoral or the restoration area onsite are subject to any additional monitoring.
- 3) The existing NC area is approximately 1 acre (see attached sketch). Because of the presence of Wetland A and the Buffer Conversion Area along the north line, I drew the proposed NC zone area (also ~1 ac) as an "L" to take advantage of the area to the south which is less encumbered by wetland/buffer. Note that in my discussions with Joanne, she indicated that by new standards, this wetland may only be subject to a 50-foot buffer – of course, a new delineation would be required to confirm. But, given this, there may be more developable area in this region than was originally foreseen with the 100-foot buffer. If the wetland boundary hasn't changed, then there is approximately +/-20K sf of developable area with a 100-foot buffer, and possibly more with buffer averaging/reduction. If the buffer is 50-feet, then there is +/-30K sf of developable area.
- 4) The relocation of the LAMIRD boundary to the new location is across the street from other LAMIRD & NC parcels and is consistent with neighboring development.
- 5) You stated that LAMIRD boundaries are typically drawn to encompass existing patterns of development and not undeveloped properties. However, the original LAMIRD boundary was drawn to include vacant land, so this relocation does not violate the original boundary assumptions.
- 6) The applicant is willing to short plat the property to create a lot for the NC zone and a second lot for the RR and RP zones.

Let me know if you have any additional questions.

Berni

---

**BERNI KENWORTHY, PE**  
**Civil Engineer & Principal**

Voice (360) 297-5560

Fax (360) 297-7951

Email [berni@team4eng.com](mailto:berni@team4eng.com)



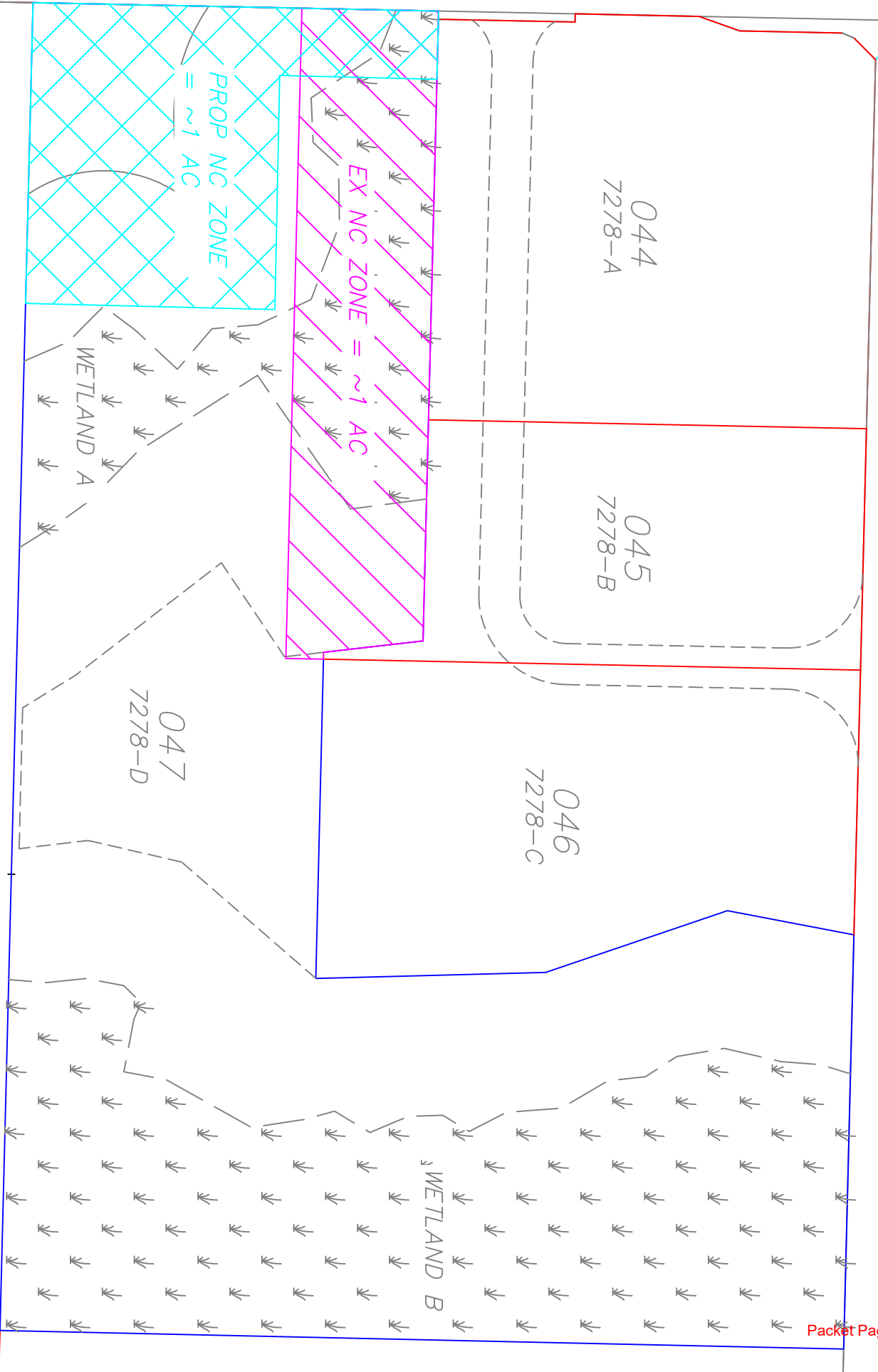
**Team4 Engineering**

5819 N.E. Minder Rd. Poulsbo, WA 98370

**Phone** (360) 297-5560 **FAX** (360) 297-7951

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**From:** [Constance Blackburn](#)  
**Subject:** Kitsap County Notice - Reclassification Request Joint Hearing 3/23  
**Date:** Wednesday, March 02, 2016 12:10:29 PM  
**Attachments:** [image001.png](#)  
[032316 Joint Reclassification Request Hearing Agenda.pdf](#)

---

Good Afternoon,

A joint public hearing with the Board of Commissioners and the Planning Commission will be held on Thursday, March 23, 2016 at 2pm in regards to your Kitsap County land use map Reclassification Request permit. The hearing will be held in the Commissioner's Chambers located in the County Administration Building at 619 Division Street, Port Orchard.

Applications will be considered in the order shown on the attached agenda. County staff will introduce each application briefly and then the applicant will be provided five minutes to present. Additional public testimony will be limited to three minutes per person.

If you have any questions regarding this matter the contact for this application is Katrina Knutson whom can be reached at (360) 337-5777 or [kknutson@co.kitsap.wa.us](mailto:kknutson@co.kitsap.wa.us).

Kind regards,

**Constance V. Blackburn**

[Hearing Examiner](#) | [Planning Commission](#)  
[Kitsap County Department of Community Development](#)

Phone | o360-337-5777 | ext4487



KITSAP COUNTY



18

57

WASHINGTON



# KITSAP COUNTY BOARD OF COMMISSIONERS

*Efficient, accessible and effective county services*

## **SPECIAL AGENDA**

### **JOINT HEARING WITH KITSAP COUNTY PLANNING COMMISSION**

**March 23, 2016 – 2:00 p.m.**

*Edward E. Wolfe, Chair, District 3 – Charlotte Garrido, District 2 – Robert Gelder, District 1  
Commissioners' Chambers – 619 Division Street – Port Orchard*

**NOTE:** (The Board of Commissioners' public meeting is audio and video taped. By signing in or speaking at this meeting, you grant your permission to be taped. Minutes of this public meeting are posted on Kitsap County's webpage [www.kitsapgov.com](http://www.kitsapgov.com)).

**DRAFT #1 ~~ SUBJECT TO CHANGE ~~ LAST UPDATE: 3/2/16 10:40 a.m.**

**2:00 PM)** Meeting Called to Order with Pledge of Allegiance.

#### **PUBLIC HEARINGS:**

**\*\*Please note each applicant will have 5 minutes to address their application. Unless otherwise announced by the Chair of the Board, public comments addressing the applications will be given 3 minutes per person.**

A. Public Hearing to consider testimony regarding applications for zoning map reclassification in conjunction with the Comprehensive Plan process. The requests will be heard in the following order: **(Staff reports for each permit are available by clicking on the names below.)**

1. [Permit Number: 15 00522 | Bremerton West Ridge](#)
2. [Permit Number: 15 00607 | Cornerstone Alliance Church](#)
3. [Permit Number: 15 00378 | DJM Construction](#)
4. [Permit Number: 15 00725 | Tracyton Tavern](#)
5. [Permit Number: 15 00657 | Gonzalez](#)
6. [Permit Number: 15 00740 | Laurier Enterprises, Inc.](#)
7. [Permit Number: 15 00689 | Lee](#)
8. [Permit Number: 15 00711 | Merlinco, LLC](#)
9. [Permit Number: 15 00703 | Port Orchard Airport](#)
10. [Permit Number: 15 00701 | Prigger](#)
11. [Permit Number: 15 00736 | Rodgers](#)
12. [Permit Number: 15 00739 | Schourup LLC](#)
13. [Permit Number: 15 00735 | Sedgwick Partners](#)
14. [Permit Number: 15 00550 | Unlimited](#)



**This meeting will be televised on public access television BKAT (ComCast Ch.12 and Wave Broadband Ch. 3) at the following dates and times: March 25, 2016 at 12am and 10am; March 27, 2016 at 9:30pm; March 29, 2016 at 9:30pm.**

Next regular Board of Commissioners public meeting will be held **March 28, 2016 at 5:30 p.m.** in the Board of Commissioners Chambers, 619 Division Street, Port Orchard, WA 98366.

**NOTE: Kitsap County does not discriminate on the basis of disability. Individuals who require accommodations should contact the Commissioners Office at (360) 337-7080 or TDD (360) 337-7275 or 1-800-816-2782. (Please provide five business days notice for interpreter services).**

**From:** [Darren Gurnee](#)  
**To:** [wpconslts@telebyte.net](#); [RYANBUILT@comcast.net](#); [Home2olalla@gmail.com](#); [Mauren.wa@gmail.com](#); [Twarnert1@comcast.net](#); [pastorjim@cornerstonealliance.org](#); [craig@wsengineering.com](#); [doug@mccormickwoods.com](#); [stacey@smsaunders-law.com](#); [david@overttonassociates.com](#); [katielee76@outlook.com](#); [judy@mentorcompany.com](#); [jeff@jcmppm.com](#); [klstorage@wavecable.com](#); [mike@wnekeng.com](#); [acs@rainiercapitalgroup.com](#); [davidh@okigolf.com](#); [terencesimons@yahoo.com](#); [glindsey100@me.com](#); [mark@team4eng.com](#); [yumah19@gmail.com](#); [bill@bbroughtonlaw.com](#); [tracy@kitsapcountrynursery.com](#)  
**Subject:** Kitsap County: Reclassification Requests  
**Date:** Tuesday, November 10, 2015 4:01:00 PM

---

Hello,

The staff reports for reclassification requests have been posted on the Kitsap County Comprehensive Plan website <http://compplan.kitsapgov.com>. Comments specific to the reclassification requests may be submitted as part of the draft Comprehensive Plan comment period. The comment period extends through December 7, 2015.

Sincerely,

**Darren Gurnee**

Kitsap County Associate Planner

619 Division Street

Port Orchard, WA 98366

[dgurnee@co.kitsap.wa.us](mailto:dgurnee@co.kitsap.wa.us)

(360) 337-5777

**From:** [M.M](#)  
**To:** [Peter Best](#)  
**Subject:** LAMIRD at Georges Corner Kingston  
**Date:** Thursday, March 15, 2018 7:03:43 PM

---

Peter,

I was checking to see if we had achieved consensus that an administrative fix for the LAMIRD boundary might be possible after our meeting at the site on March 2 ?

Thanks,

Mike

**From:** [SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us)  
**To:** [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)  
**Subject:** Mike McCown"s proposal / George"s Corner  
**Date:** Friday, March 23, 2018 10:09:57 AM

---

Bill:

Can we talk at a designated time about McCown's proposal? We presume this is about siting building 1 and setbacks. We are flexible Monday (except before 9:30 am and 11 to 12:30 pm), Tues afternoon before 2:45, and Wed 11:15 to 2 pm.

If you have thoughts that DCD has misinterpreted code, please advise us specifics beforehand. If you have an alternative, can we get a look at that in advance? This will help us prepare for our meeting.

We really tried to impress upon Mike that we can't 'bend' the code, and nor would he really want DCD staff who does that. DCD also let him know that this appears to the County to be a defensible application of code.

Regards,  
Scott



**From:** [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Subject:** RE: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Monday, February 26, 2018 2:31:48 PM

---

Thanks. I will send out an appointment for 11-12 on Friday 3/2.

---

**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]  
**Sent:** Monday, February 26, 2018 2:29 PM  
**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>  
**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

Hello Peter,  
It looks like Friday morning 3/2 would work well for me to meet you at the parcel in Kingston.  
Thanks,  
Mike

On 02/20/2018 9:16 AM, Peter Best wrote:

Hi, Mike.

Thanks. I should have clarified that you are not required to attend. So, let me know what date works for you or if you do not want to attend.

We routinely consult with cities, tribes, other government entities, and urban service providers regarding Comprehensive Plan amendments. Both tribes expressed interest in closely following the George's Corner LAMIRD boundary amendment and requested to participate in the site visit.

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,  
Peter

**Peter Best** | Planner  
Kitsap County Department of Community Development  
[Planning and Environmental Programs](#)  
619 Division St, MS 36  
Port Orchard, WA 98366  
(360) 337-5777 x7098 | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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**From:** M M [<mailto:vexnot@gmail.com>]

**Sent:** Saturday, February 17, 2018 7:42 AM

**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>

**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

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**Sent:** Monday, January 22, 2018 9:15:22 AM

**To:** M M

**Cc:** Comp Plan

**Subject:** RE: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

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**Subject:** RE: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Thursday, March 01, 2018 4:53:57 PM

---

Reminder: We will meet you tomorrow at 11.

Cheers,  
Peter

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**Sent:** Monday, February 26, 2018 2:32 PM  
**To:** M M <[vexnot@gmail.com](mailto:vexnot@gmail.com)>  
**Subject:** RE: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

Thanks. I will send out an appointment for 11-12 on Friday 3/2.

---

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Hello Peter,  
It looks like Friday morning 3/2 would work well for me to meet you at the parcel in Kingston.  
Thanks,  
Mike

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Chair Garrido proposed, pursuant to KCC 21.08.030.A.2, Kitsap County will not be reviewing its Comprehensive Plan in 2017. All suggested amendments to the Comprehensive Plan will be reconsidered for the 2018 docket. The Board would like to review the 2018 docketing resolution by the end of the year.



Staff immediately began preparing a draft initial docket resolution for the annual Comprehensive Plan amendment process for 2018 as directed by the Board. A draft was presented to the Board on November 22, 2017. The Board decided to put the draft resolution out for public comment and scheduled a public hearing on December 11, 2017. The comment period and public hearing was only regarding the docket resolution, which defines the scope of the items that will be considered during the annual Comprehensive Plan amendment process for 2018. At the public hearing, the Board decided to extend the public comment period (through 12/15/2017) and scheduled the matter for decision on December 27, 2017. The Board adopted the initial docket resolution for the 2018 annual Comprehensive Plan process on December 27, 2017.

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,

Peter

**Peter Best** | Planner

Kitsap County Department of Community Development

[Planning and Environmental Programs](#)

[619 Division St](#), MS 36

Port Orchard, WA 98366

[\(360\) 337-5777 x7098](#) | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]

**Sent:** Thursday, January 18, 2018 8:19 PM

**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>

**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

Thank you Peter for getting this information to me.

I'm curious as to why there was public comment requested in November/December 2017 if the LAMIRD change in the Comp Plan was not proposed in 2017?

It appeared to me that the 60 day public comment period was open and the comments were received. I reviewed the comments and spoke with someone in your department about them sometime in November I believe.

And when I inquired about the progress of the amendment I was told that in December the amendment would be presented to the full board with the staff recommendation and the vote on the change could still happen in January to approve the 2017 Comp Plan Amendment.

Could you please direct me to the September meeting you referred to where the Board decided to delay this specific amendment?

Mike

On Thu, Jan 18, 2018 at 11:22 AM, Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)> wrote:

Mike,

Thanks for the call today. Again, my apologies if there were any miscommunications or misunderstandings regarding the decision making around the 2017 docket. There were a number of items under consideration for the 2017 docket and in the end the Board decided to not do an annual amendment to the Comprehensive Plan because there simply was not enough time to complete the required process in 2017. The Board immediately began developing an initial docket for 2018, which was adopted on 12/27/2018, and includes a County-sponsored amendment to review and adjust the southeast boundary of the George's Corner LAMIRD.

As promised, attached please find the summary schedule for the annual Comprehensive Plan amendment process for 2018. Please note that this schedule and the timeframes discussed below are subject to change. You can learn more about the process at our [Online Open House](#). I believe you are already receiving notifications regarding this project. If not, you can [subscribe to receive future notifications](#).

As we discussed, this is a legislative process that the County can do only once per year and includes a variety of County-sponsored amendments as well as site-specific applications. All

Comprehensive Plan amendments must be processed and considered as a batch. As a result of the batching requirement and other procedural requirements in state law and County code, it will take a full year to complete the annual amendment process, with ordinance adoption planned in December 2018. As a legislative process, the Board has the discretion to approve, approve with modifications, approve with conditions, deny, or defer any amendment.

I will be preparing a proposal for the George's Corner LAMIRD boundary amendment before the end of March, which I will share with you when it is available. As part of that process, I will need to conduct a site visit and will be in touch with you about that in the near future.

In April, the Board of County Commissioners will decide whether to continue with the initial docket of amendments or may adopt a final docket, deciding which amendments will continue through the process.

Following the publication of a State Environmental Policy Act (SEPA) determination and staff report in June, there will be a public comment period (open for at least 60 days and may include open houses) as well as public hearings as the amendments are considered by the Planning Commission and then the Board of County Commissioners. You are encouraged to attend the public hearings and submit comments regarding the amendment.

The County has received comments regarding this amendment (summarized below) during the preparation of the docket, of which you should be aware. Other comments may be received as the amendments are considered during the latter half of 2018.

- I believe you are aware there was tribal interest in the establishment of the George's Corner LAMIRD boundary, particularly regarding commercial development in rural areas and in relation to critical areas. Tribal staff have requested to be consulted during this boundary adjustment amendment. If you would like to directly contact staff at the Suquamish and Port Gamble S'Klallam tribes, I can provide you contact information.
- Another County-sponsored amendment in 2018 is a review of the Urban Village Center (UVC) zone covering downtown Kingston. We have received comments stating concern about possible expansion of the commercial development at George's Corner which could affect the planned growth within the Kingston urban growth area (UGA).

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,

Peter

**Peter Best** | Planner

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**From:** [David Greetham](#)  
**To:** [Berni Kenworthy](#)  
**Cc:** [Katrina Knutson](#); [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)  
**Subject:** RE: Broughton Rezone  
**Date:** Thursday, March 17, 2016 11:04:01 AM

---

Thanks Berni. I look forward to answering your questions on Friday.

Dave

---

**From:** Berni Kenworthy [mailto:[berni@team4eng.com](mailto:berni@team4eng.com)]  
**Sent:** Thursday, March 17, 2016 10:26 AM  
**To:** David Greetham <[Dgreetha@co.kitsap.wa.us](mailto:Dgreetha@co.kitsap.wa.us)>  
**Cc:** Katrina Knutson <[KKnutson@co.kitsap.wa.us](mailto:KKnutson@co.kitsap.wa.us)>; [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)  
**Subject:** RE: Broughton Rezone

Hi David,

Thank you for the updated staff report. Please see my mark-ups and let's discuss tomorrow. The description of the proposal has been modified according to Bill's letter, however, the remainder of the report still reflects inaccuracies (i.e., expansion of the boundary, rezone of entire parcel to NC etc.). The recommendation of denial seems to be based on the assumption that the LAMIRD would be expanded etc.

Talk to you tomorrow.

Berni

---

**From:** David Greetham [<mailto:Dgreetha@co.kitsap.wa.us>]  
**Sent:** Thursday, March 17, 2016 9:01 AM  
**To:** Berni Kenworthy <[berni@team4eng.com](mailto:berni@team4eng.com)>  
**Subject:** RE: Broughton Rezone

Sounds good. I'll be at a meeting all afternoon but in most of the AM. My new direct number is below.

**David Greetham**  
Planning Supervisor  
Kitsap County Department of Community Development  
Planning and Environmental Programs Division  
360-337-4641

---

**From:** Berni Kenworthy [<mailto:berni@team4eng.com>]  
**Sent:** Thursday, March 17, 2016 8:47 AM



**To:** David Greetham <[Dgreetha@co.kitsap.wa.us](mailto:Dgreetha@co.kitsap.wa.us)>

**Subject:** RE: Broughton Rezone

Hi David,

I will give you a call tomorrow to discuss.

Thanks,  
Berni

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**Subject:** RE: Broughton Rezone

Hi Berni,

I have a note for this AM to ask our admin assistant Renee Watkins send the application info.

FYI the updated staff report should be the one posted on the website; the only revision was to the applicant proposal paragraph on p.2.

Renee will send the info shortly.

Thanks,  
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Berni

---

**BERNI KENWORTHY, PE**  
**Civil Engineer & Principal**

Voice (360) 297-5560

Fax (360) 297-7951



Team4 Engineering

5819 N.E. Minder Rd. Poulsbo, WA 98370

Phone (360) 297-5560 FAX (360) 297-7951

Email [berni@team4eng.com](mailto:berni@team4eng.com)

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**Subject:** RE: Broughton Rezone  
**Date:** Thursday, March 17, 2016 10:27:01 AM  
**Attachments:** [Scan0038.pdf](#)

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Berni

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**BERNI KENWORTHY, PE**  
**Civil Engineer & Principal**

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kitsap2036

Growing for a Better Tomorrow

## STAFF REPORT

### Permit Number: 15 00378 | DJM Construction

**DATE:** March 2, 2016

**TO:** Kitsap County Board of Commissioners; Kitsap County Planning Commission

**FROM:** Katrina Knutson, AICP, Senior Planner, DCD and

Jeff Arango, AICP, Senior Associate, BERK Consulting

**RE:** DJM Construction Reclassification Request

---

### APPLICATION INFORMATION

1. **Applicant Name:** Bill Broughton, DJM Construction Co. Inc. (applicant and owner)
2. **Parcel Number:** 272702-2-047-2003
3. **Address or location information:** Near the corner of Miller Bay Rd. NE and NE State Highway 104; see Attachment 1. Commissioner District 1.
4. **Current Land Use:** Undeveloped; see Attachment 3.
5. **Current Comprehensive Plan Map Designation:** Rural Residential/Rural Protection
6. **Proposed Comprehensive Plan Map Designation:** Urban Low-Intensity Commercial/Mixed-Use
7. **Current Zoning:** Rural Residential (RR)/Rural Protection (RP) and NC; see Attachment 4.
8. **Proposed Zoning:** Same zoning, difference configuration; see Attachment 5.
9. **Lot Area / Size:** 8.36 acres
10. **Comprehensive Plan Alternatives:** Request included with Comprehensive Plan Update 2016 Supplemental Environmental Impact Statement (SEIS) Alternative 3.
11. **Preferred Alternative:** The request is not included in the Preferred Alternative.

### Submitted Application Materials

- Project Application
- Reclassification Request Criteria
- Environmental Checklist



- Ownership Certification

## Application Request

The applicant is requesting relocation of the existing NC zoning currently situated in an isolated wetland to a similarly sized developable area fronting either SR 104 or Miller Bay Road from Rural Residential (RR) or Rural Protection (RP). This relocation will also result in the existing NC zoning returning to RR so that no new NC area is created. The applicant has indicated it will short plat the parcel with NC zoning after the amendment is approved and has offered to dedicate a 50 foot conservancy easement to the Nature Conservancy on the east boundary adjacent to the Grovers Creek wetland.

## BACKGROUND

The adjacent George's Corner LAMIRD boundary was established in 2004. After appeal and adjudication in 2004, the Washington State Growth Management Hearings Board made specific notice of the boundary, which is adjacent to the subject parcel. The Growth Board excerpt is below:

*The County chose to use the physical contours of the land and the presence of wetlands to define the boundary of the LAMIRD. Consistent with .070(5)(d)(iv)(B), this is likely to result in permanent boundaries that are less subject to pressures for commercial expansion and sprawl. The wetlands and critical areas may help buffer the commercial uses from the surrounding rural lands. The County required a lot-line adjustment on the Bjarnson property to further contain the LAMIRD.*

*Futurewise, Harless, KCRP v. Kitsap County, CPSGMHB 04-3-0031c, Final Decision and Order (FDO) (6/28/05).*

The existing LAMIRD boundary was based in part on the presence of wetlands and geologic hazards on the subject property as shown in Attachment 2. The complex of wetlands is directly associated with Grover's Creek, an important fish-bearing stream which empties into Miller Bay. (Wetland delineation mapping attached).

As shown in maps included in this report, a Short Plat (200511300408/409) was recorded following the establishment of the LAMIRD that resulted in the creation of new lots and split-zoning. This split-zoning (RP, RR, NC) was not created by an action of the County.

## Surrounding Zoning and Land Use

The site abuts NC zoning to the north and west but RR and RP to the east and south.

**Exhibit 1. Summary of Surrounding Areas Current Zoning and Land Use**

Surrounding Areas	Current Zoning	Current Land Use
North	• NC	• Trade (Commercial) and Government Services
East	• RP	• Undeveloped
South	• RR/RP	• Undeveloped
West	• NC	• Residential and Trade (Commercial)

Source: Kitsap County GIS; BERK Consulting 2015

## Current Future Comprehensive Plan and Zoning Designations

1/3 NC

The subject property is currently designated as Rural Residential and Rural Protection on the Comprehensive Plan Map. The Comprehensive Plan describes the designations as:

- **Rural Protection (RP):** This designation is intended to allow low-density development in keeping with rural character and to protect significant environmental features, including visual, historic, and natural features; wildlife corridors; steep slopes; wetlands; streams; and adjacent critical areas. It is implemented by the RP zone.
- **Rural Residential (RR):** This designation is intended to allow low-density residential development consistent with rural character, and primarily focuses on single-family dwellings. This designation is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features, and also recognizes areas that are already committed to a pattern of smaller rural lots. The RR designation is implemented by the Rural Residential zone.

According to the Kitsap County Code (Chapter 17.305 Kitsap County Code (KCC)), the RP zone is intended to "promote low-density rural development that is consistent with rural character and protects environmental features such as significant visual, historical, natural features, wildlife corridors, steep slopes, wetlands, streams and adjacent critical areas." This zone allows for residential, commercial, resource, and recreational uses that are compatible with rural character. The maximum density is 1 dwelling unit per 10 acres.

The RR zoning designation (Chapter 17.310 KCC) promotes "low-density residential development consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services." RR has a maximum density of 1 dwelling unit per 5 acres. This zone allows for residential and limited commercial, resource and recreational uses that are compatible with rural character.

Rural character is referenced in both designations and zones. Chapter 3 Rural and Resources Lands of the Comprehensive Plan has a detailed description of rural character as well as goals and policies. Some of the characteristics defining rural character include:

- Relatively undeveloped nature
- Lots 5 acres and over
- Agricultural and forest activities
- Land for wildlife and nature
- Personal open space for tranquility (enjoyment of personal property)
- Responsive public services, sense of being self-sufficient
- Wooded trail systems
- Views of the Hood Canal, Puget Sound, the Olympics and Mount Rainier
- Small businesses serving the local population
- Small, intimate communities
- Low population density
- Large forested areas
- Quiet two lane roads

## Proposed Future Comprehensive Plan and Zoning Designations

As described in the current Comprehensive Plan, the proposed Comprehensive Plan Map Designation is Limited Area of More Intense Rural Development (LAMIRD) – Type I. The Comprehensive Plan describes the designation as follows:

- **Type I.** The only type of LAMIRD currently designated in Kitsap County prior to 2010, this designation is characterized as infill development or redevelopment of existing commercial,



industrial, residential, or mixed-use areas, whether as shoreline development, villages, hamlets, rural activity centers, or crossroads. Any industrial development within a Type 1 LAMIRD must be principally designed to serve the rural population. Any new development or redevelopment must be consistent with existing character of the area with respect to building size, scale, use, or intensity. Type 1 LAMIRDs must have been established as more densely developed areas as of July 1990, and they must include pre-GMA existing development. Type 1 LAMIRDs also must be bounded by a "logical outer boundary" that mirrors the limits of the pre-existing development.

The list of allowable uses differs substantially between NC and RR/RP. This relates to the intent of the NC for commercial uses and RR/RP for large lot rural residential uses.

**Exhibit 2. Selected Allowed Uses (KCC 17.381.040.B and .E)**

Selected Uses	NC (proposed zoning)	RR/RP (current zoning)
<b>Residential Uses</b>		
• Single family dwelling, detached	X	X
• Mixed use development	ACUP	X
• Hotel/motel	C	X
<b>Commercial/Business Uses</b>		
• Financial, banking, mortgage and title institutions	P	X
• General office and management services – 4,000 to 9,999 s.f.	ACUP	X
• General retail merchandise stores – less than 4,000 s.f.	P	X
• General retail merchandise stores – 10,000 to 24,999 s.f.	C	X
• General retail merchandise stores – 25,000 s.f. or greater	X	X
• Restaurants	P	X
• Tourism facilities, including outfitter and guide facilities	X	X

Legend: P = Permitted, X = Prohibited, ACUP = Administrative Conditional Use, C = Conditional Use

Zoning development standards show a denser pattern of development for NC than for RR/RP. For example, mixed use development at 10-30 units per acre is allowed in the NC zone whereas single family residential development at 1 unit per 5 or 20 acres is allowed in the RR/RP zones respectively.

**Exhibit 3. Selected Development Standards Comparison (KCC 17.381.040)**

Density and Dimensions	NC (proposed zoning)	RR/RP (current zoning)
Base density (du/acre)	10	1 Unit/5 Acres (RR) 1 Unit/10 Acres (RP)
Maximum Density (du/acre)	30	NA
Minimum lot size (acre)	NA	NA
Lot width (feet)	NA	140
Lot depth (feet)	NA	140
Maximum height (feet)	35	35

## PUBLIC COMMENTS

*Three tribal and agency comments were received regarding the proposal during the SEIS public comment period. The Suquamish Tribe, Point No Point Treaty Council and the Washington Department of Fish and Wildlife do not support the proposal due to the expansion of a Type I LAMIRD and environmental constraints. The easterly portion of the subject parcel contains wetlands associated with Grovers Creek, which drains to Miller Bay where the Suquamish Tribe operates a Chinook and chum salmon hatchery. The Tribe's comment letter describes recent monitoring efforts associated with the creek and hatchery, and states concern regarding potential further degradation of Grovers Creek (including fish passage opportunity) if wetland, riparian and stormwater protection functions are not maintained throughout the Grovers Creek watershed.*

## EVALUATION

Site specific reclassification requests to the Comprehensive Plan must be reviewed in accordance with the criteria outlined in the Kitsap County Code (KCC) Chapter 21.08. Applicable review criteria for site specific reclassification requests are in sections KCC 21.08.070.A and KCC 21.08.070.D.

### General Criteria (KCC 21.08.070.A)

**A. General.** For each proposed amendment to the Comprehensive Plan the review authority, the planning commission in reaching its recommendation, and the board of commissioners in making its decision, shall develop findings and conclusions, which demonstrate:

**1. How circumstances related to the proposed amendment and/or the area in which the property affected by the proposed amendment is located have substantially changed since the adoption of the Comprehensive Plan or applicable development regulations;**

Circumstances related to the proposed amendment or the area in which the property is located have not substantially changed since adoption of the Comprehensive Plan.

**2. How the assumptions upon which the Comprehensive Plan is based are no longer valid, or there is new information available which was not considered during the adoption of, or during the last annual amendment to, the Comprehensive Plan or development regulations; and**

The assumptions upon which the Comprehensive Plan is based are still generally valid. Updated growth targets and capacity analysis is being conducted as part of the 2016 Comprehensive Plan update, but in general that process will not change the assumptions relative to the subject property and proposed amendment.

**3. How the requested redesignation is in the public interest and the proposal is consistent with the Kitsap County Comprehensive Plan.**

The amendment request is not in the public interest as it would expand the logical outer boundary of the existing Type I LAMIRD boundary to include an undeveloped forested property with significant environmental constraints and building limitations. See analysis under criteria 1.f below for consistency with the Comprehensive Plan.

PROPOSAL IS TO  
RELOCATE, NOT EXPAND

### Reclassification Request Criteria (KCC 21.08.070.D)

**D. Site-Specific Amendments.** In addition to the findings and conclusions in subsection (A) of this section, a proposed site-specific map amendment may be recommended for approval by the planning commission and may be approved by the board of commissioners if the following findings are made:



**1. All Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.**

- a. The proposed amendment meets concurrency requirements for transportation, sewer and water, and will not result in significant adverse impacts on adopted level of service standards for other public facilities and services, such as police, fire and emergency medical services, park services, and general government services;

The proposed amendment involves expanding a LAMIRD boundary to include an additional 8.36 acres of undeveloped property that contains wetlands and moderate geologic hazard areas. The LAMIRD area currently has water service, but not sanitary sewer. While the expansion of the LAMIRD would not significantly impact levels of service for public services overall within the County, it would expand the area that may be served by more intense public services ~~is to be served by urban services~~ and increase the area that is to be served. The area is studied cumulatively for NC in the 2016 Comprehensive Plan Update SEIS. The site is located near segments of Hansville Road NE and SR 104 with projected transportation deficiencies under Alternative 3. Increased commercial density at the proposed site would add trips beyond what was reflected in the 2036 travel demand forecasts. Therefore, the proposal would result in an impact to transportation. However, the transportation improvement projects identified to address deficiencies expected without the proposal would also be expected to address the additional impacts resulting from the proposal. Any reclassification proposal would be subject to a more specific analysis of transportation impacts and would be subject to meeting County concurrency requirements at the time of development.

Kitsap County has submitted this application to the Washington State Department of Transportation for their review and comment, as the site is located on a state highway.

- b. The proposed amendment is consistent with the balance of the goals, policies and objectives of the current Kitsap County Comprehensive Plan and reflects the local circumstances of the County;

**Kitsap County Comprehensive Plan Chapter Vision**

Kitsap County's Comprehensive Plan shows the relationship between chapter concepts and the comprehensive plan vision. See Exhibit 4.

**Exhibit 4. County Vision for Rural and Urban Areas**

Vision	Rural Chapter Relationship to Vision
<p><b>Rural Areas.</b> Rural areas and communities where unique historical characters, appearances, functions, and pioneering spirits are retained and enhanced. Natural resource activities, such as forestry, agriculture, and mining continue to contribute to the rural character and economy. Rural recreation opportunities are enhanced, including equestrian facilities, trails, and others.</p>	<ul style="list-style-type: none"> <li>Maintain low residential densities in rural areas and provides policy guidance for development standards which help to preserve the County's rural character. Foster small sustainable farms and agricultural enterprises that provide locally-grown food and fiber for Kitsap citizens.</li> </ul>
<p><b>Economic Development.</b> A stable, prosperous and diversified economy that provides living wage jobs for residents, supported by adequate land for a range of employment uses and that encourages accomplishment of local economic development goals.</p>	<ul style="list-style-type: none"> <li>Preserve opportunities for resource-based economic activities within the County.</li> <li>Allow for limited commercial and industrial uses in rural areas, while preserving rural character.</li> </ul>



**Natural Environment.** Natural ecosystems – including interconnected wetlands, streams, wildlife habitat, and water quality – that are rehabilitated, protected, and enhanced and that allow for flexible and innovative development to meet environmental and growth goals. In developed areas, the growth pattern supports conservation of non-renewable energy and minimizes impacts on air quality and climate.

Provide for protection of natural ecosystems in rural areas through rural designations, through compliance with Kitsap County "Water as a Resource" Policy (Res.109-2009), and with lower levels of development and lower availability of public services.

Source: Kitsap County Comprehensive Plan (December 2012).

Expanding the Type I LAMIRD Boundary and up zoning 8.36 acres of undeveloped property with significant wetlands appears contrary to the vision statement with respect to the natural environment. The proposed action would also alter the logical outer boundary of the LAMIRD and could affect the local character which currently has a visual separation between the LAMIRD and abutting rural large lots to the east and south. While at least one Growth Management Hearing Boards has stated that the LOB for a Type I LAMIRD may conceivably be enlarged after its initial establishment, such an expansion must meet the same criteria as required for the initial establishment. *1000 Friends of Washington v. Snohomish County*, CPSGMHB Case No. 03-3-0026, (*1000 Friends II*), FDO, (June 21, 2004). There is no evidence that the addition of this property to the LAMIRD meets the criteria for establishing the initial boundary. There is no evidence that this property included pre-existing development prior to 1990. Under GMA, the purpose of establishing LAMIRDs is to limit development, adding vacant parcels at the fringes of an established LAMIRD could contravene the GMA provisions.

### Kitsap County Comprehensive Plan 2036 Goals and Policies: Chapter 3

The proposed zoning amendment supports the following current Comprehensive Plan Goals:

#### 3A.2.1B Limited Areas of More Intensive Rural Development

- Goal 7. Allow for the designation of LAMIRDs outside of the UGA based on existing rural residential communities or villages, areas of mixed use activity, isolated areas of small and moderate-scale commercial/industrial activity, and historic towns.
- **Policy RL-25 Prohibit designating a LAMIRD adjacent to an UGA.**

The subject properties are adjacent to a Type I LAMIRD, but not adjacent to a UGA. The area was evaluated as part of LAMIRD options in 2004 and the present boundary that excludes the site was established and upheld by the Growth Management Hearings Board.

- **Policy RL-27 Encourage changes to zones in LAMIRDs to occur via a local community planning process. This process should incorporate local knowledge, experience and preferences to determine appropriate area-specific land uses, development standards, design guidelines, and public service needs. Specific issues that should be considered in this planning process include:**

- **Appropriate logical outer boundaries as required by GMA**

The appropriate logical outer boundary of the existing George's Corner LAMIRD was subject to review by the Growth Management Hearings Board in 2005 and upheld. The proposed amendment would expand the logical outer boundary to undeveloped forested land that contains wetlands and a stream corridor. Therefore, extending the appropriate logical outer boundary to include the subject property appears unjustified.

- **Rural character of the subject area and surrounding area.**

NO, IF  
ON  
MILLER  
BAY  
WOULD  
SQUARE  
UP B'DY  
AS IS  
IN LAMIRD TO THE WEST

NO UPZONING PROPOSED

PROPOSING RELOCATION, NOT ENLARGING



The subject property and surrounding area with an RR/RP designation maintain a rural character. Applying the NC designation to the subject property, which is undeveloped and contains relatively intact ecological functions would affect rural character incrementally.

- **Appropriate mix of uses, densities and intensities.**

The specific mix of uses, densities and intensities allowed in the NC zone are appropriate for properties within the LAMIRD boundary. However, as discussed above the extension of the logical outer boundary to include the subject property is not supported by GMA goals and local regulations and so, therefore, is not an appropriate mix of uses, densities and intensities.

- **Feasibility, cost and need for public services.**

The site is served with public water service, but not sanitary sewer service.

- **Significant natural constraints or features to be preserved.**

The subject property is undeveloped forested land that contains wetlands and a stream corridor, both regulated under Kitsap County Code Title 19 (Critical Areas) which responds to state requirements for local governments to protect the functions and values of critical areas and their buffers

- **Provision for a monitoring and evaluation process.**

As a condition of approval if the request is approved, the County should work with the applicant to develop a monitoring and evaluation process.

- **Benefits to the local community.**

The benefits of approving the request may include allowing greater commercial opportunities at the crossroads for the Kingston-area community; given the preference in County plans for focus growth in the Kingston UGA and other UGAs, and the environmental and rural character concerns, the benefits of expanding the George's Corner LAMIRD do not appear to outweigh the disadvantages. The applicant has not demonstrated any benefits to the local community. The subject parcel(s) is suitable for the requested land use designation based upon, but not limited to, access, provision of utilities, consistency with existing and planned uses, environmental constraints and compatibility with the neighborhood. However, the subject parcel is not suitable for the requested land use designation based on environmental constraints and is inconsistent with the GMA criteria for establishing the logical outer boundary of the LAMIRD. NOT PROPOSING EXPANSION

c. **The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning, and reflects local circumstances in the county;**

The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning and reflects local circumstances in the County.

d. **The proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall area of the urban growth area;**

The proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall are of the urban growth area. See criteria D.1.a.

e. **The proposed amendment is consistent with the GMA, Kitsap County-wide Planning Policy, state and local laws and other applicable inter-jurisdictional policies or agreements.**

The following state and local policies and laws are applicable to the applicant's zoning amendment request.

### Growth Management Act Planning Goals (RCW 36.70a.020)

**(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.**

The proposed amendment is inconsistent with above GMA goal by expand the boundary of a LAMIRD to an undeveloped forested site with environmental constraints.

### Growth Management Act – Designating Limited Areas of More Intense Development (RCW 36.70A.070(5)(d))

The GMA establishes the criteria for establishing the logical outer boundary for a LAMIRD in RCW 36.70A.070(5)(d)(iv) and (v):

*The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;*

*(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:*

*(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;*

The subject property was not developed prior to July 1, 1990. Expanding the outer logical boundary on the edge of the LAMIRD to include undeveloped forested land that includes significant environmental constraints appears contrary to the criteria above. (e.g. using bodies of water, land forms and contours to define boundaries).

### Kitsap County-wide Planning Policies

#### Element D: Rural Land Uses and Development Patterns

##### D-2. Preserving rural land use and development patterns:

- a. **Rural Communities are already-existing residential and commercial areas of more intensive rural development designated in the Kitsap County Comprehensive Plan under RCW 36.70A.070.5. In-fill is expected. Rural Communities should be serviced by transportation providers and other services consistent with the Levels of Service adopted by Kitsap County for roads and by Kitsap Transit for transit upon their designation as an area of more intensive rural development.**

The proposed amendment is inconsistent with the above County-wide Planning Policy because it is not part of the already developed area within the existing Type I LAMIRD and would require the extension of the logical outer boundary to include undeveloped forested land with environmental constraints.



**3. Rural Commercial/Industrial and Type III LAMIRD Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.**

**a. Demonstration of an unmet need for the proposed land use designation in the rural area.**

No unmet need has been identified by the applicant. The applicant stated an intent to develop a fast-food establishment or similar type land use if the amendment request is approved.

**b. Demonstration that Kitsap County's rural character will be preserved or unaffected by the change of designation.**

The subject property is undeveloped forested land that is along the outer boundary, but outside, of the Type I LAMIRD Boundary. The proposed amendment would increase the likelihood that the subject property is developed at urban intensities that may negatively impact the rural character in the County. See the description of rural character under "Present Comprehensive Plan Designations."

**c. Demonstration that the proposed designation will principally serve the rural area.**

It is likely this site would provide commercial uses at the cross roads to serve north Kitsap County. However, there are other already developed areas in the LAMIRD and in the Kingston UGA that could fill that need.

**d. Demonstration that appropriate rural services are available (i.e., water, wastewater disposal, etc.) and that urban services will not be required for the proposed designation.**

See Response D.1.a.

**e. Demonstration that the proposal is contiguous to existing industrial or commercial zoning. (Exceptions to this policy must demonstrate a unique or exceptional need for the proposed land use designation.)**

The site abuts other NC properties to the north and west. However, there is no exceptional or unique need to add this property in light of the logical outer boundary requirements for Type I LAMIRDs.

**f. Demonstration that the property is sized appropriately for the proposed land use designation.**

RELOCATION  
The site is constrained and would not allow for significant added commercial uses without creating potential significant environmental impacts, and there are other opportunities in the LAMIRD and Kingston UGA to add commercial uses.

**g. Demonstration that there is a lack of appropriately designated and available sites within the vicinity.**

The applicant has not demonstrated a lack of available sites. In fact there are 3 vacant lots currently within the LAMIRD, one 6.85 acres in size. The Comprehensive Plan intends to focus growth in UGAs. LAMIRDs are only provided to recognize existing development not to create added capacity for growth.

## Findings of Fact

1. The applicant, Bill Broughton, submitted the application to Kitsap County on February 2, 2015.
2. The applicant seeks a Comprehensive Plan Amendment to change the Comprehensive Plan Map Designation from Rural Residential (RR) and Rural Protection (RP) to Low-Intensity Commercial/Mixed-Use. This would also entail an expansion of the Logical Outer Boundary of the George's Corner Type I LAMIRD.

3. The applicant seeks a Zoning Map Amendment from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial and to extend the adjacent Type I LAMIRD boundary to include the subject property. *NO, RELOCATION OF NC*
4. The subject property is located near the corner of Miller Bay Rd. NE and NE State Highway 104.
5. The subject property is adjacent to the George's Corner Type I LAMIRD to the west and properties zoned Neighborhood Commercial (NC).
6. The subject property is currently undeveloped.
7. The subject property has environmental constraints including wetlands and a stream corridor.
8. The subject property was not developed prior to July 1, 1990.
9. The Logical Outer Boundary (LOB) of the adjacent Type I LAMIRD was reviewed and upheld by the Growth Management Hearings Board in 2005. Any change to the LOB must comport with the same criteria as the initial designation was subject to.

### Conclusion of Law

The application is inconsistent with the Washington Growth Management Act, the Kitsap Countywide Planning Policies, the Kitsap County Comprehensive Plan, and other state and local regulations.

### Recommendation

Based on the findings of fact and conclusion of law staff recommends denial of application #15 00378.

In order to be consistent with the adopted LAMIRD plan and to correct the noted split zones created by the above referenced short plat, staff recommends parcel 272702-2-047-2003 be rezoned entirely to RP and the remaining residential portion of parcel 272702-2-046-2004 be RP.



## ATTACHMENTS

### Attachment 1: Aerial Imagery





**From:** [Alison Osullivan](#)  
**To:** [Bill Broughton](#); "[David Greetham\(dgreetha@co.kitsap.wa.us\)](#)"  
**Subject:** RE: Broughton kingston wetlands  
**Date:** Monday, September 28, 2015 10:54:12 AM

---

Bill,

Thanks for the information. What is your specific rezone request for this parcel?

Alison

---

**From:** Bill Broughton [<mailto:bill@bbroughtonlaw.com>]  
**Sent:** Monday, September 28, 2015 9:30 AM  
**To:** 'David Greetham ([dgreetha@co.kitsap.wa.us](mailto:dgreetha@co.kitsap.wa.us))'  
**Cc:** Alison Osullivan  
**Subject:** FW: Broughton kingston wetlands

Hi Dave

Here is the surveyed wetland boundary and buffer.

With buffer reduction, averaging and mitigation there should be potential for a small site on Hwy 104.

I have reached out to Alison and am waiting for her feedback.

I will send the report from Joanne this week.

Thanks

Bill

William H. Broughton  
Broughton Law Group, Inc., P.S.  
9057 Washington Ave. N.W.  
Silverdale, WA 98383  
Phone - (360) 692-4888  
Fax - (360) 692-4987  
[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)

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---

**From:** John Kieffer [<mailto:johnk@map-limited.com>]  
**Sent:** Monday, September 28, 2015 9:05 AM  
**To:** Bill Broughton  
**Subject:** Broughton kingston wetlands

Bill,

Here's a PDF of the wetland locates I sent to Joanne on 09-23-2015.

**John D. Kieffer, PLS, Principal**

## MAP, Ltd.

PO Box 720 (Mailing)  
11309 Clear Creek Rd NW (Street)  
Silverdale, WA 98383  
360-692-5525 x-20 Office  
[johnk@map-limited.com](mailto:johnk@map-limited.com)  
[www.map-limited.com](http://www.map-limited.com)



**From:** [Deanna Erstad](#)  
**To:** "M M"  
**Subject:** RE: Commissioner Gelder Meeting Request  
**Date:** Wednesday, June 14, 2017 9:22:47 AM

---

Mike, I just left you a message.....they would like to meet at George's Corner at the site.....will that work for you on July 6<sup>th</sup>?

**From:** M M [mailto:vexnot@gmail.com]  
**Sent:** Monday, June 12, 2017 12:52 PM  
**To:** Deanna Erstad <DErstad@co.kitsap.wa.us>  
**Subject:** RE: Commissioner Gelder Meeting Request

Thanks I will be out of town the 22nd and 29th of June and I look forward to hearing from you about another date.

Mike

On Jun 12, 2017 11:57 AM, "Deanna Erstad" <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)> wrote:

Mike, I'm sorry but he is not available this week. I have you on my list to schedule a meeting, but it may be out a couple of weeks. I will try to schedule you on a Thursday when he will be in his Kingston office so you won't have to travel all the way to Port Orchard.

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**Sent:** Monday, June 12, 2017 10:52 AM  
**To:** Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)>  
**Subject:** Commissioner Gelder Meeting Request

Deanna,

I would like to schedule a meeting with Commissioner Gelder to discuss an issue with a property located at :

8229 NE STATE HWY 104 KINGSTON WA 98346

Account # 272702-2-046-2004

The property currently has 3 zoning designations on the one parcel and I am hoping that Comm. Gelder will help me look at getting this cleared up.

I am available all day Thursday June 15 and wondered if there was a time that might work otherwise I look forward to hearing from you with possibilities.

Thanks,

Mike McCown





**From:** [Deanna Erstad](#)  
**To:** "M M"  
**Subject:** RE: Commissioner Gelder Meeting Request  
**Date:** Thursday, June 22, 2017 8:13:56 AM

---

Scott will be joining you.

**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]  
**Sent:** Friday, June 16, 2017 1:23 PM  
**To:** Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)>  
**Subject:** Re: Commissioner Gelder Meeting Request

Its on my calendar. Are Scott and Cindy planning to join us at that meeting?  
Mike

On Wed, Jun 14, 2017 at 10:26 AM, Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)> wrote:

I put it on for 9 am like you suggested....

---

**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]  
**Sent:** Wednesday, June 14, 2017 9:51 AM  
**To:** Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)>  
**Subject:** Re: Commissioner Gelder Meeting Request

That sounds good. How about meeting at the Starbucks next door? And how early on July 6?  
Mike

On 06/14/2017 9:22 AM, Deanna Erstad wrote:

Mike, I just left you a message.....they would like to meet at George's Corner at the site.....will that work for you on July 6<sup>th</sup>?

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Thanks,

Mike McCown

**From:** [Deanna Erstad](#)  
**To:** ["M M"](#)  
**Subject:** RE: Commissioner Gelder Meeting Request  
**Date:** Wednesday, June 14, 2017 10:25:53 AM

---

They suggested the Starbucks next to Rite Aid...I assume that is the one you are talking about also?

---

**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]  
**Sent:** Wednesday, June 14, 2017 9:51 AM  
**To:** Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)>  
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Mike McCown



**From:** [Deanna Erstad](#)  
**To:** "M M"  
**Subject:** RE: Commissioner Gelder Meeting Request  
**Date:** Wednesday, June 14, 2017 10:26:21 AM

---

I put it on for 9 am like you suggested....

---

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**Sent:** Wednesday, June 14, 2017 9:51 AM  
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I am available all day Thursday June 15 and wondered if there was a time that might work otherwise I look forward to hearing from you with possibilities.

Thanks,

Mike McCown

**From:** [Bill Broughton](#)  
**To:** [Deanna Erstad](#)  
**Subject:** RE: Commissioner Wolfe  
**Date:** Thursday, April 12, 2018 10:05:22 AM

---

Hi Deanna

I am out next week.

I have a meeting with him May 8 on another matter.

We could discuss after the meeting?

Thanks to both of you.

Bill

---

**From:** Deanna Erstad [mailto:DErstad@co.kitsap.wa.us]  
**Sent:** Wednesday, April 11, 2018 4:07 PM  
**To:** Bill Broughton  
**Subject:** Commissioner Wolfe

Ed asked me to set up a phone or in person meeting with you regarding property at George's Corner..he could meet with you here on April 19<sup>th</sup> at 2pm if that would work for you. Please let me know but I will hold on his calendar until I hear from you. Thanks.

Deanna Erstad, Administrative Specialist  
Kitsap County Board of Commissioners Office  
614 Division St. MS-4  
Port Orchard, WA 98366  
360 337-4426  
Office Hours: Mon- Fri. 8:00-4:30



**From:** [DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)  
**To:** [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)  
**Subject:** RE: Commissioner Wolfe  
**Date:** Thursday, April 12, 2018 10:33:29 AM

---

Great, we will see you then...here in our office in Port Orchard.

Deanna Erstad, Administrative Specialist  
Kitsap County Board of Commissioners Office  
614 Division St. MS-4  
Port Orchard, WA 98366  
360 337-4426  
Office Hours: Mon- Fri. 8:00-4:30



---

**From:** Bill Broughton <[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)>  
**Sent:** Thursday, April 12, 2018 10:04 AM  
**To:** Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)>  
**Subject:** RE: Commissioner Wolfe

Hi Deanna  
I am out next week.  
I have a meeting with him May 8 on another matter.  
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Bill

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Deanna Erstad, Administrative Specialist



Kitsap County Board of Commissioners Office

614 Division St. MS-4

Port Orchard, WA 98366

360 337-4426

Office Hours: Mon- Fri. 8:00-4:30



**From:** [dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)  
**To:** [SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us); [rgelder@co.kitsap.wa.us](mailto:rgelder@co.kitsap.wa.us); [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Cc:** [jbolger@co.kitsap.wa.us](mailto:jbolger@co.kitsap.wa.us)  
**Subject:** RE: Docket for George's Corner  
**Date:** Tuesday, August 08, 2017 4:39:39 PM

---

One minor correction: My phone is 360-620-3695.

**Dave Ward**  
**Planning and Environmental Programs Manager**  
**Kitsap County, Department of Community Development**  
[dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)  
360-620-3695

---

**From:** Scott Diener  
**Sent:** Tuesday, August 08, 2017 4:35 PM  
**To:** Robert Gelder <[rgelder@co.kitsap.wa.us](mailto:rgelder@co.kitsap.wa.us)>; 'M M' <[vexnot@gmail.com](mailto:vexnot@gmail.com)>  
**Cc:** Jim Bolger <[jbolger@co.kitsap.wa.us](mailto:jbolger@co.kitsap.wa.us)>; Dave Ward <[dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)>  
**Subject:** Docket for George's Corner

Gentlemen:

We are pulling together a preliminary docket for two items, of which the realignment of zoning of the SE corner of George's Corner is one.

Moving forward, Dave Ward, Manager, Planning and Environmental Programs, will be submitting the docket for Board approval and then, presuming authorization to move forward, directing the staff for this review. Dave is Cc'd above and can also be reached at 360-337-3833.

Please let us know if there are any questions.

Regards,

Scott Diener  
Manager, Development Services and Engineering  
SEPA Responsible Official

Dept of Community Development  
Kitsap County  
614 Division St, MS-36  
Port Orchard, WA 98366

[sdiener@co.kitsap.wa.us](mailto:sdiener@co.kitsap.wa.us)  
t: 360-337-5777  
f: 360-337-4415

[kitsapgov.com/DCD](http://kitsapgov.com/DCD)

**Please note:** All incoming and outgoing email messages are public records subject to disclosure pursuant to the Public Records Act, Chapter 42.56 RCW.

**From:** [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Subject:** RE: FW: Annual Comprehensive Plan Amendment Process for 2018  
**Date:** Thursday, December 14, 2017 3:24:54 PM

---

Mike,

The comment period has been extended to Friday, December 15, 2017 (5 PM).

With regards to the George's Corner, there was no verbal testimony made at the public hearing. There was one online comment submitted - [View Submitted Comments](#)

County staff had a meeting with tribal staff last week and they were interested in following the George's Corner matter.

Once the comment period ends this Friday, the Commissioners are schedule to make a decision on the docket resolution during their work study meeting on December 27, 2017.

You can subscribe to future notifications on the Comprehensive Plan process [here](#). This is the best way to ensure you stay informed.

I hope this information is helpful. Please let me know if you have any additional questions.

Cheers,  
Peter

**Peter Best** | Planner  
Kitsap County Department of Community Development  
[Planning and Environmental Programs](#)  
619 Division St, MS 36  
Port Orchard, WA 98366  
(360) 337-5777 x7098 | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]  
**Sent:** Thursday, December 14, 2017 1:11 PM  
**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>  
**Subject:** Re: FW: Annual Comprehensive Plan Amendment Process for 2018

Peter,  
Thanks for the info. about the comp plan admendments. Unfortunately I did not see it until today so I missed the hearing.  
Could you tell me if there was any significant opposition and if so is there a recording of the hearing ?  
If no opposition what is the current timeline for the process?  
Thanks,  
Mike McCown

On Mon, Dec 4, 2017 at 4:32 PM, Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)> wrote:

|



Mr. McCown,

I wanted to make sure you received the announcement below. If you did not receive this announcement directly, than I would encourage you to subscribe to receive future notifications.

You will see that the adjustment to the George's Corner LAMIRD boundary is included in the [draft docket](#). If you have comments for the Board of County Commissioners, please see below for more information.

Let me know if you have any questions.

Cheers,

Peter

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**From:** Kitsap County [mailto:[kitsapcounty@public.govdelivery.com](mailto:kitsapcounty@public.govdelivery.com)]

**Sent:** Friday, December 1, 2017 2:03 PM

**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>

**Subject:** Annual Comprehensive Plan Amendment Process for 2018

# Annual Comprehensive Plan Amendment Process for 2018



Kitsap County Department of Community Development

Project Message #1

December 1, 2017

Comp Plan Logo Header





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### What is the Comprehensive Plan?

The [Kitsap County Comprehensive Plan](#) describes the 20-year vision for unincorporated Kitsap County and how that vision will be achieved. The plan covers land use, economic development, environment, housing, human services, transportation, capital facilities and utilities, as well as parks and recreation and open space. The Comprehensive Plan is mandated by the Washington State Growth Management Act (RCW 36.70A).

### How often does the Comprehensive Plan get changed?

Major Comprehensive Plan updates are mandated by the state every 8-years. The last major update of the [Kitsap County Comprehensive Plan](#) was adopted in 2016. In-between major updates, the County may choose to consider minor amendments to the Comprehensive Plan on an annual basis. The Board of County Commissioners have opened the annual Comprehensive Plan amendment process for 2018. [Learn more about the annual amendment process for 2018.](#)

### Where are we in the annual amendment process for 2018?

We are currently in the first phase of the process, called the scoping phase, which will determine what amendments will be considered in 2018. The Board of County Commissioners do this through the adoption of a docket resolution for the annual Comprehensive Plan amendment process. The docket resolution describes what types of amendments will be considered. The Board of County Commissioners intends to adopt the docket resolution by the end of December 2017.

### How can I comment?

A public comment period is currently open on the staff recommendation.

Oral and written **public testimony** may be made during a public hearing scheduled for 5:30 PM on Monday, December 11, 2017 in the Chambers, Kitsap County Administration Building (see office location below).

**Written comments** submitted in advance of the public hearing are due by 11:59 PM on Sunday, December 10, 2017 and may be submitted:

[Online via computer or mobile device \(preferred method\)](#)

By email to [compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)

- By mail (see mailing address below)
- Dropped off at the Department of Community Development (see office location below)

[View Submitted Comments](#)

### What will happen next?

The next phase of the annual amendment process, called the development phase, is when most county-sponsored amendments (including alternatives, if appropriate) are developed. If the docket allows for the submittal of applications from interested parties, they will be accepted during a short application period beginning in January 2018.

### How can I stay informed throughout the process?

An online open house will be kept current and available throughout the process and notifications will be sent to everyone that subscribe to Comprehensive Plan Announcements. Subscribe now to ensure you receive future notifications.

## CONTACT

Department of Community Development

Planning & Environmental Programs

[\(360\) 337-5777](tel:3603375777) (Kitsap1)

[compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)

## Mailing Address

[614 Division Street](#) - MS36  
Port Orchard, WA 98366

## Office Location

[619 Division Street](#)  
Port Orchard, Washington

Media Contact: Natalie Marshall



## KITSAP COUNTY

Kitsap County government exists to protect and promote the safety, health and welfare of our citizens in an efficient, accessible and effective manner.

## DEPARTMENT OF COMMUNITY DEVELOPMENT

The mission of the Department of Community Development is to enable the development of quality, affordable, structurally safe and environmentally sound communities.

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**From:** [Scott Diener](#)  
**To:** [M M](#)  
**Cc:** [Cindy Read](#)  
**Subject:** RE: George's Corner - Q about southern boundary  
**Date:** Thursday, May 25, 2017 3:11:00 PM

---

Mark:

The process is to look at what was in front of the Board in 2004 for approval and then to see if what they adopted was factually different. Essentially this would be looking at what was adopted for the mapping equivalent of a scrivener's error. That is the only way a map correction can be initiated.

We have looked at this over and over through the years (contact Bill Broughton for his knowledge as well; we recall he defended the (current) designation when it was initially appealed) and again through the 2016 Comp Plan. I personally have looked at this beginning several years ago and did not find the mapping error that folk want to believe exists.

We have a 3-ring binder that you can look at that shows how the Board came to its decision in 2004. FYI, Gary Lindsey's short plat was approved in 2005, after George's Corner was designated, appealed by interested parties (appeal lost) and finalized.

We will see you at 9 AM.

Regards,  
Scott

**From:** M M [mailto:vexnot@gmail.com]  
**Sent:** Thursday, May 25, 2017 1:41 PM  
**To:** Scott Diener <SDiener@co.kitsap.wa.us>  
**Subject:** RE: George's Corner - Q about southern boundary

Scott

My question originally was what the process is to have the boundary reviewed. I am still waiting for the documents from the Gary Lindsey after he confirmed to me that this piece was zoned the way my paperwork shows during the original binding site plan for Rite Aid.

Can you pull that site plan and review that with me tomorrow at 9 ?

Thanks  
Mike

On May 25, 2017 1:26 PM, "Scott Diener" <[SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us)> wrote:

Mike:

Friday works. What time? So that I can be better prepared, do you have anything that I can review prior to our meeting that would support your belief in an error being made in 2004?

Regards,  
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**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]  
**Sent:** Wednesday, May 24, 2017 12:33 PM  
**To:** Scott Diener <[SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us)>  
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Scott,  
Are you available tomorrow afternoon or anytime Friday to sit down with me to review this issue?  
Thanks  
Mike McCown

On May 23, 2017 11:10 AM, "Scott Diener" <[SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us)> wrote:

Mike:

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It is staff's recollection that the boundary for the zone was agreed upon in 2004 and was adopted and it was a subsequent short plat by Gary Lindsey that revised the boundary lot line to the south.

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However, in spite of the years of examination on this property, you have a right to demonstrate there was an error in 2004. If you have evidence that there was an error, please provide that along with a timeline associated with the 2004 approval.

I left a voicemail at 2 phone numbers. Please contact me if Qs.

Regards,

Scott Diener  
Manager, Development Services and Engineering  
SEPA Responsible Official



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**From:** [M M](#)  
**To:** [Scott Diener](#)  
**Subject:** RE: George's Corner - Q about southern boundary  
**Date:** Thursday, May 25, 2017 1:41:32 PM

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**From:** [David Greetham](#)  
**To:** [Berni Kenworthy](#)  
**Cc:** [Katrina Knutson](#); [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com); [Joanne Bartlett](#)  
**Subject:** RE: George's Corner Reclassification  
**Date:** Monday, March 21, 2016 2:14:57 PM

---

Berni,

Thanks very much for the supplemental information; this is very helpful.

See you at the hearing on Weds. I'll touch base sooner if there's any new information on the County's end prior to the hearing.

Dave

**David Greetham**

Planning Supervisor  
Kitsap County Department of Community Development  
Planning and Environmental Programs Division  
360-337-4641

---

**From:** Berni Kenworthy [mailto:[berni@team4eng.com](mailto:berni@team4eng.com)]  
**Sent:** Monday, March 21, 2016 1:24 PM  
**To:** David Greetham <[Dgreetha@co.kitsap.wa.us](mailto:Dgreetha@co.kitsap.wa.us)>  
**Cc:** Katrina Knutson <[KKnutson@co.kitsap.wa.us](mailto:KKnutson@co.kitsap.wa.us)>; [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com); [Joanne Bartlett](mailto:Joanne@eco-land.com) <[Joanne@eco-land.com](mailto:Joanne@eco-land.com)>  
**Subject:** George's Corner Reclassification

Hi Dave,

Some responses/comments to your questions from Friday:

- 1) I spoke with Joanne Bartlett and the 100-foot "Buffer Conversion Area" is a buffer that was established as a result of the Rite-Aid wetland fill (I have copied her in case she needs to clarify my interpretation of our conversation). It is a buffer required by the Army Corps that is established from the edge of development where the fill occurs. In this case, the edge of development was the southern boundary of the parcel, and since the parcel to the south was in common ownership, the 100-foot buffer was located on Lot D. This buffer is indicated on the face of the short plat and is required whether or not the LAMIRD boundary encompasses it or not (it looks like that's why the LAMIRD boundary was drawn in that location). In this case, the buffer overlaps Wetland A and its buffer. No matter how you slice it, development along this north boundary is encumbered by either this Buffer Conversion Area or Wetland A/buffer.
- 2) Wetland mitigation for the Rite-Aid fill was conducted across SR104 along Balmoral. The "Wetland Restoration Area" shown on the short plat east of Wetland A is not related to the Rite-Aid fill, but was required because some trees had been removed in this area and were



required to be replaced (you indicated you are familiar with the violation that had occurred). The wetland mitigation has gone through the required monitoring period and has been signed off by the Army Corps. Neither the wetland mitigation at Balmoral or the restoration area onsite are subject to any additional monitoring.

- 3) The existing NC area is approximately 1 acre (see attached sketch). Because of the presence of Wetland A and the Buffer Conversion Area along the north line, I drew the proposed NC zone area (also ~1 ac) as an "L" to take advantage of the area to the south which is less encumbered by wetland/buffer. Note that in my discussions with Joanne, she indicated that by new standards, this wetland may only be subject to a 50-foot buffer – of course, a new delineation would be required to confirm. But, given this, there may be more developable area in this region than was originally foreseen with the 100-foot buffer. If the wetland boundary hasn't changed, then there is approximately +/-20K sf of developable area with a 100-foot buffer, and possibly more with buffer averaging/reduction. If the buffer is 50-feet, then there is +/-30K sf of developable area.
- 4) The relocation of the LAMIRD boundary to the new location is across the street from other LAMIRD & NC parcels and is consistent with neighboring development.
- 5) You stated that LAMIRD boundaries are typically drawn to encompass existing patterns of development and not undeveloped properties. However, the original LAMIRD boundary was drawn to include vacant land, so this relocation does not violate the original boundary assumptions.
- 6) The applicant is willing to short plat the property to create a lot for the NC zone and a second lot for the RR and RP zones.

Let me know if you have any additional questions.

Berni

---

**BERNI KENWORTHY, PE**  
**Civil Engineer & Principal**

Voice (360) 297-5560

Fax (360) 297-7951

Email [berni@team4eng.com](mailto:berni@team4eng.com)



**Team4 Engineering**

5819 N.E. Minder Rd., Poulsbo, WA 98370

**Phone** (360) 297-5560 **FAX** (360) 297-7951

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**From:** [Constance Blackburn](#)  
**To:** [Bill Broughton](#)  
**Cc:** [David Greetham](#)  
**Subject:** RE: Kitsap County Notice - Reclassification Request Joint Hearing 3/23  
**Date:** Wednesday, March 02, 2016 12:30:08 PM  
**Attachments:** [image001.png](#)  
[DJMConstruction\\_1500378\\_Reclass\\_030116\\_knk\\_sek\\_revisions.pdf](#)

---

Mr. Broughton,

Please see the attached staff report for DJM Construction, as you requested. These should be updated online very shortly.

I also just spoke to David Greetham in passing and he will be returning your call shortly.

Kind regards,

**Constance V. Blackburn**

[Hearing Examiner](#) | [Planning Commission](#)

[Kitsap County Department of Community Development](#)

Phone | o360-337-5777 | ext4487



---

**From:** Bill Broughton [mailto:bill@bbroughtonlaw.com]  
**Sent:** Wednesday, March 02, 2016 12:27 PM  
**To:** Constance Blackburn <cblackburn@co.kitsap.wa.us>  
**Subject:** RE: Kitsap County Notice - Reclassification Request Joint Hearing 3/23

Hi Constance

Please send me the revised staff report when it is available.

Thanks

William H. Broughton  
Broughton Law Group, Inc., P.S.  
9057 Washington Ave. N.W.  
Silverdale, WA 98383  
Phone - (360) 692-4888  
Fax - (360) 692-4987  
[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)

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---

**From:** Constance Blackburn [<mailto:cblackburn@co.kitsap.wa.us>]  
**Sent:** Wednesday, March 2, 2016 12:10 PM  
**Subject:** Kitsap County Notice - Reclassification Request Joint Hearing 3/23

Good Afternoon,

A joint public hearing with the Board of Commissioners and the Planning Commission will be held on Thursday, March 23, 2016 at 2pm in regards to your Kitsap County land use map Reclassification Request permit. The hearing will be held in the Commissioner's Chambers located in the County Administration Building at 619 Division Street, Port Orchard.

Applications will be considered in the order shown on the attached agenda. County staff will introduce each application briefly and then the applicant will be provided five minutes to present. Additional public testimony will be limited to three minutes per person.

If you have any questions regarding this matter the contact for this application is Katrina Knutson whom can be reached at (360) 337-5777 or [kknutson@co.kitsap.wa.us](mailto:kknutson@co.kitsap.wa.us).

Kind regards,

**Constance V. Blackburn**

[Hearing Examiner](#) | [Planning Commission](#)  
[Kitsap County Department of Community Development](#)

Phone | o360-337-5777 | ext4487



KITSAP COUNTY



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WASHINGTON



## STAFF REPORT

### Permit Number: 15 00378 | DJM Construction

**DATE:** March 2, 2016

**TO:** Kitsap County Board of Commissioners; Kitsap County Planning Commission

**FROM:** Katrina Knutson, AICP, Senior Planner, DCD and

Jeff Arango, AICP, Senior Associate, BERK Consulting

**RE:** DJM Construction Reclassification Request

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### APPLICATION INFORMATION

1. **Applicant Name:** Bill Broughton, DJM Construction Co. Inc. (applicant and owner)
2. **Parcel Number:** 272702-2-047-2003
3. **Address or location information:** Near the corner of Miller Bay Rd. NE and NE State Highway 104; see Attachment 1. Commissioner District 1.
4. **Current Land Use:** Undeveloped; see Attachment 3.
5. **Current Comprehensive Plan Map Designation:** Rural Residential/Rural Protection
6. **Proposed Comprehensive Plan Map Designation:** Urban Low-Intensity Commercial/Mixed-Use
7. **Current Zoning:** Rural Residential (RR)/Rural Protection (RP); see Attachment 4.
8. **Proposed Zoning:** Neighborhood Commercial (NC); see Attachment 5.
9. **Lot Area / Size:** 8.36 acres
10. **Comprehensive Plan Alternatives:** Request included with Comprehensive Plan Update 2016 Supplemental Environmental Impact Statement (SEIS) Alternative 3.
11. **Preferred Alternative:** The request is not included in the Preferred Alternative.

### Submitted Application Materials

- Project Application
- Reclassification Request Criteria
- Environmental Checklist



- Ownership Certification

## Application Request

The applicant is requesting to amend both the Comprehensive Map and zoning designations. The existing designation is Rural Residential (RR) and Rural Protection (RP) and the applicant is requesting inclusion in the adjacent George's Corner Limited Area of More Intense Development (LAMIRD). The applicant is also requesting to amend the zoning designation from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial (NC). The applicant states in the application that the existing designations and LAMIRD boundary may be due to a mapping error which is outside of the scope of this process.

## BACKGROUND

The adjacent George's Corner LAMIRD boundary was established in 2004. After appeal and adjudication in 2004, the Washington State Growth Management Hearings Board made specific notice of the boundary, which is adjacent to the subject parcel. The Growth Board excerpt is below:

*The County chose to use the physical contours of the land and the presence of wetlands to define the boundary of the LAMIRD. Consistent with .070(5)(d)(iv)(B), this is likely to result in permanent boundaries that are less subject to pressures for commercial expansion and sprawl. The wetlands and critical areas may help buffer the commercial uses from the surrounding rural lands. The County required a lot-line adjustment on the Bjarnson property to further contain the LAMIRD.*

*Futurewise, Harless, KCRP v. Kitsap County, CPSGMHB 04-3-0031c, Final Decision and Order (FDO) (6/28/05).*

The existing LAMIRD boundary was based in part on the presence of wetlands and geologic hazards on the subject property as shown in Attachment 2. The complex of wetlands is directly associated with Grover's Creek, an important fish-bearing stream which empties into Miller Bay. (Wetland delineation mapping attached).

As shown in maps included in this report, a Short Plat (200511300408/409) was recorded following the establishment of the LAMIRD that resulted in the creation of new lots and split-zoning. This split-zoning (RP, RR, NC) was not created by an action of the County.

## Surrounding Zoning and Land Use

The site abuts NC zoning to the north and west but RR and RP to the east and south.

**Exhibit 1. Summary of Surrounding Areas Current Zoning and Land Use**

Surrounding Areas	Current Zoning	Current Land Use
North	• NC	• Trade (Commercial) and Government Services
East	• RP	• Undeveloped
South	• RR/RP	• Undeveloped
West	• NC	• Residential and Trade (Commercial)

Source: Kitsap County GIS; BERK Consulting 2015

## Current Future Comprehensive Plan and Zoning Designations

The subject property is currently designated as Rural Residential and Rural Protection on the Comprehensive Plan Map. The Comprehensive Plan describes the designations as:

- **Rural Protection (RP):** This designation is intended to allow low-density development in keeping with rural character and to protect significant environmental features, including visual, historic, and natural features; wildlife corridors; steep slopes; wetlands; streams; and adjacent critical areas. It is implemented by the RP zone.
- **Rural Residential (RR):** This designation is intended to allow low-density residential development consistent with rural character, and primarily focuses on single-family dwellings. This designation is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features, and also recognizes areas that are already committed to a pattern of smaller rural lots. The RR designation is implemented by the Rural Residential zone.

According to the Kitsap County Code (Chapter 17.305 Kitsap County Code (KCC)), the RP zone is intended to “promote low-density rural development that is consistent with rural character and protects environmental features such as significant visual, historical, natural features, wildlife corridors, steep slopes, wetlands, streams and adjacent critical areas.” This zone allows for residential, commercial, resource, and recreational uses that are compatible with rural character. The maximum density is 1 dwelling unit per 10 acres.

The RR zoning designation (Chapter 17.310 KCC) promotes “low-density residential development consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services.” RR has a maximum density of 1 dwelling unit per 5 acres. This zone allows for residential and limited commercial, resource and recreational uses that are compatible with rural character.

Rural character is referenced in both designations and zones. Chapter 3 Rural and Resources Lands of the Comprehensive Plan has a detailed description of rural character as well as goals and policies. Some of the characteristics defining rural character include:

- Relatively undeveloped nature
- Lots 5 acres and over
- Agricultural and forest activities
- Land for wildlife and nature
- Personal open space for tranquility (enjoyment of personal property)
- Responsive public services, sense of being self-sufficient
- Wooded trail systems
- Views of the Hood Canal, Puget Sound, the Olympics and Mount Rainier
- Small businesses serving the local population
- Small, intimate communities
- Low population density
- Large forested areas
- Quiet two lane roads

## Proposed Future Comprehensive Plan and Zoning Designations

As described in the current Comprehensive Plan, the proposed Comprehensive Plan Map Designation is Limited Area of More Intense Rural Development (LAMIRD) – Type I. The Comprehensive Plan describes the designation as follows:

- **Type I.** The only type of LAMIRD currently designated in Kitsap County prior to 2010, this designation is characterized as infill development or redevelopment of existing commercial,

industrial, residential, or mixed-use areas, whether as shoreline development, villages, hamlets, rural activity centers, or crossroads. Any industrial development within a Type 1 LAMIRD must be principally designed to serve the rural population. Any new development or redevelopment must be consistent with existing character of the area with respect to building size, scale, use, or intensity. Type 1 LAMIRDs must have been established as more densely developed areas as of July 1990, and they must include pre-GMA existing development. Type 1 LAMIRDs also must be bounded by a “logical outer boundary” that mirrors the limits of the pre-existing development.

The list of allowable uses differs substantially between NC and RR/RP. This relates to the intent of the NC for commercial uses and RR/RP for large lot rural residential uses.

### Exhibit 2. Selected Allowed Uses (KCC 17.381.040.B and .E)

Selected Uses	NC (proposed zoning)	RR/RP (current zoning)
<b>Residential Uses</b>		
• Single family dwelling, detached	X	X
• Mixed use development	ACUP	X
• Hotel/motel	C	X
<b>Commercial/Business Uses</b>		
• Financial, banking, mortgage and title institutions	P	X
• General office and management services – 4,000 to 9,999 s.f.	ACUP	X
• General retail merchandise stores – less than 4,000 s.f.	P	X
• General retail merchandise stores – 10,000 to 24,999 s.f.	C	X
• General retail merchandise stores – 25,000 s.f. or greater	X	X
• Restaurants	P	X
• Tourism facilities, including outfitter and guide facilities	X	X

Legend: P = Permitted, X = Prohibited, ACUP = Administrative Conditional Use, C = Conditional Use

Zoning development standards show a denser pattern of development for NC than for RR/RP. For example, mixed use development at 10-30 units per acre is allowed in the NC zone whereas single family residential development at 1 unit per 5 or 20 acres is allowed in the RR/RP zones respectively.

### Exhibit 3. Selected Development Standards Comparison (KCC 17.381.040)

Density and Dimensions	NC (proposed zoning)	RR/RP (current zoning)
Base density (du/acre)	10	1 Unit/5 Acres (RR) 1 Unit/10 Acres (RP)
Maximum Density (du/acre)	30	NA
Minimum lot size (acre)	NA	NA
Lot width (feet)	NA	140
Lot depth (feet)	NA	140
Maximum height (feet)	35	35

## PUBLIC COMMENTS

*Three tribal and agency comments were received regarding the proposal during the SEIS public comment period. The Suquamish Tribe, Point No Point Treaty Council and the Washington Department of Fish and Wildlife do not support the proposal due to the expansion of a Type I LAMIRD and environmental constraints. The easterly portion of the subject parcel contains wetlands associated with Grovers Creek, which drains to Miller Bay where the Suquamish Tribe operates a Chinook and chum salmon hatchery. The Tribe's comment letter describes recent monitoring efforts associated with the creek and hatchery, and states concern regarding potential further degradation of Grovers Creek (including fish passage opportunity) if wetland, riparian and stormwater protection functions are not maintained throughout the Grovers Creek watershed.*

## EVALUATION

Site specific reclassification requests to the Comprehensive Plan must be reviewed in accordance with the criteria outlined in the Kitsap County Code (KCC) Chapter 21.08. Applicable review criteria for site specific reclassification requests are in sections KCC 21.08.070.A and KCC 21.08.070.D.

### General Criteria (KCC 21.08.070.A)

**A. General.** For each proposed amendment to the Comprehensive Plan the review authority, the planning commission in reaching its recommendation, and the board of commissioners in making its decision, shall develop findings and conclusions, which demonstrate:

**1. How circumstances related to the proposed amendment and/or the area in which the property affected by the proposed amendment is located have substantially changed since the adoption of the Comprehensive Plan or applicable development regulations;**

Circumstances related to the proposed amendment or the area in which the property is located have not substantially changed since adoption of the Comprehensive Plan.

**2. How the assumptions upon which the Comprehensive Plan is based are no longer valid, or there is new information available which was not considered during the adoption of, or during the last annual amendment to, the Comprehensive Plan or development regulations; and**

The assumptions upon which the Comprehensive Plan is based are still generally valid. Updated growth targets and capacity analysis is being conducted as part of the 2016 Comprehensive Plan update, but in general that process will not change the assumptions relative to the subject property and proposed amendment.

**3. How the requested redesignation is in the public interest and the proposal is consistent with the Kitsap County Comprehensive Plan.**

The amendment request is not in the public interest as it would expand the logical outer boundary of the existing Type I LAMIRD boundary to include an undeveloped forested property with significant environmental constraints and building limitations. See analysis under criteria 1.f below for consistency with the Comprehensive Plan.

### Reclassification Request Criteria (KCC 21.08.070.D)

**D. Site-Specific Amendments.** In addition to the findings and conclusions in subsection (A) of this section, a proposed site-specific map amendment may be recommended for approval by the planning commission and may be approved by the board of commissioners if the following findings are made:

**1. All Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.**

- a. The proposed amendment meets concurrency requirements for transportation, sewer and water, and will not result in significant adverse impacts on adopted level of service standards for other public facilities and services, such as police, fire and emergency medical services, park services, and general government services;**

The proposed amendment involves expanding a LAMIRD boundary to include an additional 8.36 acres of undeveloped property that contains wetlands and moderate geologic hazard areas. The LAMIRD area currently has water service, but not sanitary sewer. While the expansion of the LAMIRD would not significantly impact levels of service for public services overall within the County, it would expand the area that may be served by more intense public services ~~is to be served by urban services~~ and increase the area that is to be served. The area is studied cumulatively for NC in the 2016 Comprehensive Plan Update SEIS. The site is located near segments of Hansville Road NE and SR 104 with projected transportation deficiencies under Alternative 3. Increased commercial density at the proposed site would add trips beyond what was reflected in the 2036 travel demand forecasts. Therefore, the proposal would result in an impact to transportation. However, the transportation improvement projects identified to address deficiencies expected without the proposal would also be expected to address the additional impacts resulting from the proposal. Any reclassification proposal would be subject to a more specific analysis of transportation impacts and would be subject to meeting County concurrency requirements at the time of development.

Kitsap County has submitted this application to the Washington State Department of Transportation for their review and comment, as the site is located on a state highway.

- b. The proposed amendment is consistent with the balance of the goals, policies and objectives of the current Kitsap County Comprehensive Plan and reflects the local circumstances of the County;**

**Kitsap County Comprehensive Plan Chapter Vision**

Kitsap County's Comprehensive Plan shows the relationship between chapter concepts and the comprehensive plan vision. See Exhibit 4.

**Exhibit 4. County Vision for Rural and Urban Areas**

Vision	Rural Chapter Relationship to Vision
<b>Rural Areas.</b> Rural areas and communities where unique historical characters, appearances, functions, and pioneering spirits are retained and enhanced. Natural resource activities, such as forestry, agriculture, and mining continue to contribute to the rural character and economy. Rural recreation opportunities are enhanced, including equestrian facilities, trails, and others.	<ul style="list-style-type: none"> <li>• Maintain low residential densities in rural areas and provides policy guidance for development standards which help to preserve the County's rural character. Foster small sustainable farms and agricultural enterprises that provide locally-grown food and fiber for Kitsap citizens.</li> </ul>
<b>Economic Development.</b> A stable, prosperous and diversified economy that provides living wage jobs for residents, supported by adequate land for a range of employment uses and that encourages accomplishment of local economic development goals.	<ul style="list-style-type: none"> <li>• Preserve opportunities for resource-based economic activities within the County.</li> <li>• Allow for limited commercial and industrial uses in rural areas, while preserving rural character.</li> </ul>



**Natural Environment.** Natural ecosystems – including interconnected wetlands, streams, wildlife habitat, and water quality – that are rehabilitated, protected, and enhanced and that allow for flexible and innovative development to meet environmental and growth goals. In developed areas, the growth pattern supports conservation of non-renewable energy and minimizes impacts on air quality and climate.

Provide for protection of natural ecosystems in rural areas through rural designations, through compliance with Kitsap County “Water as a Resource” Policy (Res.109-2009), and with lower levels of development and lower availability of public services.

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Source: Kitsap County Comprehensive Plan (December 2012).

Expanding the Type I LAMIRD Boundary and up zoning 8.36 acres of undeveloped property with significant wetlands appears contrary to the vision statement with respect to the natural environment. The proposed action would also alter the logical outer boundary of the LAMIRD and could affect the local character which currently has a visual separation between the LAMIRD and abutting rural large lots to the east and south. While at least one Growth Management Hearing Boards has stated that the LOB for a Type I LAMIRD may conceivably be enlarged after its initial establishment, such an expansion must meet the same criteria as required for the initial establishment. *1000 Friends of Washington v. Snohomish County*, CPSGMHB Case No. 03-3-0026, (*1000 Friends II*), FDO, (June 21, 2004). There is no evidence that the addition of this property to the LAMIRD meets the criteria for establishing the initial boundary. There is no evidence that this property included pre-existing development prior to 1990. Under GMA, the purpose of establishing LAMIRDs is to limit development, adding vacant parcels at the fringes of an established LAMIRD could contravene the GMA provisions.

### Kitsap County Comprehensive Plan 2036 Goals and Policies: Chapter 3

The proposed zoning amendment supports the following current Comprehensive Plan Goals:

#### **3A.2.1B Limited Areas of More Intensive Rural Development**

- Goal 7. Allow for the designation of LAMIRDs outside of the UGA based on existing rural residential communities or villages, areas of mixed use activity, isolated areas of small and moderate-scale commercial/industrial activity, and historic towns.
- **Policy RL-25 Prohibit designating a LAMIRD adjacent to an UGA.**

The subject properties are adjacent to a Type I LAMIRD, but not adjacent to a UGA. The area was evaluated as part of LAMIRD options in 2004 and the present boundary that excludes the site was established and upheld by the Growth Management Hearings Board.

- **Policy RL-27 Encourage changes to zones in LAMIRDs to occur via a local community planning process. This process should incorporate local knowledge, experience and preferences to determine appropriate area-specific land uses, development standards, design guidelines, and public service needs. Specific issues that should be considered in this planning process include:**

- **Appropriate logical outer boundaries as required by GMA**

The appropriate logical outer boundary of the existing George’s Corner LAMIRD was subject to review by the Growth Management Hearings Board in 2005 and upheld. The proposed amendment would expand the logical outer boundary to undeveloped forested land that contains wetlands and a stream corridor. Therefore, extending the appropriate logical outer boundary to include the subject property appears unjustified.

- **Rural character of the subject area and surrounding area.**

The subject property and surrounding area with an RR/RP designation maintain a rural character. Applying the NC designation to the subject property, which is undeveloped and contains relatively intact ecological functions would affect rural character incrementally.

- **Appropriate mix of uses, densities and intensities.**

The specific mix of uses, densities and intensities allowed in the NC zone are appropriate for properties within the LAMIRD boundary. However, as discussed above the extension of the logical outer boundary to include the subject property is not supported by GMA goals and local regulations and so, therefore, is not an appropriate mix of uses, densities and intensities.

- **Feasibility, cost and need for public services.**

The site is served with public water service, but not sanitary sewer service.

- **Significant natural constraints or features to be preserved.**

The subject property is undeveloped forested land that contains wetlands and a stream corridor, both regulated under Kitsap County Code Title 19 (Critical Areas) which responds to state requirements for local governments to protect the functions and values of critical areas and their buffers

- **Provision for a monitoring and evaluation process.**

As a condition of approval if the request is approved, the County should work with the applicant to develop a monitoring and evaluation process.

- **Benefits to the local community.**

The benefits of approving the request may include allowing greater commercial opportunities at the crossroads for the Kingston-area community; given the preference in County plans for focus growth in the Kingston UGA and other UGAs, and the environmental and rural character concerns, the benefits of expanding the George's Corner LAMIRD do not appear to outweigh the disadvantages. The applicant has not demonstrated any benefits to the local community. The subject parcel(s) is suitable for the requested land use designation based upon, but not limited to, access, provision of utilities, consistency with existing and planned uses, environmental constraints and compatibility with the neighborhood. However, the subject parcel is not suitable for the requested land use designation based on environmental constraints and is inconsistent with the GMA criteria for establishing the logical outer boundary of the LAMIRD.

**c. The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning, and reflects local circumstances in the county;**

The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning and reflects local circumstances in the County.

**d. The proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall area of the urban growth area;**

The proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall are of the urban growth area. See criteria D.1.a.

**e. The proposed amendment is consistent with the GMA, Kitsap County-wide Planning Policy, state and local laws and other applicable inter-jurisdictional policies or agreements.**

The following state and local policies and laws are applicable to the applicant's zoning amendment request.

### **Growth Management Act Planning Goals (RCW 36.70a.020)**

**(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.**

The proposed amendment is inconsistent with above GMA goal by expand the boundary of a LAMIRD to an undeveloped forested site with environmental constraints.

### **Growth Management Act – Designating Limited Areas of More Intense Development (RCW 36.70A.070(5)(d))**

The GMA establishes the criteria for establishing the logical outer boundary for a LAMIRD in RCW 36.70A.070(5)(d)(iv) and (v):

*The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;*

*(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:*

*(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;*

The subject property was not developed prior to July 1, 1990. Expanding the outer logical boundary on the edge of the LAMIRD to include undeveloped forested land that includes significant environmental constraints appears contrary to the criteria above. (e.g. using bodies of water, land forms and contours to define boundaries).

### **Kitsap County-wide Planning Policies**

#### **Element D: Rural Land Uses and Development Patterns**

##### **D-2. Preserving rural land use and development patterns:**

- a. Rural Communities are already-existing residential and commercial areas of more intensive rural development designated in the Kitsap County Comprehensive Plan under RCW 36.70A.070.5. In-fill is expected. Rural Communities should be serviced by transportation providers and other services consistent with the Levels of Service adopted by Kitsap County for roads and by Kitsap Transit for transit upon their designation as an area of more intensive rural development.**

The proposed amendment is inconsistent with the above County-wide Planning Policy because it is not part of the already developed area within the existing Type I LAMIRD and would require the extension of the logical outer boundary to include undeveloped forested land with environmental constraints.

**3. Rural Commercial/Industrial and Type III LAMIRD Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.**

**a. Demonstration of an unmet need for the proposed land use designation in the rural area.**

No unmet need has been identified by the applicant. The applicant stated an intent to develop a fast-food establishment or similar type land use if the amendment request is approved.

**b. Demonstration that Kitsap County's rural character will be preserved or unaffected by the change of designation.**

The subject property is undeveloped forested land that is along the outer boundary, but outside, of the Type I LAMIRD Boundary. The proposed amendment would increase the likelihood that the subject property is developed at urban intensities that may negatively impact the rural character in the County. See the description of rural character under "Present Comprehensive Plan Designations."

**c. Demonstration that the proposed designation will principally serve the rural area.**

It is likely this site would provide commercial uses at the cross roads to serve north Kitsap County. However, there are other already developed areas in the LAMIRD and in the Kingston UGA that could fill that need.

**d. Demonstration that appropriate rural services are available (i.e., water, wastewater disposal, etc.) and that urban services will not be required for the proposed designation.**

See Response D.1.a.

**e. Demonstration that the proposal is contiguous to existing industrial or commercial zoning. (Exceptions to this policy must demonstrate a unique or exceptional need for the proposed land use designation.)**

The site abuts other NC properties to the north and west. However, there is no exceptional or unique need to add this property in light of the logical outer boundary requirements for Type I LAMIRDs.

**f. Demonstration that the property is sized appropriately for the proposed land use designation.**

The site is constrained and would not allow for significant added commercial uses without creating potential significant environmental impacts, and there are other opportunities in the LAMIRD and Kingston UGA to add commercial uses.

**g. Demonstration that there is a lack of appropriately designated and available sites within the vicinity.**

The applicant has not demonstrated a lack of available sites. In fact there are 3 vacant lots currently within the LAMIRD, one 6.85 acres in size. The Comprehensive Plan intends to focus growth in UGAs. LAMIRDs are only provided to recognize existing development not to create added capacity for growth.

## Findings of Fact

1. The applicant, Bill Broughton, submitted the application to Kitsap County on February 2, 2015.
2. The applicant seeks a Comprehensive Plan Amendment to change the Comprehensive Plan Map Designation from Rural Residential (RR) and Rural Protection (RP) to Low-Intensity Commercial/Mixed-Use. This would also entail an expansion of the Logical Outer Boundary of the George's Corner Type I LAMIRD.

3. The applicant seeks a Zoning Map Amendment from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial and to extend the adjacent Type I LAMIRD boundary to include the subject property.
4. The subject property is located near the corner of Miller Bay Rd. NE and NE State Highway 104.
5. The subject property is adjacent to the George's Corner Type I LAMIRD to the west and properties zoned Neighborhood Commercial (NC).
6. The subject property is currently undeveloped.
7. The subject property has environmental constraints including wetlands and a stream corridor.
8. The subject property was not developed prior to July 1, 1990.
9. The Logical Outer Boundary (LOB) of the adjacent Type I LAMIRD was reviewed and upheld by the Growth Management Hearings Board in 2005. Any change to the LOB must comport with the same criteria as the initial designation was subject to.

## Conclusion of Law

The application is inconsistent with the Washington Growth Management Act, the Kitsap Countywide Planning Policies, the Kitsap County Comprehensive Plan, and other state and local regulations.

## Recommendation

Based on the findings of fact and conclusion of law staff recommends denial of application #15 00378.

In order to be consistent with the adopted LAMIRD plan and to correct the noted split zones created by the above referenced short plat, staff recommends parcel 272702-2-047-2003 be rezoned entirely to RP and the remaining residential portion of parcel 272702-2-046-2004 be RP.

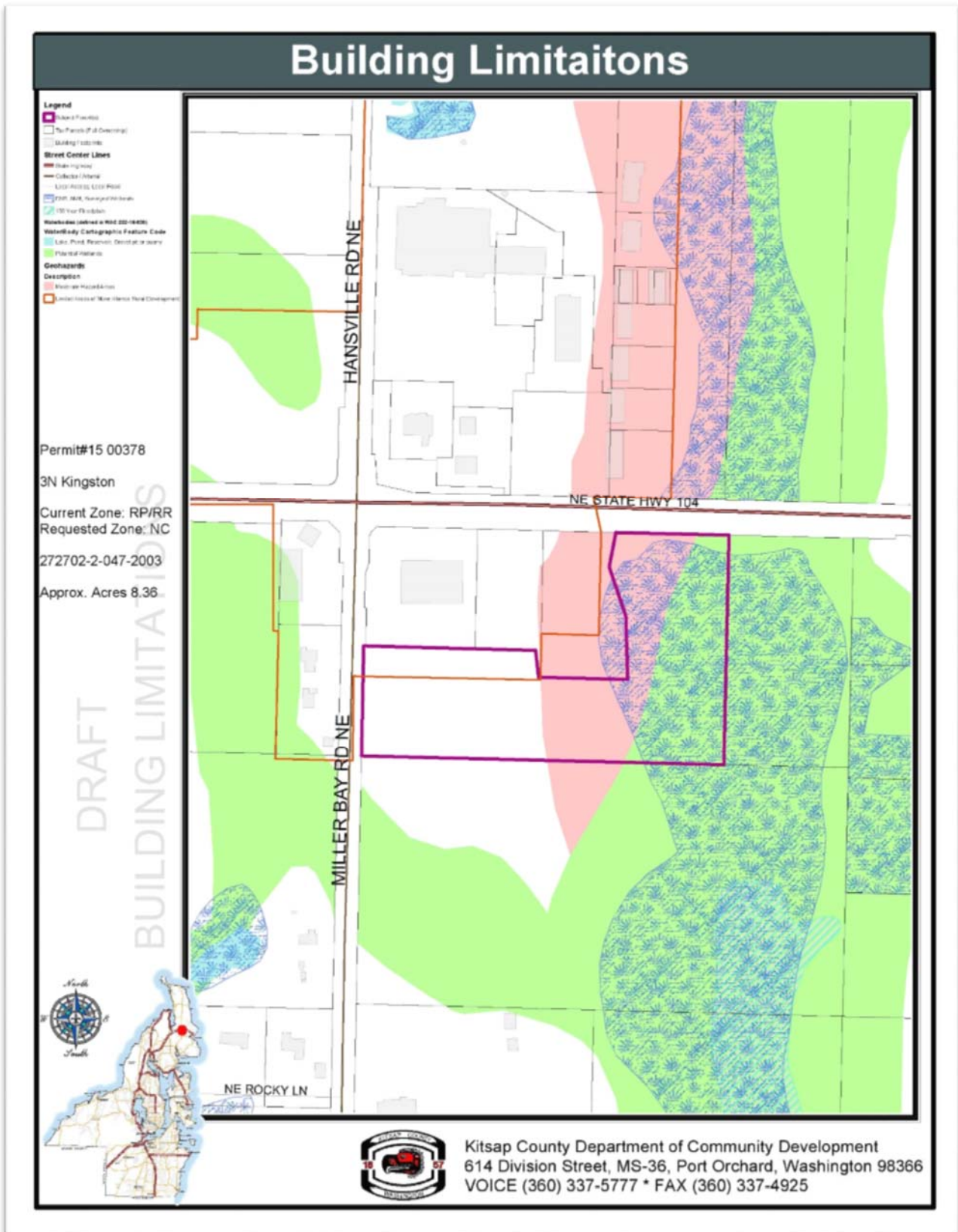


## ATTACHMENTS

### Attachment 1. Aerial Imagery

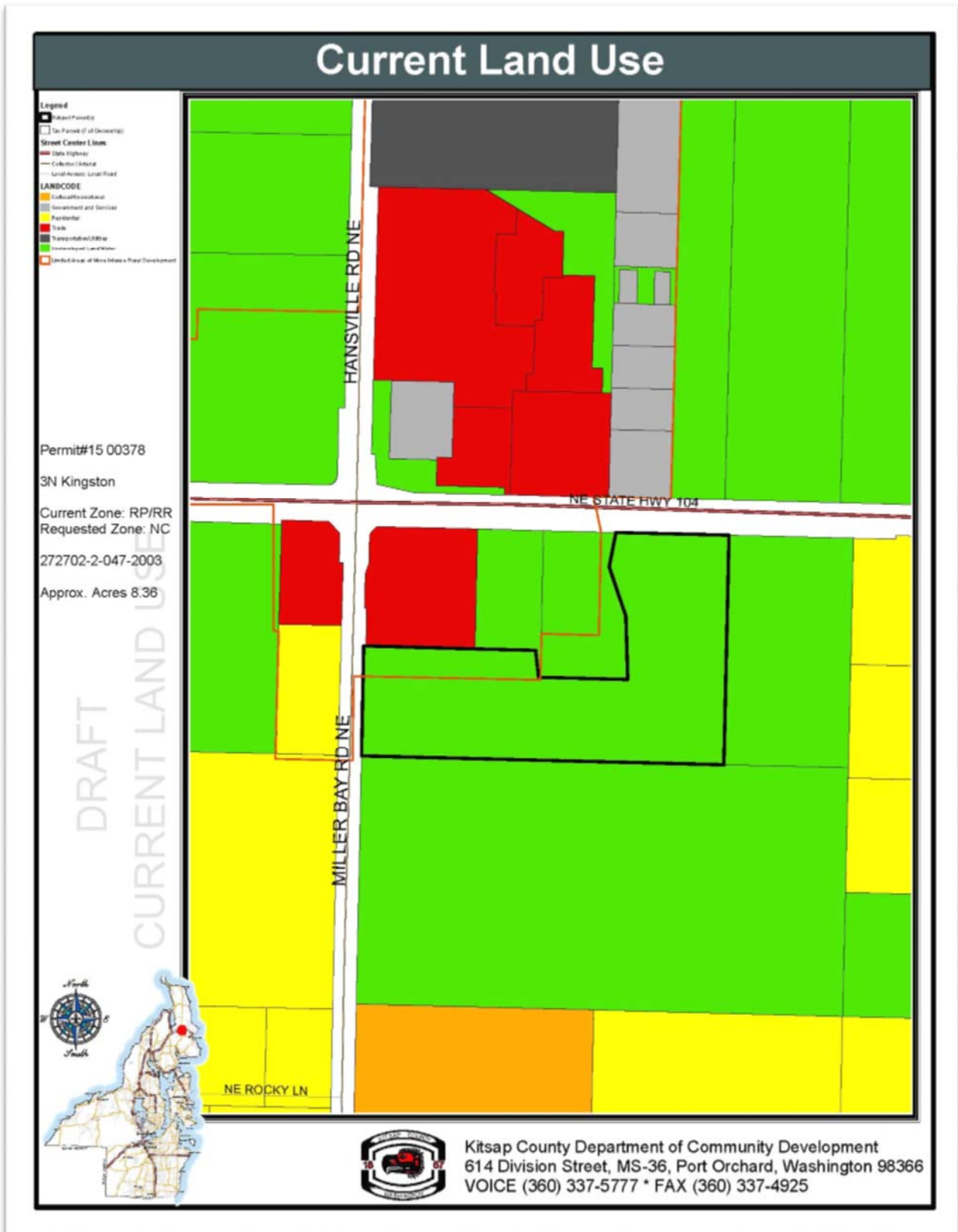


Attachment 2. Building Limitations

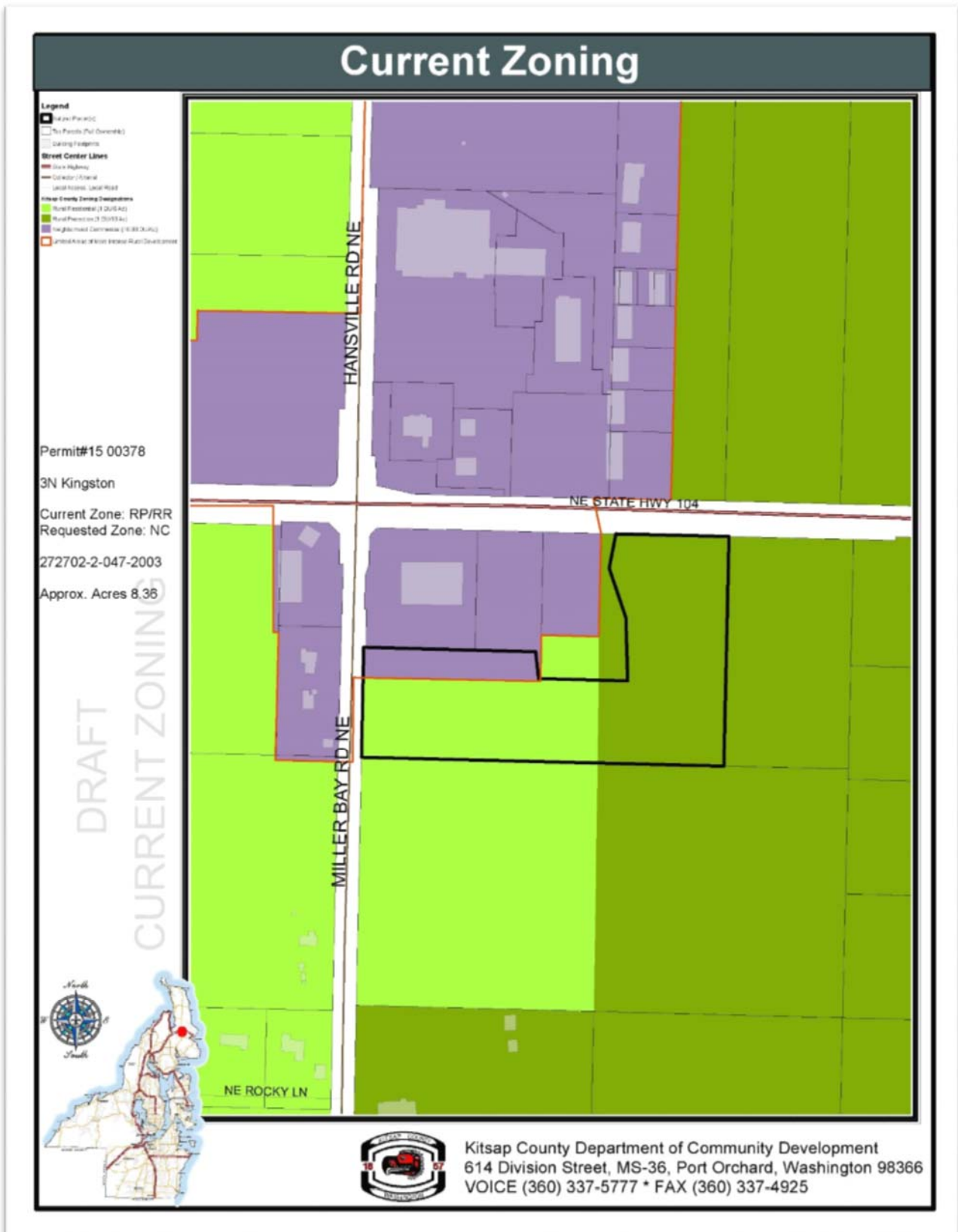




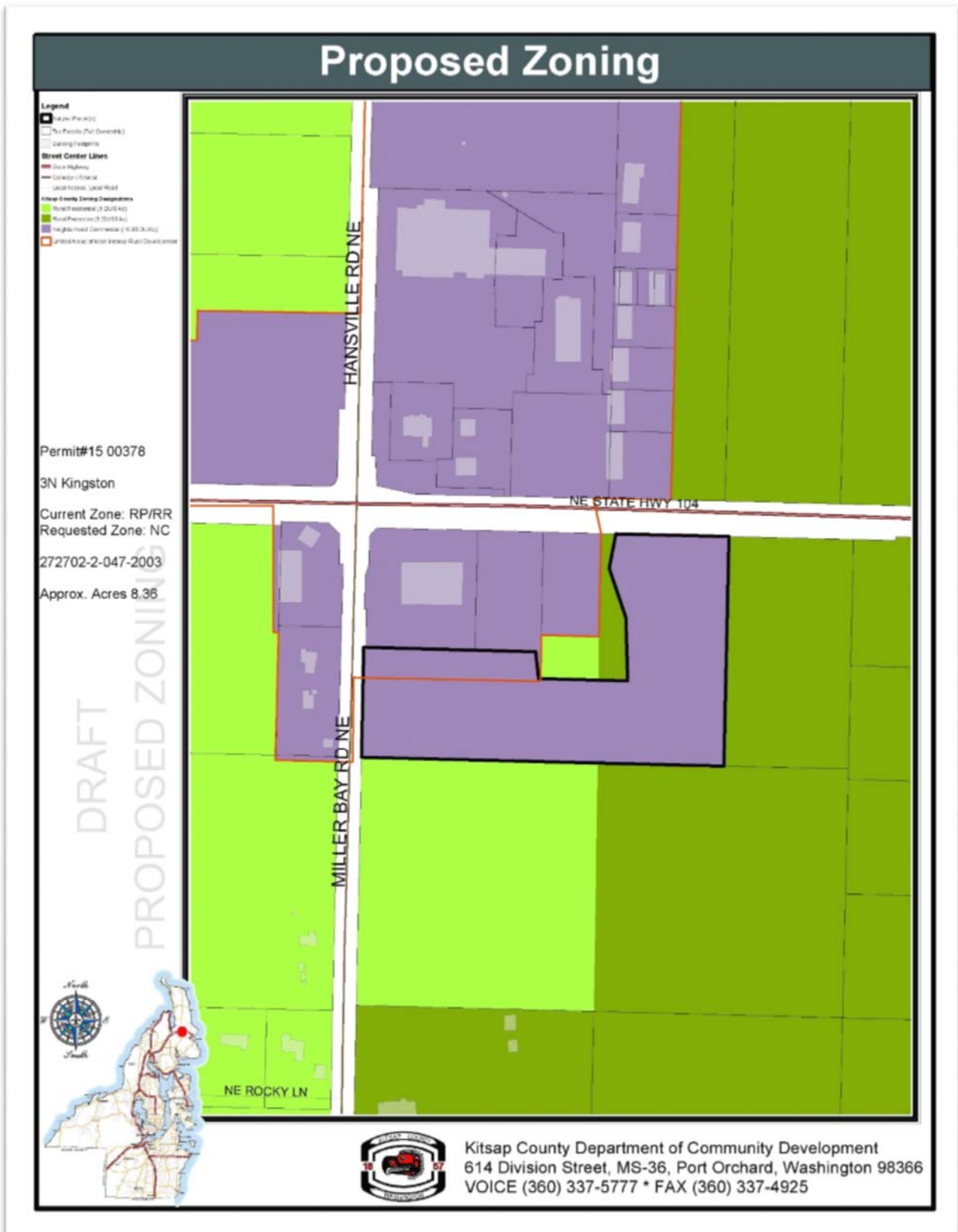
Attachment 3. Current Land Use



## Attachment 4. Current Zoning



## Attachment 5. Proposed Zoning





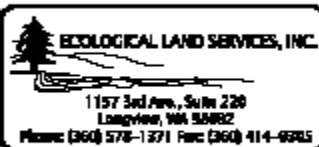
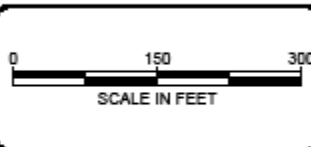
**NOTE(S):**

1. Aerial from Google Earth™.

Wetland Boundary

TP-4● Test Plot Location

Wetland Buffer



DATE: 8/13/15  
DWN: JLL  
REQ. BY:  
PRJ. MGR: JB  
CHK:  
PROJECT NO:  
2289.01

Figure 2  
SITE MAP  
Kountry Korners Delineation  
Bill Broughton  
Kingston, Kitsap County, WA  
Section 27, Township 27N, Range 2E, W.M.



**From:** [Bill Broughton](#)  
**To:** [Scott Diener](#)  
**Subject:** RE: Mike McCown's proposal / George's Corner  
**Date:** Friday, March 23, 2018 2:54:49 PM

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Hi Scott

I will but I would like to speak with you about McGowan's request.

3606924888

Bill

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**From:** Scott Diener [mailto:SDiener@co.kitsap.wa.us]  
**Sent:** Friday, March 23, 2018 10:25 AM  
**To:** Bill Broughton  
**Subject:** RE: Mike McCown's proposal / George's Corner

Bill: Please disregard the below email.

Regards,

Scott Diener  
Manager, Development Services and Engineering  
SEPA Responsible Official

Dept of Community Development  
Kitsap County  
614 Division St, MS-36  
Port Orchard, WA 98366

[sdiener@co.kitsap.wa.us](mailto:sdiener@co.kitsap.wa.us)

t: 360-337-5777

[kitsapgov.com/DCD](http://kitsapgov.com/DCD)

**Please note:** All incoming and outgoing email messages are public records subject to disclosure pursuant to the Public Records Act, Chapter 42.56 RCW.

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**From:** Scott Diener  
**Sent:** Friday, March 23, 2018 10:10 AM  
**To:** 'Bill Broughton' <[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)>  
**Subject:** Mike McCown's proposal / George's Corner

Bill:

Can we talk at a designated time about McCown's proposal? We presume this is about siting building 1 and setbacks. We are flexible Monday (except before 9:30 am and 11 to 12:30 pm), Tues afternoon before 2:45, and Wed 11:15 to 2 pm.

If you have thoughts that DCD has misinterpreted code, please advise us specifics beforehand. If you have an alternative, can we get a look at that in advance? This will help us prepare for our meeting.

We really tried to impress upon Mike that we can't 'bend' the code, and nor would he really want DCD staff who does that. DCD also let him know that this appears to the County to be a defensible application of code.

Regards,  
Scott

**From:** [SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us)  
**To:** [bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)  
**Subject:** RE: Mike McCown's proposal / George's Corner  
**Date:** Friday, March 23, 2018 10:25:25 AM

---

Bill: Please disregard the below email.

Regards,

Scott Diener  
Manager, Development Services and Engineering  
SEPA Responsible Official

Dept of Community Development  
Kitsap County  
614 Division St, MS-36  
Port Orchard, WA 98366

[sdiener@co.kitsap.wa.us](mailto:sdiener@co.kitsap.wa.us)

t: 360-337-5777  
[kitsapgov.com/DCD](http://kitsapgov.com/DCD)

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---

**From:** Scott Diener  
**Sent:** Friday, March 23, 2018 10:10 AM  
**To:** 'Bill Broughton' <[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)>  
**Subject:** Mike McCown's proposal / George's Corner

Bill:

Can we talk at a designated time about McCown's proposal? We presume this is about siting building 1 and setbacks. We are flexible Monday (except before 9:30 am and 11 to 12:30 pm), Tues afternoon before 2:45, and Wed 11:15 to 2 pm.

If you have thoughts that DCD has misinterpreted code, please advise us specifics beforehand. If you have an alternative, can we get a look at that in advance? This will help us prepare for our meeting.

We really tried to impress upon Mike that we can't 'bend' the code, and nor would he really want DCD staff who does that. DCD also let him know that this appears to the County to be a defensible application of code.

Regards,  
Scott

**From:** [Patty Charnas](#)  
**To:** [Bill Broughton](#)  
**Subject:** RE: georges corner  
**Date:** Friday, May 17, 2013 1:23:00 PM

---

Bill –

We are looking forward to your visit here Tuesday at 2 pm, also.

Can you please bring anything you might have that helps explain the mapping error? That would be extremely helpful.

See you then

Patty Charnas, Manager  
Planning and Environmental Programs Division  
Kitsap County Department of Community Development  
360-337-4558 office

---

**From:** Bill Broughton [mailto:[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)]  
**Sent:** Thursday, May 16, 2013 11:08 AM  
**To:** Patty Charnas  
**Subject:** georges corner

Hi Patty  
Nice talking to you today.  
See you Tuesday at 2

William H. Broughton  
Broughton Law Group, Inc., P.S.  
9057 Washington Ave. N.W.  
Silverdale, WA 98383  
Phone - (360) 692-4888  
Fax - (360) 692-4987  
[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)

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**From:** [Bill Broughton](#)  
**To:** [Patty Charnas](#)  
**Subject:** RE: georges corner  
**Date:** Monday, July 01, 2013 5:03:32 PM

---

Hi Patty

Forgot to thanks you for your time on this.

It was nice to see you even with the bad news.

I would like to eliminate the commercial zoning on this parcel so any help in pointing me in that direction?

Thanks

William H. Broughton  
Broughton Law Group, Inc., P.S.  
9057 Washington Ave. N.W.  
Silverdale, WA 98383  
Phone - (360) 692-4888  
Fax - (360) 692-4987  
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---

**From:** Patty Charnas [<mailto:PCharnas@co.kitsap.wa.us>]  
**Sent:** Friday, May 17, 2013 1:23 PM  
**To:** Bill Broughton  
**Subject:** RE: georges corner

Bill –

We are looking forward to your visit here Tuesday at 2 pm, also.

Can you please bring anything you might have that helps explain the mapping error? That would be extremely helpful.

See you then

Patty Charnas, Manager  
Planning and Environmental Programs Division  
Kitsap County Department of Community Development  
360-337-4558 office

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**Sent:** Thursday, May 16, 2013 11:08 AM

**To:** Patty Charnas  
**Subject:** georges corner

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William H. Broughton  
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**From:** [Bill Broughton](#)  
**To:** [David Greetham](#)  
**Subject:** RE: staff report  
**Date:** Friday, March 11, 2016 10:44:26 AM

---

See below

William H. Broughton  
Broughton Law Group, Inc., P.S.  
9057 Washington Ave. N.W.  
Silverdale, WA 98383  
Phone - (360) 692-4888  
Fax - (360) 692-4987  
[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)

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---

**From:** David Greetham [mailto:[Dgreetha@co.kitsap.wa.us](mailto:Dgreetha@co.kitsap.wa.us)]  
**Sent:** Friday, March 11, 2016 9:48 AM  
**To:** Bill Broughton  
**Cc:** Katrina Knutson  
**Subject:** RE: staff report

Hi Bill,

For discussion purposes, I've pasted the "Application Request" excerpt from the staff report below.

Are you requesting a revision along the lines of "The applicant is requesting relocation of the existing NC zoning currently situated in an isolated wetland to a similarly sized developable area fronting either SR 104 or Miller Bay Road from Rural Residential (RR) or Rural Protection (RP). This relocation will also result in the existing NC zoning returning to RR so that no new NC area is created. The applicant has indicated it will short plat the parcel with NC zoning after the amendment is approved and has offered to dedicate a 50 foot conservancy easement to the Nature Conservancy on the east boundary adjacent to the Grovers Creek wetland."

One concern is this could exacerbate the split zone situation that already exists in George's Corner, but I wanted to see if we're correctly interpreting your request.

Thanks,  
Dave

## Application Request

The applicant is requesting to amend both the Comprehensive Map and zoning designations. The existing

designation is Rural Residential (RR) and Rural Protection (RP) and the applicant is requesting inclusion in the adjacent George's Corner Limited Area of More Intense Development (LAMIRD). The applicant is also requesting to amend the zoning designation from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial (NC). The applicant states in the application that the existing designations and LAMIRD boundary may be due to a mapping error which is outside of the scope of this process.

---

**From:** Bill Broughton [<mailto:bill@bbroughtonlaw.com>]

**Sent:** Wednesday, March 09, 2016 12:00 PM

**To:** David Greetham <[Dgreetha@co.kitsap.wa.us](mailto:Dgreetha@co.kitsap.wa.us)>

**Subject:** RE: staff report

I am hoping the report will at least correctly identify the specifics of my request I'm not asking to rezone the entire parcel but move the nc zoning to Miller Bay Road or SR 104

Sent from my Windows 10 phone

---

**From:** [David Greetham](#)

**Sent:** Wednesday, March 9, 2016 8:02 AM

**To:** [Bill Broughton](#)

**Subject:** RE: staff report

Hi Bill,  
Correct, no changes yet. I'm meeting with the tribe today.

I'll follow up with you this week on status. Please feel free to check in if you haven't heard from me by Fri.

Dave

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

**From:** Bill Broughton

**Date:** 03/08/2016 17:14 (GMT-08:00)

**To:** David Greetham

**Subject:** staff report

Hi Dave

It looks like no changes were made?

William H. Broughton  
Broughton Law Group, Inc., P.S.  
9057 Washington Ave. N.W.

Silverdale, WA 98383  
Phone - (360) 692-4888  
Fax - (360) 692-4987  
[bill@bbroughtonlaw.com](mailto:bill@bbroughtonlaw.com)

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**From:** [Bill Broughton](#)  
**To:** [David Greetham](#)  
**Subject:** RE: staff report  
**Date:** Wednesday, March 09, 2016 12:00:00 PM

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Sent from my Windows 10 phone

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**To:** [Bill Broughton](#)  
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**From:** [David Greetham](#)  
**To:** [Bill Broughton](#)  
**Subject:** RE: staff report  
**Date:** Wednesday, March 09, 2016 12:02:00 PM

---

Thanks Bill.

I had a discussion with Alison today, and she asked for some follow up info which I'll get to her.

In the meantime I'll take a look at the staff report language as suggested. Stay tuned, I hope to be back in touch later this week.

Dave

---

**From:** Bill Broughton [mailto:bill@bbroughtonlaw.com]  
**Sent:** Wednesday, March 09, 2016 12:00 PM  
**To:** David Greetham <Dgreetha@co.kitsap.wa.us>  
**Subject:** RE: staff report

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Sent from my Windows 10 phone

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**From:** [David Greetham](#)  
**To:** [Bill Broughton](#)  
**Cc:** [Katrina Knutson](#)  
**Subject:** RE: staff report  
**Date:** Friday, March 11, 2016 9:47:57 AM

---

Hi Bill,

For discussion purposes, I've pasted the "Application Request" excerpt from the staff report below.

Are you requesting a revision along the lines of "The applicant is also requesting to amend a portion of the zoning designation for the parcel area fronting either SR 104 or Miller Bay Road from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial"?

One concern is this could exacerbate the split zone situation that already exists in George's Corner, but I wanted to see if we're correctly interpreting your request.

Thanks,  
Dave

### Application Request

The applicant is requesting to amend both the Comprehensive Map and zoning designations. The existing designation is Rural Residential (RR) and Rural Protection (RP) and the applicant is requesting inclusion in the adjacent George's Corner Limited Area of More Intense Development (LAMIRD). The applicant is also requesting to amend the zoning designation from Rural Residential (RR) and Rural Protection (RP) to Neighborhood Commercial (NC). The applicant states in the application that the existing designations and LAMIRD boundary may be due to a mapping error which is outside of the scope of this process.

---

**From:** Bill Broughton [mailto:bill@bbroughtonlaw.com]  
**Sent:** Wednesday, March 09, 2016 12:00 PM  
**To:** David Greetham <Dgreetha@co.kitsap.wa.us>  
**Subject:** RE: staff report

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Sent from my Windows 10 phone

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**From:** [David Greetham](#)  
**Sent:** Wednesday, March 9, 2016 8:02 AM  
**To:** [Bill Broughton](#)  
**Subject:** RE: staff report



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I'll follow up with you this week on status. Please feel free to check in if you haven't heard from me by Fri.

Dave

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Bill Broughton  
Date: 03/08/2016 17:14 (GMT-08:00)  
To: David Greetham  
Subject: staff report

Hi Dave  
It looks like no changes were made?

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**From:** [M M](#)  
**To:** [Peter Best](#)  
**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Saturday, February 17, 2018 7:42:29 AM

---

Peter,  
I am checking my schedule to see what day might be best for the walk through of our property at Kingston Corners.  
Can you please explain why and how other interested parties are invited to this site review?  
Thanks,  
Mike

On Fri, Feb 16, 2018 at 9:42 AM, Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)> wrote:

Mike,

I am following up to schedule the site visit mentioned below. I expect the visit to take no longer than one hour. Attending would be myself, Steve Heacock (Kitsap County environmental planner), Alison O'Sullivan (Suquamish Tribe), and Roma Call (Port Gamble S'Klallam Tribe).

We are available the following times, please let me know which of these would not work for you and I will then send out an appointment.

3/1 - afternoon  
3/2 - morning  
3/2 - afternoon  
3/5 - afternoon  
3/7 - morning  
3/7 - afternoon

Thanks,  
Peter

---

**From:** Peter Best  
**Sent:** Monday, January 22, 2018 9:15:22 AM  
**To:** M M  
**Cc:** Comp Plan  
**Subject:** RE: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

Hi, Mike.

I would be happy to provide you with that information.

The Board of County Commissioners reviewed the catalog of suggested amendments to the Comprehensive Plan on September 27, 2017. At this time we were still attempting to find a way to advance a few items for a 2017 docket of amendments. However, the timeline proved infeasible and the Board's decision from the meeting minutes on October 4, 2017 is below:

Chair Garrido proposed, pursuant to KCC 21.08.030.A.2, Kitsap County will not be reviewing its Comprehensive Plan in 2017. All suggested amendments to the Comprehensive Plan will be reconsidered for the 2018 docket. The Board would like to review the 2018 docketing resolution by the end of the year.

Staff immediately began preparing a draft initial docket resolution for the annual Comprehensive Plan amendment process for 2018 as directed by the Board. A draft was presented to the Board on November 22, 2017. The Board decided to put the draft resolution out for public comment and scheduled a public hearing on December 11, 2017. The comment period and public hearing was only regarding the docket resolution, which defines the scope of the items that will be considered during the annual Comprehensive Plan amendment process for 2018. At the public hearing, the Board decided to extend the public comment period (through 12/15/2017) and scheduled the matter for decision on December 27, 2017. The Board adopted the initial docket resolution for the 2018 annual Comprehensive Plan process on December 27, 2017.

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,

Peter

**Peter Best** | Planner

Kitsap County Department of Community Development

[Planning and Environmental Programs](#)

[619 Division St](#), MS 36

Port Orchard, WA 98366

[360\) 337-5777 x7098](tel:360-337-5777) | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]  
**Sent:** Thursday, January 18, 2018 8:19 PM  
**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>  
**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

Thank you Peter for getting this information to me.

I'm curious as to why there was public comment requested in November/December 2017 if the LAMIRD change in the Comp Plan was not proposed in 2017?

It appeared to me that the 60 day public comment period was open and the comments were received. I reviewed the comments and spoke with someone in your department about them sometime in November I believe.

And when I inquired about the progress of the amendment I was told that in December the amendment would be presented to the full board with the staff recommendation and the vote on the change could still happen in January to approve the 2017 Comp Plan Amendment.

Could you please direct me to the September meeting you referred to where the Board decided to delay this specific amendment?

Mike

On Thu, Jan 18, 2018 at 11:22 AM, Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)> wrote:

Mike,

Thanks for the call today. Again, my apologies if there were any miscommunications or

misunderstandings regarding the decision making around the 2017 docket. There were a number of items under consideration for the 2017 docket and in the end the Board decided to not do an annual amendment to the Comprehensive Plan because there simply was not enough time to complete the required process in 2017. The Board immediately began developing an initial docket for 2018, which was adopted on 12/27/2018, and includes a County-sponsored amendment to review and adjust the southeast boundary of the George's Corner LAMIRD.

As promised, attached please find the summary schedule for the annual Comprehensive Plan amendment process for 2018. Please note that this schedule and the timeframes discussed below are subject to change. You can learn more about the process at our [Online Open House](#). I believe you are already receiving notifications regarding this project. If not, you can [subscribe to receive future notifications](#).

As we discussed, this is a legislative process that the County can do only once per year and includes a variety of County-sponsored amendments as well as site-specific applications. All Comprehensive Plan amendments must be processed and considered as a batch. As a result of the batching requirement and other procedural requirements in state law and County code, it will take a full year to complete the annual amendment process, with ordinance adoption planned in December 2018. As a legislative process, the Board has the discretion to approve, approve with modifications, approve with conditions, deny, or defer any amendment.

I will be preparing a proposal for the George's Corner LAMIRD boundary amendment before the end of March, which I will share with you when it is available. As part of that process, I will need to conduct a site visit and will be in touch with you about that in the near future.

In April, the Board of County Commissioners will decide whether to continue with the initial docket of amendments or may adopt a final docket, deciding which amendments will continue through the process.

Following the publication of a State Environmental Policy Act (SEPA) determination and staff report in June, there will be a public comment period (open for at least 60 days and may include open houses) as well as public hearings as the amendments are considered by the Planning Commission and then the Board of County Commissioners. You are encouraged to attend the public hearings and submit comments regarding the amendment.

The County has received comments regarding this amendment (summarized below) during the preparation of the docket, of which you should be aware. Other comments may



be received as the amendments are considered during the latter half of 2018.

- I believe you are aware there was tribal interest in the establishment of the George's Corner LAMIRD boundary, particularly regarding commercial development in rural areas and in relation to critical areas. Tribal staff have requested to be consulted during this boundary adjustment amendment. If you would like to directly contact staff at the Suquamish and Port Gamble S'Klallam tribes, I can provide you contact information.
- Another County-sponsored amendment in 2018 is a review of the Urban Village Center (UVC) zone covering downtown Kingston. We have received comments stating concern about possible expansion of the commercial development at George's Corner which could affect the planned growth within the Kingston urban growth area (UGA).

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,

Peter

**Peter Best** | Planner

Kitsap County Department of Community Development

[Planning and Environmental Programs](#)

[619 Division St](#), MS 36

Port Orchard, WA 98366

[\(360\) 337-5777 x7098](tel:(360)337-5777) | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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**From:** [M M](#)  
**To:** [Peter Best](#)  
**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Monday, February 26, 2018 2:29:20 PM

---

Hello Peter,  
It looks like Friday morning 3/2 would work well for me to meet you at the parcel in Kingston.  
Thanks,  
Mike

On 02/20/2018 9:16 AM, Peter Best wrote:

Hi, Mike.

Thanks. I should have clarified that you are not required to attend. So, let me know what date works for you or if you do not want to attend.

We routinely consult with cities, tribes, other government entities, and urban service providers regarding Comprehensive Plan amendments. Both tribes expressed interest in closely following the George's Corner LAMIRD boundary amendment and requested to participate in the site visit.

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,  
Peter

**Peter Best** | Planner  
Kitsap County Department of Community Development  
[Planning and Environmental Programs](#)  
619 Division St, MS 36  
Port Orchard, WA 98366  
(360) 337-5777 x7098 | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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**From:** M M [<mailto:vexnot@gmail.com>]  
**Sent:** Saturday, February 17, 2018 7:42 AM  
**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>  
**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

Peter,

I am checking my schedule to see what day might be best for the walk through of our property at Kingston Corners.

Can you please explain why and how other interested parties are invited to this site review?

Thanks,

Mike

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We are available the following times, please let me know which of these would not work for you and I will then send out an appointment.

3/1 - afternoon

3/2 - morning

3/2 - afternoon

3/5 - afternoon

3/7 - morning

3/7 - afternoon

Thanks,

Peter

---

**From:** Peter Best

**Sent:** Monday, January 22, 2018 9:15:22 AM

**To:** M M

**Cc:** Comp Plan

**Subject:** RE: 2018 Comprehensive Plan Amendment Process - George's Corner  
LAMIRD Boundary

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I would be happy to provide you with that information.

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I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,

Peter

**Peter Best** | Planner

Kitsap County Department of Community Development

[Planning and Environmental Programs](#)

[619 Division St](#), MS 36

Port Orchard, WA 98366

[\(360\) 337-5777 x7098](tel:3603375777x7098) | [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)

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**From:** M M [mailto:[vexnot@gmail.com](mailto:vexnot@gmail.com)]

**Sent:** Thursday, January 18, 2018 8:19 PM

**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>

**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner  
LAMIRD Boundary

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I'm curious as to why there was public comment requested in November/December 2017 if the LAMIRD change in the Comp Plan was not proposed in 2017?

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In April, the Board of County Commissioners will decide whether to continue with the initial docket of amendments or may adopt a final docket, deciding which amendments will continue through the process.

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(open for at least 60 days and may include open houses) as well as public hearings as the amendments are considered by the Planning Commission and then the Board of County Commissioners. You are encouraged to attend the public hearings and submit comments regarding the amendment.

The County has received comments regarding this amendment (summarized below) during the preparation of the docket, of which you should be aware. Other comments may be received as the amendments are considered during the latter half of 2018.

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**From:** [pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)  
**To:** [vexnot@gmail.com](mailto:vexnot@gmail.com)  
**Cc:** [compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)  
**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Friday, February 16, 2018 9:42:48 AM

---

Mike,

I am following up to schedule the site visit mentioned below. I expect the visit to take no longer than one hour. Attending would be myself, Steve Heacock (Kitsap County environmental planner), Alison O'Sullivan (Suquamish Tribe), and Roma Call (Port Gamble S'Klallam Tribe).

We are available the following times, please let me know which of these would not work for you and I will then send out an appointment.

3/1 - afternoon  
3/2 - morning  
3/2 - afternoon  
3/5 - afternoon  
3/7 - morning  
3/7 - afternoon

Thanks,  
Peter

---

**From:** Peter Best  
**Sent:** Monday, January 22, 2018 9:15:22 AM  
**To:** M M  
**Cc:** Comp Plan  
**Subject:** RE: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary

Hi, Mike.

I would be happy to provide you with that information.

The Board of County Commissioners reviewed the catalog of suggested amendments to the Comprehensive Plan on September 27, 2017. At this time we were still attempting to find a way to advance a few items for a 2017 docket of amendments. However, the timeline proved infeasible and the Board's decision from the meeting minutes on October 4, 2017 is below:

Chair Garrido proposed, pursuant to KCC 21.08.030.A.2, Kitsap County will not be reviewing its Comprehensive Plan in 2017. All suggested amendments to the Comprehensive Plan will be reconsidered for the 2018 docket. The Board would like to review the 2018 docketing resolution by the end of the year.

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**From:** [M.M](#)  
**To:** [Peter Best](#)  
**Subject:** Re: 2018 Comprehensive Plan Amendment Process - George's Corner LAMIRD Boundary  
**Date:** Thursday, January 18, 2018 8:20:29 PM

---

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**From:** [M M](#)  
**To:** [Deanna Erstad](#)  
**Subject:** Re: Commissioner Gelder Meeting Request  
**Date:** Wednesday, June 14, 2017 9:51:01 AM

---

That sounds good. How about meeting at the Starbucks next door? And how early on July 6?  
Mike

On 06/14/2017 9:22 AM, Deanna Erstad wrote:

Mike, I just left you a message.....they would like to meet at George's Corner at the site.....will that work for you on July 6<sup>th</sup>?

**From:** M M [<mailto:vexnot@gmail.com>]  
**Sent:** Monday, June 12, 2017 12:52 PM  
**To:** Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)>  
**Subject:** RE: Commissioner Gelder Meeting Request

Thanks I will be out of town the 22nd and 29th of June and I look forward to hearing from you about another date.  
Mike

On Jun 12, 2017 11:57 AM, "Deanna Erstad" <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)> wrote:

Mike, I'm sorry but he is not available this week. I have you on my list to schedule a meeting, but it may be out a couple of weeks. I will try to schedule you on a Thursday when he will be in his Kingston office so you won't have to travel all the way to Port Orchard.

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**From:** M M [<mailto:vexnot@gmail.com>]  
**Sent:** Monday, June 12, 2017 10:52 AM  
**To:** Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)>  
**Subject:** Commissioner Gelder Meeting Request

Deanna,

I would like to schedule a meeting with Commissioner Gelder to discuss an issue with a property located at :

8229 NE STATE HWY 104 KINGSTON WA 98346

Account # 272702-2-046-2004

The property currently has 3 zoning designations on the one parcel and I am hoping that Comm. Gelder will help me look at getting this cleared up.

I am available all day Thursday June 15 and wondered if there was a time that might work otherwise I look forward to hearing from you with possibilities.

Thanks,

Mike McCown

**From:** [M M](#)  
**To:** [Deanna Erstad](#)  
**Subject:** Re: Commissioner Gelder Meeting Request  
**Date:** Friday, June 16, 2017 1:22:59 PM

---

Its on my calendar. Are Scott and Cindy planning to join us at that meeting?  
Mike

On Wed, Jun 14, 2017 at 10:26 AM, Deanna Erstad <[DErstad@co.kitsap.wa.us](mailto:DErstad@co.kitsap.wa.us)> wrote:

I put it on for 9 am like you suggested....

---

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Thanks,

Mike McCown

**From:** [M M](#)  
**To:** [Dave Ward](#)  
**Subject:** Re: Comprehensive Plan Amendments  
**Date:** Friday, July 20, 2018 3:41:19 PM

---

Thanks  
Mike

On Fri, Jul 20, 2018, 3:08 PM Dave Ward <[dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)> wrote:

Mike,

Thanks for the conversation today.

Here is a link directly to the public comments page.

[https://spf.kitsapgov.com/dcd/Pages/2018\\_CompPlan\\_Comments\\_page.aspx](https://spf.kitsapgov.com/dcd/Pages/2018_CompPlan_Comments_page.aspx) The public comments received so far are in the “View Submitted Comments Here” link about 2/3 the way down the page. Documents describing each proposed change can be reached by clicking the orange box near the top of the page.

The comments from Tuesday’s Planning Commission hearing have not been entered yet, but we hope to get them done next week.

Here is a link to the Planning Commission members. Please note that Spencer Stegmann just resigned, so his seat is now vacant.

<https://spf.kitsapgov.com/dcd/PCDocs/Kitsap%20County%20Planning%20Commission%20Terms%2020180702.pdf>

I look forward to meeting you on the 31<sup>st</sup>.

**Dave Ward**

**Planning and Environmental Programs Manager**

**Kitsap County, Department of Community Development**

[dward@co.kitsap.wa.us](mailto:dward@co.kitsap.wa.us)

360-620-3695



**From:** [M.M](#)  
**To:** [Peter Best](#)  
**Subject:** Re: FW: Annual Comprehensive Plan Amendment Process for 2018  
**Date:** Thursday, December 14, 2017 1:11:09 PM

---

Peter,  
Thanks for the info. about the comp plan admendments. Unfortunately I did not see it until today so I missed the hearing.  
Could you tell me if there was any significant opposition and if so is there a recording of the hearing ?  
If no opposition what is the current timeline for the process?  
Thanks,  
Mike McCown

On Mon, Dec 4, 2017 at 4:32 PM, Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)> wrote:

Mr. McCown,

I wanted to make sure you received the announcement below. If you did not receive this announcement directly, than I would encourage you to subscribe to receive future notifications.

You will see that the adjustment to the George's Corner LAMIRD boundary is included in the [draft docket](#). If you have comments for the Board of County Commissioners, please see below for more information.

Let me know if you have any questions.

Cheers,

Peter

**Peter Best** | Planner

Kitsap County Department of Community Development

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**From:** Kitsap County [mailto:[kitsapcounty@public.govdelivery.com](mailto:kitsapcounty@public.govdelivery.com)]

**Sent:** Friday, December 1, 2017 2:03 PM  
**To:** Peter Best <[pbest@co.kitsap.wa.us](mailto:pbest@co.kitsap.wa.us)>  
**Subject:** Annual Comprehensive Plan Amendment Process for 2018

# Annual Comprehensive Plan Amendment Process for 2018



Kitsap County Department of Community Development

Project Message #1

December 1, 2017

Comp Plan Logo Header



STAY INFORMED! [Click to subscribe](#) to receive future notifications.



## What is the Comprehensive Plan?

The [Kitsap County Comprehensive Plan](#) describes the 20-year vision for unincorporated Kitsap County and how that vision will be achieved. The plan covers land use, economic development, environment, housing, human services, transportation, capital facilities and utilities, as well as parks and recreation and open space. The Comprehensive Plan is mandated by the Washington State Growth Management Act (RCW 36.70A).

## How often does the Comprehensive Plan get changed?

Major Comprehensive Plan updates are mandated by the state every 8-years. The last major update of the [Kitsap County Comprehensive Plan](#) was adopted in 2016. In-between major updates, the County may choose to consider minor amendments to the Comprehensive Plan on an annual basis. The Board of County Commissioners have opened the annual Comprehensive Plan amendment process for 2018. [Learn more about the annual amendment process for 2018.](#)

## Where are we in the annual amendment process for 2018?

We are currently in the first phase of the process, called the scoping phase, which will determine what amendments will be considered in 2018. The Board of County Commissioners do this through the adoption of a docket resolution for the annual Comprehensive Plan amendment process. The docket resolution describes what types of amendments will be considered. The Board of County Commissioners intends to adopt the docket resolution by the end of December 2017.

### **How can I comment?**

A public comment period is currently open on the staff recommendation.

Oral and written **public testimony** may be made during a public hearing scheduled for 5:30 PM on Monday, December 11, 2017 in the Chambers, Kitsap County Administration Building (see office location below).

**Written comments** submitted in advance of the public hearing are due by 11:59 PM on Sunday, December 10, 2017 and may be submitted:

[Online via computer or mobile device \(preferred method\)](#)

By email to [compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)

- By mail (see mailing address below)
- Dropped off at the Department of Community Development (see office location below)

[View Submitted Comments](#)

### **What will happen next?**

The next phase of the annual amendment process, called the development phase, is when most county-sponsored amendments (including alternatives, if appropriate) are developed. If the docket allows for the submittal of applications from interested parties, they will be accepted during a short application period beginning in January 2018.

### **How can I stay informed throughout the process?**

An online open house will be kept current and available throughout the process and notifications will be sent to everyone that subscribe to Comprehensive Plan Announcements. Subscribe now to ensure you receive future notifications.

### **CONTACT**

Department of Community Development

Planning & Environmental Programs

[\(360\) 337-5777](tel:(360)337-5777) (Kitsap1)

[compplan@co.kitsap.wa.us](mailto:compplan@co.kitsap.wa.us)

### **Mailing Address**

[614 Division Street](#) - MS36  
Port Orchard, WA 98366

### **[Office Location](#)**

[619 Division Street](#)  
Port Orchard, Washington

Media Contact: Natalie Marshall



KITSAP COUNTY

Kitsap County government exists to protect and promote the safety, health and welfare of our citizens in an efficient, accessible and effective manner.

DEPARTMENT OF COMMUNITY DEVELOPMENT

The mission of the Department of Community Development is to enable the development of quality, affordable, structurally safe and environmentally sound communities.

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**From:** [M.M](#)  
**To:** [Scott Diener](#)  
**Subject:** Re: George"s Corner - Q about southern boundary  
**Date:** Wednesday, May 24, 2017 12:33:10 PM

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Scott,  
Are you available tomorrow afternoon or anytime Friday to sit down with me to review this issue?  
Thanks  
Mike McCown

On May 23, 2017 11:10 AM, "Scott Diener" <[SDiener@co.kitsap.wa.us](mailto:SDiener@co.kitsap.wa.us)> wrote:

Mike:

You note and ask in a recent inquiry with DCD:

There was an error in transferring LAMIRD Boundary across the south end of the property from paper format to electronic format resulting in decrease NC zoning. What is the process to return the electronic copy to the original boundary?

This is not the first time the issue has been raised for discussion (it has been raised and debated a lot, since the southern boundary (below Rite-Aid) is not consistent with the zoning boundary). There was also push to move the boundary during the recent Comp Plan update, which did not materialize.

It is staff's recollection that the boundary for the zone was agreed upon in 2004 and was adopted and it was a subsequent short plat by Gary Lindsey that revised the boundary lot line to the south.

Map corrections occur when what was adopted by the Board does not match what was presented by staff (in the companion adopting ordinance) or when staff shows a zone boundary that does not match what was adopted by the Board (in the ordinance). Staff looked into this some years ago to determine there was not a conflict between what staff presented and what was adopted and the boundary explicitly matches what was approved.

However, in spite of the years of examination on this property, you have a right to demonstrate there was an error in 2004. If you have evidence that there was an error, please provide that along with a timeline associated with the 2004 approval.

I left a voicemail at 2 phone numbers. Please contact me if Qs.



Regards,

Scott Diener

Manager, Development Services and Engineering  
SEPA Responsible Official

Dept of Community Development

Kitsap County

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**From:** [Bill Broughton](#)  
**To:** [Patty Charnas](#)  
**Subject:** georges corner  
**Date:** Thursday, May 16, 2013 11:07:18 AM

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Hi Patty  
Nice talking to you today.  
See you Tuesday at 2

William H. Broughton  
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