Copy of written comments that are summarized in the comment matrix

(Indexed by Comment #)

Public Comment on
2018 Annual Kitsap County Comprehensive Plan Amendments

Amendment 1 – Non-Motorized Facilities Plan
Item #2 - Kingston 4th Street East Right-of-Way
[Item #2 (N5) on page 15 of the C2 Staff Report]
Addition of Section between Illinois Ave and Pennsylvania Ave.

ISSUE – Change all of East 4th Street to Recreational Use
OPPOSE – This issue changes legal liability and use inconsistent with prevailing use, historical fee simple plat dedication of ROW, and is not consistent with case law.

Issues
- Staff Report Unsuitably Recommends Entire 4th Street Classification as Recreational
- Prevailing use is Mixed mode route serving local residents
- More appropriate classification would be a Shared-use or Mixed-use Path – Not Recreational

This narrative formally request to deny the recreational designation of a segment of the East 4th Street that is mentioned in the Non-Motorized Pan (NMP) staff report. The report contains errors *[Note: considering the overall scope of the report, the errors and omissions are within industry standards.]* One specific error impacts our home and property abutting Kingston's NE 4th Street Right-of-Way (ROW).

Item #2 on page 15 of the report states recreational designation of "*the remaining identified trail within the unimproved East 4th Ave ROW*". Such designation would be inconsistent with the existing use in the area and is inappropriate to designate as recreational for abutting landowners' right to quiet enjoyment, public safety and liability considerations. The community need for pedestrian or commuter transportation pathways is already fulfilled. Formal designation as recreational does not accomplish any benefit to the overall community since it is already a mixed use route.

Specific Area of Topic

The Kingston Non-motorized Facilities Plan (NMP) proposes a new designation for the East 4th Street Right-of way from Pennsylvania Ave. to Washington Ave. *[Item #2 (N5) on page 15 of the C2 Staff Report].* The proposal includes the addition to include a segment between Illinois Ave and Pennsylvania Ave. Appended to this document are two (2) maps listed as Figure 1 – NMP Report Map (NMP Proposed Area Grouped as One Area) and Figure 2 - Actual Current Use of Diverse Segments Map. The segment from Illinois Ave to Pennsylvania Ave. segment is shown as flag note 2 on the Figure 2 map.

The NMP report recommendation features a new designation as an "*on-road trail type; with pedestrian, bicycle and horse users; and specifies the type of **use as recreation***."

Recreational Designation is Inappropriate

At issue is the classification of this segment as ***recreational*** *[Note: the original legal dedicated Right-of-way (ROW) was specified by plat as public highways or alleys in perpetuity which is a transportation use.]*

While the NMP report designation of recreational may be appropriate for just one segment of the 4th Street area (see flag note 5 on the attached figure 2 map - NE Iowa Ave. trailhead for the PUD trails), it is not appropriate for the other segments. All segments have been inaccurately grouped

together as one on the NMP plan despite the disparate use. The majority portions of the overall East 4th Street plan are currently used as roads and driveways serving residential homes and lots.

Classification of the County ROW as "recreational" alters the legal responsibility of the County as per Washington State case law. *[Camicia v. Howard S. Wright Constr. Co., 179 Wn.2d 684, 317 P.3d 987, 2014 Wash. LEXIS 70]*

Recreational classification would impede the right of quiet enjoyment for the abutting landowners. The term "recreational" is misleading from the popular use of the term which can create (and has created) confusion and misinterpretation by some of the less sophisticated element of the nearby population. Recreation has been defined by the State to imply that the public may gather, spend leisure time, or loiter at the location. The essence of the ROW is defined a public easement, and is not defined for recreational loitering

Loitering at the location has been recurring problem in the area which is very close proximity to residential homes. A significant concern is that there is a registered sexual offender living in condominiums adjacent to the route who has been seen loitering near a residential hot tub/spa. Additionally, there have been several incidents of noise and litter including beer cans and drug paraphernalia found on the 4th Street ROW paths.

Furthermore, individuals from neighboring condominiums have admitted to willfully clearing vegetation and trees stating that their goal was to gain views. The Illinois/Pennsylvania property segment along with adjacent private property utilizes the natural vegetation to create a visual and acoustic barrier from the bordering condominiums. This willful clearing and tree cutting activity has even encroached across the ROW onto abutting private property. There is concern that these certain individuals may use the new "recreational" classification as a misdirected means to achieve their admitted ends to obtain a view where there are no covenants for view or easements for light and air. Such clearing would open up the privacy barrier whereas the condominiums may easily peer into the neighboring home and property. This violates the right to quiet enjoyment and creates a potential for intrusion of another person's reasonable expectation of privacy. *[Sept. 2000 PETERS v. VINATIERI 657 102 Wn. App. 641 … upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.]* Furthermore, such loss of privacy would adversely affect the property values.

Designation as a "recreation" area may allow loitering as per RCW79A.05.010(4) rather than simple use as a pathway route. Recreational use inconsistent with the prevailing use for transportation as defined by the original town plat and the current established use as a pathway for transportation to and from local residential areas to commercial areas.

Recreational use as defined by RCW is contrary to a right-of-way being used as a connector route. Disallowing recreational classification for the Illinois to Pennsylvania segment would preserve the prescribed use for the abutting land as per the original plat. *[RCW 79A.05.010 Definitions. (4) "Recreation" means those activities of a voluntary and leisure time nature that aid in promoting entertainment, pleasure, play, relaxation, or instruction.]*

Primary use of the ROW is for Transportation

The existing prescribed use of the County ROWs have been clearly defined for transportation by dedication in the original plat of the Town of Kingston. A more appropriate classification would be as a Shared-use or Mixed-use paths/Connectors classified as Trail Class 5 in the Kitsap Non-Motorized Facilities' funding report. Mixed-use paths are different than trails from a regulatory, user, and developmental perspective.

Popular semantical use of the term "non-motorized" is misleading which can potentially lead to misinterpretation by some as excluding motorized use. The report does not make clear that the very nature of Right-of-Ways are for transportation as defined by RCW. If defined to exclude all motorized use, the designation appears to be inconsistent with the prevailing and planned use considering the

abutting land is zoned UVC. Limiting future access to only non-motorized use may also conflict with requirements for access due to legal necessity.

Designation should be a Route rather than Trail, and not listed as recreation. The County staff acknowledges the mix use, yet the recommended designation as "Existing Open Trail" is inconsistent with the current prevailing use since the majority of that section of 4th Street is used as a connector path to and from primary residential areas. Only one section of 4th Street at the PUD land is correctly documented for use as recreational trails (see Figure 2- flag note 5).

The specific 4th Street pathway has been used exclusively as a connector route to and from local residential areas, local businesses, and the Kingston ferry transportation center. The predominant use has not and should not be recreational. Recreational classification causes numerous issues with liability, and potential for permissive loitering.

It is important to note there are differences in the definitions of the terminologies of *right-of -ways, routes, trails, mixed-use, non-motorized, and recreational* uses. Each specific term carries its own unique technical definition that is often different from commonly understood popular semantical definitions. These differences can significantly alter the formal status of developmental use associated with the community.

Summary

- The current use is established and already supports the community and is presently congruent with a pedestrian environment
- Exclusive non-motorized use is inconsistent with UVC zoning for current and future use.
- Pedestrian connector use for commuters and local residential pathways is consistent use with the Pennsylvania/Illinois pathway segment.
- Recreational classification is not appropriate since the area does not lend itself to recreational; use, but rather is appropriate as a connector for local residents. Recreational classification may cause lingering, loitering, or result in a gathering place for activities. This would disrupt the quiet enjoyment of the abutting residents.
- Recreational use is only well suited at the existing access trail to the PUD land trail entrance for hiking in the hills. The prior access point to the PUD trail system is land locked by the Bayview Condominiums the Pennsylvania/Illinois pathway provides no benefit for access to that recreation trail system.
- RCW 47.14.020 defines "Right-of way" as "area of land designated for transportation purposes."
- 79A.05.010 (4) defines "Recreation" means those activities of a voluntary and leisure time nature that aid in promoting entertainment, pleasure, play, relaxation, or instruction.

We strongly urge the recreational classification to only be applied to the PUD lands segment of East 4th Street.

Figure 1 – NMP Proposed Area Grouped as One Area

The NMP item #2(N5) on page 15 of the Staff Report proposes to extend a small area between Pennsylvania Avenue and Illinois Ave. and identify trail as a "Existing Open Trail" (see Figure 1 below) .

Existing Designation | Proposed Designation | Detail of Proposed Designation

Figure 1 - NMP Report Map

The maps included in the NMP do not detail the complete prevailing use of the various segments of East 4th Street. The NMP proposal groups the complex area into one locale yet omits detailing the patchwork of diverse areas with each being distinctive from the other.

Comment #2

Figure 2 – Actual Current Use of Diverse Segments

The following Figure 2 details the current characteristic use at different and various segments of the East 4th Street ROW.

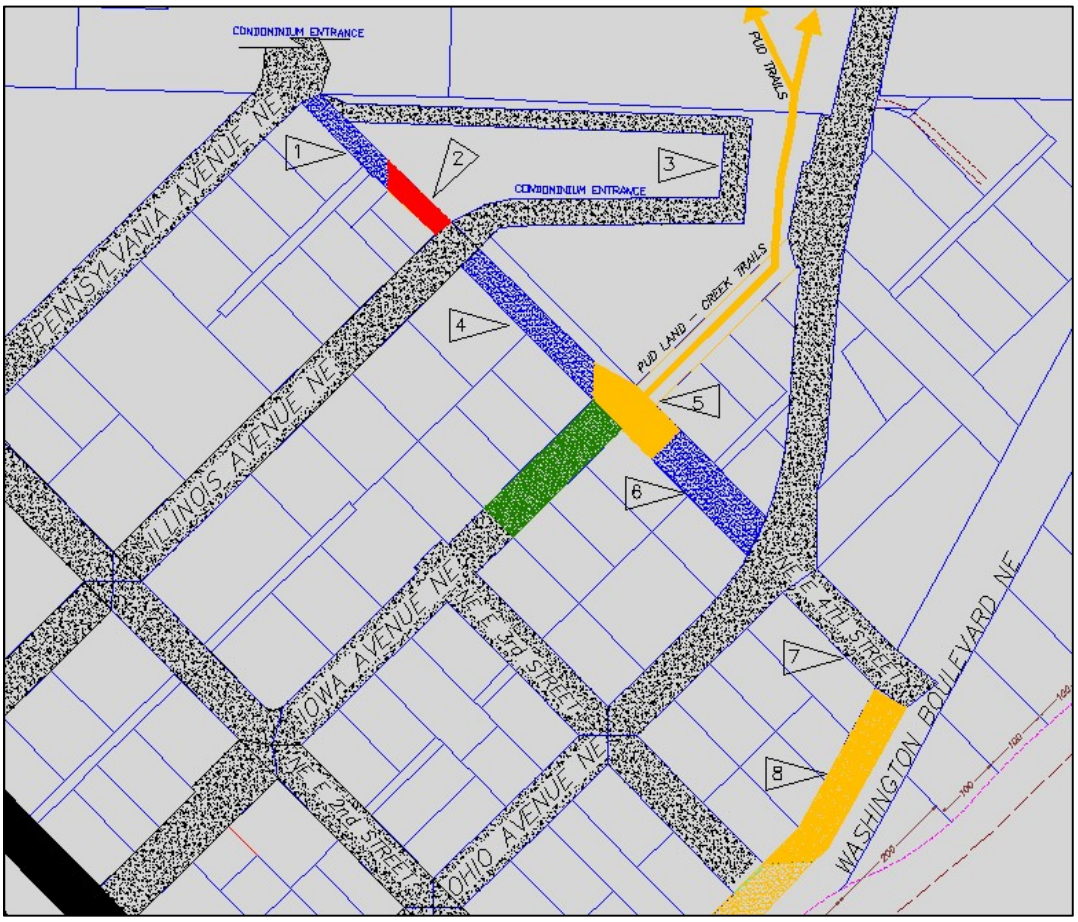

Figure 2 – Actual Current Use

LEGEND

Yellow - Existing Pedestrian Path Black - Paved Road Blue - Gravel Road

Green - unopened area Red - Area of Discussion

FLAGNOTES

1	Multi-unit Driveway - Gravel
2	Pedestrian Connector Path
3	Private Condominium Roadway
4	Multi-unit Driveway - Gravel
5	Iowa Ave. Trailhead to PUD Trails
6	Multi-unit Driveway - Gravel
7	Paved Street
8	Pedestrian Connector Path

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Comment #5

KINGSTON STAKEHOLDERS

August 4, 2018

TO: Kitsap County Planning Commission
FROM: Kingston Stakeholders

RE: Comments on the Annual Comprehensive Plan Amendments for 2018

The Kingston Stakeholders, the urban economic development arm of the Greater Kingston Chamber of Commerce, wishes to recognize and thank Commissioner Gelder and the Department of Community Development (DCD) for undertaking the review of policies and development of regulations related to the Urban Village Center (UVC) zone. A variety of issues have prevented the development and growth of Kingston per the vision put forth by the community. Although some progress was made in the Comprehensive Plan Review in 2016, some barriers remained.

The Kingston UVC Workgroup was established in 2018 to address the remaining barriers to development and planned growth of Kingston. The Workgroup proposed the following amendment:

- Remove the mixed-use requirement in the UVC zone
- Clarify incentive-based parking programs policy
- Remove completed Subarea Plan Policies
- Revise the allowed density in the UVC zone.

In addition, they recommend a Determination of Non-Significance for SEPA.

The Kingston Stakeholders strongly support the adoption of the above recommendations as proposed.

The Kingston Stakeholders is a group of concerned community members that actively support and advocate for the economic vitality and livability of Kingston. Thank you for the opportunity to comment on the proposed future direction for Kingston.

Jim Pivarnik,
Treasurer, The Kingston Stakeholders

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Comment #8

July 16, 2018

12425 NE Marine View Dr.
Kingston, WA 98346

Robert Gelder
Kitsap County Commissioner
614 Division St.
Port Orchard, WA 98366

Dear Commissioner Gelder:

Thank you very much for hosting the July 10th open house in Kingston. I congratulate you and the county staffers for very effectively conveying the gist of what's unfolding, with respect to the county's master planning efforts.

My wife, Robin, and I moved to Kingston in 1995. Today we have three sons and their wives, and five (soon to be six) grandchildren thriving in Kingston. In 2013, we purchased an unoccupied property in the heart of the UVC, at 11650 NE Oregon St. With much sweat equity, we have turned it into a community asset – a daily destination for seniors, young adults, families and children. It is now home to a Medicare supplemental insurance broker, a therapeutic masseuse, yoga classes and a Hawaiian music and dance troupe.

Over the years, I have personally contributed my professional strategic communications skills to the citizens' advisory efforts that gave us Kingston High School and Village Green. So we are here for the long haul. The Acohidos share with the Wetters, the Lannings, the Chrismans, the Rotary, the Chamber, the Kiwanis, the Port, local churches and small business owners a commitment to maintain the unique character of Kingston and help our little town continue to blossom. With that preamble, I'd like to add my comments to two issues:

1.) UVC rule changes. I wholeheartedly applaud and subscribe to the input you've received from Dave Wetter and Rick Lanning. Flexibility for local property owners, and a good working relationship, built on trust, between individual owners and the county, are vital. The county's long term population density goals for the UVC make a lot of sense and should be steadily implemented. That said, property owners should not be hamstrung by obtuse rules, enforced categorically. I'm aware of the details of a handful of cases where the standing rules resulted in UVC property owners not being able to develop their lots in ways that would have reinforced the unique character of our seaside town, while also contributing to population density targets. Moving ahead, foresight and flexible on meeting such things as population density and parking is crucial on each and every proposed project. There must be room in the rules – and in the project approval process – for individual property owners and county staff to collaborate and arrive at creative solutions. The common, shared goal, should be to nurture the unique character of Kingston. These proposed rule changes are a step in that direction.

2.) Traffic flow. By far, the biggest thing preventing Kingston from becoming all that it should be is poorly organized traffic flow. With the coming of the walk-on ferry this problem will be exacerbated. The good news is that the local business and civic groups are highly motivated to collaborate on near term improvements. However, what is really needed is a comprehensive, long term plan, with input from professional planners. Clearly this will also require cross jurisdictional collaboration. At the moment, there is a leadership vacuum. If there is anything you can do to identify -- and strongly support -- local, regional or state leaders to take this on, it would be of tremendous benefit. Better yet, perhaps you could take this on personally. The results will be highly visible and make a big impact.

Thank you again for your efforts on behalf of north Kitsap, Kingston and the UVC.

Sincerely,
Byron V. Acohido
Robin L. Acohido

Comment #17

Jerry Harless
PO Box 8572
Port Orchard, WA 98366
jlharless@wavecable.com
August 1, 2018

Kitsap County Planning Commission
614 Division Street MS – 36
Port Orchard, WA 98366
compplan@co.kitsap.wa.us

RE: Proposed 2018 Comprehensive Plan Amendments

Commissioners,

On December 5, 2017 I wrote to DCD Director Louisa Garbo to suggest that the 2018 comprehensive plan amendment cycle would be an opportune time for the County to correct the inconsistency between how density is defined in the zoning code and how density was calculated when the current Urban Growth Areas were designated with the 2016 plan update. The DCD staff has proposed amendments to Appendix B of the plan to address this issue, but the proposed changes will not resolve it.

The 2016 Issue

The zoning code directs maximum densities to be calculated as dwelling units per acre of gross land area. The plan is silent as to how density should be calculated (gross or net), but the UGAs were sized by applying permitted (allowed) density ranges as dwellings per acre of net developable area as calculated in the land capacity analysis (cf. FSEIS for the 2016 plan update). Because net developable area averages about half of gross land area in urban residential zones, this means that the zoning code authorizes at least twice the growth capacity in UGAs as does the plan.

The Planning Commission in 2016 recommended correcting this by amending the zoning code to measure maximum density as dwellings per acre of net developable land, but the Board of County Commissioners rejected this recommendation without comment in the final plan update ordinance (Ordinance 534-2016).

The Central Puget Sound Growth Management Hearings Board dismissed my appeal of this issue, not on its merits, but by refusing to consider the land capacity analysis as a basis for the claim. The Board's order is currently pending before the Court of Appeals, Division II.

The 2018 Proposal

I see from the "clarifying edits" staff report and attachments that DCD proposes bringing the density measurement methods from the zoning code into Appendix B of the comprehensive plan. On the surface, this would appear to resolve the inconsistency issue, but it actually exacerbates the problem.

The Growth Management Act requires counties to adopt development regulations, including zoning ordinances, that "are consistent with and implement" comprehensive plans." Cf. RCW 36.70A.040. Amendments to development regulations

also must be consistent with and implement comprehensive plans (including amended plans). Cf. RCW 36.70A.130(1)(d).

What DCD is proposing is to amend the plan so that it is consistent with and implements the zoning code rather than the other way around as the GMA requires – amending the horse to fit the cart if you will. You might assume that "consistency" works like an equal sign and it really doesn't matter which is consistent with which as long as they are both the same. But the proposed "clarifying edits" miss the most important point – how the UGAs were sized in 2016.

The effect of this proposed amendment to Appendix B is to convert a plan-zoning inconsistency into an internal plan inconsistency. The GMA requires the plan to be "an internally consistent document" (cf. RCW 36.70A.070), so the GMA compliance problem is not solved but pops up in another section of the GMA.

Amending the plan to require measurement of maximum densities as dwellings per acre of gross land area contradicts the land capacity analysis used to size the UGAs in 2016. Thus, the plan will now be internally inconsistent because the UGAs were sized by a method of measuring density that is at odds with the new language added to Appendix B. That inconsistency produces UGAs with double the capacity needed to accommodate the forecast growth in violation of three separate sections of the GMA: RCW 36.70A.110(2), .115 and .130(3)(b).

For example, the Urban Low Residential (URL) zone allows a minimum of 5 du/acre and a maximum of 9 du/acre. The land capacity analysis, applying all densities to net developable area, assumes an average future density of 6 du/acre, or 67% of the maximum allowed. Calculating that maximum as 9 du/gross acre as the "clarifying edits" would do, increases the maximum to the equivalent of 18 du/net acre. 67% of that maximum would be 12 du/net acre. The other urban residential would be similarly affected.

I appreciate the DCD staff's attempt to resolve the plan – zoning density inconsistency, but the proposed solution only makes the problem worse. The only real GMA-compliant options are to define density consistently with how it was applied in the 2016 land capacity analysis used to size the UGAs (du/net acre) or reduce the geographic size of the UGAs by half. The former would be a "clarifying" text edit. The latter would be a political and practical disaster.

Please recommend to the Board of Commissioners, as you did in 2016, the reasonable solution. Thank you for your attention.

Respectfully,

Jerry Harless

Cc: Kitsap County Commissioner Robert Gelder, District 1
rgelder@co.kitsap.wa.gov
Kitsap County Commissioner Charlotte Garrido, District 2
cgarrido@co.kitsap.wa.gov
Kitsap County Commissioner Ed Wolfe, District 3
ewolfe@co.kitsap.wa.us

Kitsap County Department of Community Development
compplan@co.kitsap.wa.us

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Comment #19

July 31, 2018

Jack Stanfill President-Registered Agent
Chico Creek Task Force
2461 Northlake Way NW
Bremerton WA 98312

Kitsap County Planning Commissioners
Kitsap County Admin. Bldg.
619 Division St.
Port Orchard, WA

RE: 2018 GMA :
CPA 18-00431, Ueland Tree Farm LLC, Comprehensive Plan Amendment Application, Kitsap County, and Kitsap County Department of Community Development Staff Report and Recommendations, Annual Comprehensive Plan Amendment Process for 2018, Site-Specific Amendment 18-00431 (Ueland Tree Farm, LLC).

Dear Planning Commissioners:

The Chico Creek Task Force has noted factual errors with the two reports listed above, Comprehensive Plan Amendment and Kitsap County DCD Staff Report .

First, we'll address the **Comprehensive Plan Amendment Application:**
"Indicate below all environmental features on or near the parcel(s).." Lake, pond, reservoir, gravel pit of quarry filled with water". Mr. Mauren checked the "Yes" bullet and listed only the Beaver Damn Lake. This wetland is fed from the headwaters of Dickerson Creek which is a real beaver dam 17.5 acres lake, which is bigger than Beaver Damn Lake. Ueland and Kitsap County did not delineate the 17.5 acre wetland which was identified on the Parametrix and Ueland's maps and documents as **Wetland 4 in 2009. PLEASE SEE EXHIBIT 1.**

Please see Dr. Sarah Cooke's Evaluation of 2012 wetland delineation of Wetland 4. EXHIBIT 2

Staff Report and Recommendations, Site-Specific Amendment 18-00431 (Ueland Tree Farm, LLC):

Page 3 of 15, C. **Geographic Description ,** "The site is within the Ueland Tree Farm (UTF), an approximately 1.646-acre area that includes, forestry, mining activities, and **public trails."**

The trails are not public on Ueland Tree Farm. Ueland CUP Conditions – Public Trail – Legal Review from Kitsap County Policy Manager, Eric Baker, to Jack Stanfill, Chico Creek Task Force on April 22, 2016. Exhibit 3.

Email from Mark Mauren to Jack Stanfill dated 12-29-2017, "We remain hopeful that one day that we will have a mutual respectful relationship with the Chico Creek Task Force and can reopen the tree farm to you for recreational access, **AS WE HAVE DONE FOR PAST MEMBERS OF YOUR GROUP." Unfortunately, we have not yet achieved that with you and the ban is still in place. Your recent comments on our SDAP.. highlights the challenges that remain." Exhibit 4.**

If I understand Mr. Mauren and Ueland correctly, they are telling members of the Chico Creek Task Force, and the public who uses Ueland's private trails, if you question the environmental impact on the UTF, you will be banned from the tree farm trails. Seems like blackmail, but what do I know.

Thank you,

Jack Stanfill

Jack Stanfill President – Registered Agent
Chico Creek Task Force
PO Box 4773
Bremerton WA 98312

Comment #19

Indicate below all environmental features on or near the parcel(s). The questions below refer to maps that can be found on the Kitsap County Planning and Regulatory maps webpage.

Bay, estuary, Puget Sound (see Critical Areas map)
- ○ Yes
- ◉ No
- ○ Don't know

Lake, pond, reservoir, gravel pit or quarry filled with water (see Critical Areas map)
- ◉ Yes
- ○ No
- ○ Don't know

Name of body of water
Beaver Dam Lake

River, stream, or creek (see Critical Areas map)
- ◉ Yes
- ○ No
- ○ Don't know

Name of body of water
not named

Select Type (if yes to River, Stream, creek)
- ○ (S) Shoreline of the State
- ○ (F) Fish Habitat
- ◉ (N) Non-fish Habitat
- ○ (U) Unknown, unmodeled hydrographic feature

Wetlands (see Critical Areas map)
- ◉ Yes
- ○ No
- ○ Don't know

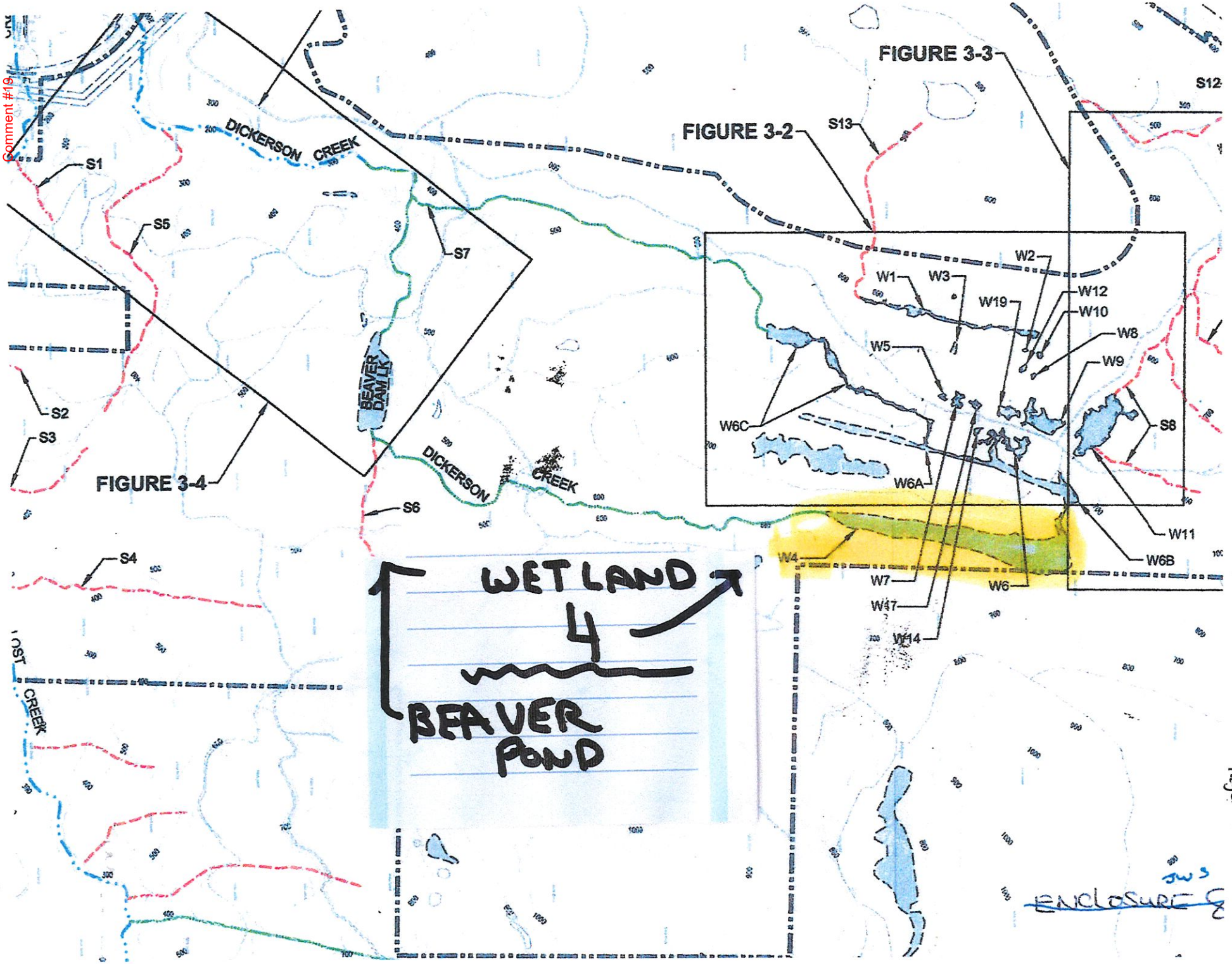

Exhibit 25
Page 2 of 2

EXHIBIT 6

Comment #19

COOKE SCIENTIFIC

4231 NE 110th ST, SEATTLE, WA 98125
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COOKESS@COMCAST.NET WWW.COOKESCIENTIFIC.COM

March 3, 2015

Jack Stanfill, President, Chico Creek Task Force
P.O. Box 4773
Bremerton, WA 98312

RE: Chico Creek/ Ueland Tree Farm HMP and Wetland Report Third Party Review

Dear Mr. Stanfill,
I have prepared the 3rd party review and analysis for the proposed Ueland Tree Farm, LLC's mineral mining application at your request. I was asked to review the documents listed below identifying any comments, questions and discrepancies I find in the files.

Ueland Tree Farm Project Resources Reviewed

1. Leyda June 2012. *Draft Mineral Resource Development Wetland Review, Rating, and Impacts: Ueland tree Farm, Kitsap County, Wa*. June 4, 2012 to the Chico Creek Task Force
2. August 5, 2011. *The Ueland Tree Farm, LLC Mineral Resource Development and Preliminary Reclamation Plan*. Civil engineering package.
3. Parametrix. 2009. Wetland Delineation and Stream Identification Report Ueland Tree Farm – Mineral Resource Development.
4. Soundview Consultants. April 2014. DRAFT Wetland and Fish Wildlife Habitat Assessment and Habitat Management Plan. Ueland Tree Farm/Kitsap Quarry Private Access Route
5. GeoResources, LLC. May 2015. Geologic and Hydrogeologic Report Supplement – Ueland Tree Farm Mineral Resource Development (originally dated February 2009- update).
6. Ueland Tree Farm Mineral Resource Development
7. Preliminary Drainage Plan, all by Parametrix, 4660 Kitsap Way, Suite A, Bremerton, WA.
8. Ueland Tree Farm Mineral Resource Development Final EIS dated August 2009, by ESA
9. ESA (Adolfson) June 2009 (2015). Ueland Tree Farm Mineral Resource Development. Final and Supplemental EIS.
10. Wa State Department of Ecology (Stephen Stanley, Susan Grigsby, Kelly Slattery). August 2013. Final Revised Water Flow and Water Quality Assessment for Gorst Watershed.

Project location: Kitsap County
Permit process: SDAP (Site Development Activity Permit)

Project Issues

Although the adequacy of the original EIS was upheld in Superior Court, and the Supplemental EIS submitted only addresses the new access route for the project, there are issues that have still not been resolved that pertain to the original project that the new EIS still fails to address. The major issue pertains to "Wetland 4" (located near the proposed Basalt Quarry C in the Beaver Pond of Dickerson Creek, located at the southern portion of the project area (parcel Nos. 242401-1-006-1003, 242401-1-007-1002; T24N/R1W W.M./S24) in Kitsap County, Washington). There are numerous issues with Wetland 4, the first being there is confusion about this wetland because the project documentation actually lists two wetland 4's. A summary of all the issues I found while reviewing the Supplemental EIS road project and remaining issues with the original project as discussed in the documents listed above are identified and expanded on below:

1. Wetland 4, which one? There seems to be some confusion about which Wetland 4 is being assessed and identified in both the reports and during the Kitsap County hearing (2010), the Hearing Examiner's denial of the SEPA Appeal, and the Superior Court dismissal of the Appeal. This wetland is the closest to the proposed mine and so just ignoring this confusion is not an option with respect to understanding potential impacts as a result of the proposed mining project. Leyda in his (6/4/12) report lays out the confusion about Wetland 4 (Figure 2). Initially, Parametrix identified a Wetland 4 that was separate but located at the north end of Wetland 6. Molly Adolfson (ESA, June 2015) stated this was part of Wetland 6 mentioned in the EIS but this is inaccurate there are actually 2 wetland 4's identified in the materials so there is some confusion that persisted in the hearing (Leyda 6/4/12). It is important that the permit application and record accurately reflect the two wetland 4's and resolve the confusion with respect to Wetland Ratings, and buffer assignments.

2. For Wetland 4 that is part of the Beaver Pond of Dickerson Creek, there is no information available, no wetland boundary determination, no delineation data, and no rating. The second Wetland 4 that is within 200 feet of the proposed quarry as shown on the Parametrix wetland map (Figure 1) but no other information is given. No rating, no data sheets and no information on how it was marked. The County typically requires information on wetlands within 300 feet of the proposed project – the buffer width for Cat I wetlands, AND Mr. Dennis Oost, Kitsap County Environmental Planner, confirmed to Patrick McGraner (email 4/1/15)

   "that a note exists within the parent application (Permit 07"44975) that the wetland boundaries and buffers be reconfirmed prior to construction with an emphasis to pay attention to the large wetland complex north of proposed Quarry C due to its headwater supply function for Dickerson Creek."

   Clearly this wetland needs to be assessed, properly delineated, and characterized for the permit file to be complete and the County to be able to evaluate and issue a permit. The County should be requiring this information but it is possible they were not aware of the confusion about which of the two Wetland 4's was being discussed. Leyda (4/1/12) has provided information on this wetland (delineation data and rating for both Wetland 4 of the north lobe of Wetland 6, Wetland 4 of Dickerson Creek, and the revised Wetland 6, and this documentation should be reviewed when the new information is submitted by the Ueland Mine developer. I have attached the wetland characterization information for the Beaver pond wetland as Appendix A attached here. I have reviewed the Leyda documentation, including the delineation and rating data sheets and it all appears to be correct, with respect to the delineation documentation and proposed boundary assignment but I have not been out to the site and so cannot confirm my approval until I am able to review the results of the Leyda assessment on the ground.

   "LCI recommends a full delineation, with data to prove the upland edges, and a licensed survey of Wetland 4" (of Dickerson Creek) "to show the actual extent of the wetland in proximity to the proposed Quarry C. The data should include upland sample plots in locations in all low spots where the quarries are planned, and where stormwater features discharge to the low points in the uplands".

   I concur this information should be provided by the Ueland Tree Farm Group. The discharge locations is especially critical because changes to the hydrology and water quality of the wetland near the discharge points can be highly detrimental to the wetland without sufficient mitigation (buffer between the discharge point and wetland edge).

3. Wetland 4 (northern lobe of Wetland 6) would likely be rated as a Category II wetland and as such should have a 200-foot buffer width with the proposed mining activity, which would be considered high intensity. I agree with the Leyda assessment that the Parametrix Delineation Report only rates the wetlands under the current land use conditions but not as they would be under the proposed mining scenario. As Leyda states:

   "When land use changes, and new pollution sources are created by the proposed road and quarry developments, the ratings can change. If the ratings change, the buffers can change. If the buffers change, then the proposed quarry developments could fall inside them, compromising protection of the wetlands. LCI describes some of these changes under the developed condition, and some changes under the existing conditions. Wetland 4 scored 18 points for water quality, and has the opportunity to improve water quality because of clear-cut logging in the basin to the west and south and because the logged soil units surrounding the wetland are rated by the NRCS as having "Severe" and "Very Severe" erosion hazard when disturbed".

Comment #19

Uealnd CUP Conditions - Public Trail - Legal Review

Eric Baker <Ebaker@co.kitsap.wa.us>

Fri 4/22/2016 9:00 AM

To: JackStanfill@hotmail.com <JackStanfill@hotmail.com>;

Cc: Edward E. Wolfe <ewolfe@co.kitsap.wa.us>;

Greetings:

Thank you for your patience as staff fully reviewed your questions regarding the Ueland CUP and whether there was a requirement for public trails. Multiple staff and then legal reviewed the multiple documents that apply to this approval to come to the conclusions below.

Based upon County review, we can find no requirement for public trails in the Ueland CUP.

You argued in your email that Paragraph 4 on page 6 of 117 of the approval "mirrors what's in the Draft EIS". Paragraph 4 is a Finding, and does not impose conditions. While it does appear to mirror the description of "current recreational use" described in the DSEIS (section 12.2.1), it is not required mitigation.

Paragraph 4 states:

> The subject property is currently managed for commercial forestry and a majority of the property supports third-growth conifer forest. Commercial forestry management includes tree harvest, tree planting, fertilizer and herbicide application, forest reclamation, and management activities. The subject property has been logged in stages, with some areas cleared as recently as 2003 and other forested areas not cleared since 1943. A network of unpaved roads on the property supports commercial forestry activities, and serves as a de facto trail system for the public, which has informally used the property for hiking, biking, horseback riding, camping, hunting, and wildlife viewing. No structures or residences currently exist on the subject property. There are several small borrow areas on the subject property where sand, gravel, and hard rock have been mined from the site to aid in construction of existing onsite access roads. *Exhibit 90;Exhibit 92.*

The conditions of approval (page 85) state that the mitigation and best management practices outlined in the DEIS are imposed, including those for recreation. However, there are no mitigation measures proposed in the DEIS for recreation, and it only states that it *may* be used for recreational use. Section 12.4 states:

> **12.4 MITIGATION MEASURES**
> The proposed UTF Mineral Resource Development Project is not expected to have significant impacts on the recreational resources on the UTF property or in the surrounding area. Because the portions of the UTF property not proposed for development may remain available for continued, although unauthorized, recreational use, mitigation is not proposed.

I am sorry that this review does not support you conclusions regarding public access. However, Kitsap is actively pursuing a easement with Ueland through the property that would allow full public access. That hopefully will resolve the access issues that you and members of your organizations have been having. Those discussions will continue into the summer.

Comment #19

Re: Kitsap Sun Bremerton Beat

Mark Mauren

Thu 12/28/2017 8:21 AM

To: Jack Stanfill <JackStanfill@hotmail.com>;

Cc: jfarley@kitsapsun.com <jfarley@kitsapsun.com>; david nelson <david.nelson@kitsapsun.com>; craig@uelandfamily.com <craig@uelandfamily.com>; Micah Waterfalls Kipple <micahkipple@gmail.com>; Micah Kipple <godsfireworks@yahoo.com>;

Hi Jack

Thanks for asking if you would be allowed to access Ueland Tree Farm for Micah's tour/discussion of the geologic history of Kitsap County. We remain hopeful that one day we will have a mutually respectful relationship with the Chico Creek Task Force and can reopen the tree farm to you for recreational access, as we have done with other past members of your group.

Unfortunately, we have not yet achieved that with you and the ban is still in place. Your recent comments on our SDAP application to build an access road at Kitsap Quarry highlights the challenges that remain. Your comments on the project focused on a previously approved CUP rather than the project at hand and included personal attacks that we believe were inappropriate.

I talked with Micah late yesterday and he graciously volunteered to give you a one on one tour on another site in Kitsap County so he could provide you with similar geological information that he will present on Saturday at Ueland Tree Farm. I hope you will take Micah up on his generous offer.

Sincerely;

Mark

On Wed, Dec 27, 2017 at 2:55 PM, Jack Stanfill <JackStanfill@hotmail.com> wrote:

Hello Mark,

I have registered to accompany Josh Farley, Kitsap Sun reporter, on a "Bremerton Beat" hike to the Dickerson Creek Waterfall on December 30, 2017. Of course the Chico Creek Task Forces realizes Mr. Ueland has ordered us to not go on the trails on his property. If this ban for us is still in force, please let me know.

Thank you,

Jack Stanfill, President
Chico Creek Task Force

--
Mark Mauren
Chief Operating Officer
Ueland Tree Farm, LLC
(253) 307-5900
mauren.wa@gmail.com

Comment #21

BRICKLIN & NEWMAN LLP

lawyers working for the environment

Reply to: Seattle Office

July 30, 2018

VIA E-MAIL TO
CompPlan@co.kitsap.wa.us

Department of Community Development
614 Division St. – MS36
Port Orchard, WA 98366

RE: Public Comment for Site-specific Comp Plan Amendment 18-00431 (Ueland)

Dear DCD and Planning Commission:

On behalf our client, the Chico Creek Task Force, we submit the following public comment regarding the proposed site-specific comprehensive plan amendment no. 18-00431 for Ueland Tree Farm LLC.

The proposed site-specific comprehensive plan amendment should be denied. The proposed amendment is forbidden by the Growth Management Act's special protections for forest lands of long-term commercial significance and by Kitsap County's regulations for forest and mineral resource lands.

I. PROJECT DESCRIPTION

Ueland Tree Farm ("Ueland") asks the County to amend its comprehensive plan map to change the current designation of five tax parcels owned by Ueland. Currently, all five of these tax parcels are designated "Forest Resource Land" in the comp plan. Ueland seeks to have the parcels re-designated "Mineral Resource Overlay."

According to Ueland's comp plan amendment application, the five parcels, totaling 96.57 acres, will eventually host a 39.2-acre basalt quarry. This basalt quarry, designated Quarry C, is one part of a larger, multi-quarry project on the 1,646-acre Ueland Tree Farm.

Ueland has a conditional use permit and a development agreement with the County that allow Ueland to have the multi-quarry project. However, neither of these documents creates a rezone or change to the comp plan. The development agreement specifically says that the County agrees to "consider" (not promise) an amendment to the comp plan to rezone or overlay any forest resource land—but the County is not required to grant any such rezone or overlay.

Perhaps in an effort to conceal the true impact of its project, Ueland's comp plan amendment application misleadingly claims that "aggregate extractions sites" (such as basalt mining) are permitted uses on both forest resource and mineral resource lands. In reality, aggregate extraction sites are allowed on forest resource land only when the aggregate extraction site is "no greater than two acres for the purpose of construction and maintenance of a timber management road system, provided the total parcel is at least twenty acres." KCC 17.410.050.A.4. In other words, forest resource lands are not intended to be mined or graded, unless such mining or grading is necessary for the practice of forestry. So, despite its misleading application, Ueland cannot have a basalt mine on forest resource lands without an amendment to the comp plan that re-designates the parcels as mineral resource overlay.

Ueland claims, in its application materials, that the 2016 update to the comp plan was intended to re-designate these parcels mineral resource overlay. The only reason the 2016 update did not re-designate the parcels, according to Ueland, was because the parcels were "accidentally dropped at the last minute" from the comp plan update process due to staff change.

Ueland's application offers no evidence that the five forest resource parcels were ever intended to be re-designated as mineral resource overlay. Nor does Ueland offer any evidence that the re-designation, if it ever existed, was "accidentally dropped at the last minute" from the comp plan update process. Nor does Ueland offer any proof that staff change has any bearing on the parcels' re-designation. These are all unsupported assertions.

Despite the lack of evidence for Ueland's assertions, the County's staff report accepted Ueland's narrative of the accidental drop. The County staff finds no violation of the comp plan, the comp plan amendment process, or the land use code, and accordingly recommends approval of the amendment.

II. VIOLATION OF THE GROWTH MANAGEMENT ACT: INITIAL DESIGNATION OF FOREST RESOURCES LAND

The proposed amendment violates the Growth Management Act (GMA). The GMA has special protections for forestlands of long-term commercial significance, which our state needs to support the ailing timber industry. By re-designating Ueland's forest resource lands as mineral resource overlay lands, the proposed amendment unlawfully deprives these forestlands of their GMA protection.

Under the GMA, "forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production and that has long-term commercial significance. These lands are referred to in the GMA as forest resource lands to distinguish between formally designated lands, and other lands used for forestry purposes. WAC 365-190-030.

Counties planning under the GMA are required to formally designate forest resource lands when they create their comp plans. WAC 365-190-040(2). Kitsap County began the process of designating forest lands in 1992, with its "Strategies for Resource Lands Designations and Interim Development Regulations" document. *See Bremerton v. Kitsap County*, GMHB No. 95-3-0039 (Final Decision and Order, Oct. 6, 1995). The process of designating forest resource lands in Kitsap County was enormously contentious and resulted in multiple trips to the Growth Management Hearings Board and the state courts. *See generally, Manke Lumber Co. v. Central Puget Sound Growth Management Hearings Bd.*, 113 Wn. App. 615, 53 P.3d 1011 (2002).

The five parcels at issue in this case were originally designated interim rural forest lands in the 1998 comp plan. But the 1998 comp plan was invalidated by the GMHB for failure to designate any forest resource lands, as required by the GMA. In 1999, the County passed ordinance 229-1999, designating forest resource lands within the county. *See Screen v. Kitsap County*, GMHB No. 98-3-0032c (Order on Compliance, Oct. 11, 1999).

The five parcels were designated forest resource lands in Ord. No. 229-1999. In other words, these five parcels have always been forest resource lands for as long as that category has existed in Kitsap County.

Ueland now seeks to upset this carefully crafted, much-litigated designation by re-designating the five parcels mineral resources overlay. However, the GMA makes clear that such a re-designation would be unlawful.

When counties classify lands as forest resource lands, they "must approach the effort as a county-wide or regional process…Counties and cities should not review forest resource lands designations solely on a parcel-by-parcel basis." WAC 365-190-060(1). Yet a parcel-by-parcel review of these five forest resource lands parcels is exactly what Ueland asks the County to do.

The only way a county can amend a forest resource lands designation is if there has been one or more of the following:

> (i) A change in circumstances pertaining to the comprehensive plan or public policy related to designation criteria in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3);
>
> (ii) A change in circumstances to the subject property, which is beyond the control of the landowner and is related to designation criteria in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3);
>
> (iii) An error in designation or failure to designate;
>
> (iv) New information on natural resource land or critical area status related to the designation criteria in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3); or

> (v) A change in population growth rates, or consumption rates, especially of mineral resources.

WAC 365-190-040(10)(b).

These GMA rules for forest resource lands amendments are repeated in substantially similar form in the Kitsap County Code. KCC 21.08.070.D.4.b. The Kitsap County Code adds the additional requirement that "any proposed change to land designated as natural resource land shall recognize that natural resource designations **are intended to be long-term designations**."

Ueland has invoked the rules' third exception, claiming that the "initial designation" was in error. The County's staff report also relies on a supposed "initial designation" error. In both cases, the claimed error is the County's supposed last-minute, accidental dropping of the five parcels from the 2016 comp plan update process. As described above, there is no evidence that any such error actually occurred.

More importantly, as a matter of law, even if there had been an accidental dropping of the five parcels, that still would not constitute an error in "initial designation." These five parcels were not designated forest resource lands in 2016 during the comp plan update. They were designated forest resource lands in 1999, in accordance with the GMHB's orders. If Ueland and the County want to claim an error in the parcel's *initial* designation as forest resource lands, that is the moment they must point to. By 2016, the parcels had already carried this *initial* designation for 17 years.[1]

The GMHB has ruled that landowners wishing to claim mistaken designation of forest resource lands must do so at the time the "mistaken" designation occurs—especially if, as here, the landowner first logs the forest land and then turns around and claims that the forest land's designation as forest land was a mistake. *Forster Woods Homeowners' Ass'n. v. King County*, GMHB No. 01-3-0008c, n. 5 (Final Decision and Order, Nov. 6, 2001) ("To advance such an argument at this time is ironic, if not disingenuous."). It is far too late for Ueland to claim there has been any error in initial designation of these five parcels. The comp plans and planning documents of the 1990s were litigated *ad nauseam*. Ueland should have brought his claim of error during that litigation, or if he came to the land after the 1990s, he should have performed due diligence on the zoning of the land prior to his purchase.

Because Ueland and the County do not claim any other basis for re-designating these five parcels besides the factually and legally erroneous claim that there was a mistake in the parcels' initial designation, the proposed comp plan amendment must be denied.

---

[1] In fact, Ueland itself harvested these parcels in 2016, replanted Douglas-fir on the parcels, and indicated to DNR at that time that Ueland was *not* planning to convert the parcels to non-forest use within the next three years. *See* DNR, Forest Practices Application No. 2418465, dated Feb. 29, 2016. In other words, Ueland itself has treated these parcels as forest resource lands, just as the comp plan says they are.

III. VIOLATION OF THE GROWTH MANAGEMENT ACT: MINING IS AN INCOMPATIBLE USE OF FOREST RESOURCES LAND

When counties are designating natural resource lands, it is possible that a forest resource land may also be a mineral resource land. Under such circumstances, the County must decide if the two uses are incompatible. If they are incompatible, the County must decide which of the competing uses is more important and assign the land to that use. WAC 365-190-040(7)(b). *See Weyerhauser v. Thurston County*, GMHB No. 10-2-0020c (Compliance Order, July 17, 2012).

As described earlier, the Kitsap County Code does not allow mining on forest resources land, except under limited circumstances in support of forestry. Thus, Kitsap County has determined that mining is incompatible on forest resources lands. In fact, the 2016 comp plan specifically allows forestry to occur on mineral resource lands, but does not provide for mining to occur on forest resource lands. *Compare* Land Use Policy No. 83 (forestry allowed in mineral lands) *with* Land Use Goal No. 15 (saying nothing about allowing mining in forestry lands).

Because Kitsap County has determined that forestry and mining are incompatible, and that forestry is the higher use, the County may not re-designate the five forest resources land parcel as mining resources land.

Nor may the County rely on Ueland's promise to restore the land after basalt mining is complete. First, it is far from clear that land that has been mined for basalt even can be restored to commercial forest production. Second, Ueland's 2009 FEIS states that Quarry C will operate for at least 22 years (2037-2059). Following that, there will be a one-year reclamation period. *See FEIS* at 1-12. Even assuming there will be perfect reforestation following reclamation, an assumption for which there is no evidence, forestry operations would be disrupted for 23 years at the very least—and the disruption would actually be much longer, since Douglas-fir typically takes around 40 years after planting to reach merchantable size. Re-designating the five parcels means the end of timber production for the rest of our lifetimes, assuming timber can ever return to land that has been quarried for basalt.

These parcels are forests of *long-term* commercial significance. Under the GMA regulations, long-term commercial significance means maintaining forestry on these parcels for the next 20 years. WAC 365-190-030(11). Yet instead of maintaining forestry for decades, Ueland proposes to displace forestry for decades—and possibly permanently, if reforestation does not succeed, which there is no evidence that it will.

IV. VIOLATION OF THE KITSAP COUNTY CODE: COMP PLAN COMPATIBILITY

One of the criteria for granting a site-specific comp plan amendment is that the proposed amendment must be "consistent with the balance of the goals, policies and objectives of the Kitsap County Comprehensive Plan and reflects the local circumstances of the county." KCC 21.08.070.D.1.b.

As described above, the comp plan promotes forestry above mining and does not treat them as compatible.

The County's staff report considers only language in the comp plan promoting mining in general under Land Use Goal 15 and its associated policies. The staff report does not once consider the very next section of the comp plan, Land Use Goal 16, which shows that forestry is a more preferred use than mining.

The County's failure to balance (or even consider) forestry against mining is a violation of KCC 21.08.070.D.1.b. A proper balancing analysis would reveal that forest resource lands must stay in forestry production, not be converted to mining.

V. VIOLATION OF THE KITSAP COUNTY CODE: PARCEL SIZES

Under the Kitsap County Code, any parcels in mineral resource lands must be at least 20 acres in size, unless the entire parcel is used only for extraction. KCC 17.420.060.A.30.

The staff report claims that four of the five parcels each have an area of 20 acres. This is incorrect. The true acreages, according to County property records, are as follows:

242401-4-005-1008:	19.61 acres.
242401-4-006-1007:	19.63 acres.
242401-4-007-1006:	19.64 acres.
242401-4-008-1005:	19.66 acres.
192401-3-005-2005:	16.27 acres.
Total:	94.81 acres.

Thus, the parcels are smaller than 20 acres, and do not qualify for the mineral designation.

According to Ueland's application, the total mining area across the five parcels will be 39.2 acres. But this demonstrates that the entirety of the parcels will not be used for extraction. It is a violation of the County Code to designate parcels smaller than 20 acres for mineral resource overlay, if portions of the parcels have no mining purpose.

VI. VIOLATION OF THE KITSAP COUNTY CODE: CONCURRENT REZONE

As described earlier, Ueland's development agreement with the County does not effectuate a rezone. It merely provides that the county will consider a possible rezone. Yet the County Code on development agreements says that "If the proposal requires a zoning map change, the zoning change shall be adopted by ordinance concurrently with the resolution approving the development agreement." KCC 21.04.220.E.

Here, there was never any *concurrent* rezone ordinance. Instead, Ueland is seeking a *post hoc* rezone ordinance. This is a violation of the County Code's procedures for development agreements. Ueland should have sought this rezone at the time the agreement was signed. The County has no obligation—and would in fact be violating the County Code on development agreements—to grant it now.

VII. CONCLUSION

Rezoning forest resource lands is not like rezoning other types of properties. Under the GMA and the Kitsap County Code, forest resource lands are preserved for the long term. They cannot be rezoned merely because some other, more profitable use presents itself to the landowner. Ueland and the County have failed to make the findings required under the law to re-designate these five parcels. The Planning Commission should reject the proposed comp plan amendment.

Very truly yours,

BRICKLIN & NEWMAN, LLP

Alex Sidles
Attorney for Chico Creek Task Force

cc: Client

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Comment #22

Reply all | Delete Junk | •••

FW: Zoning Incorrect?

LW Liz Williams
Yesterday, 8:52 AM
Rhea Canas

Reply all |

COMP Plan Public Comments

Hi Rhea,
Will you please add the items referenced below to the public comment submitted by Mr. Stanfill. Please let me know if you have questions on what to include.
Thanks,
Liz

From: Liz Williams
Sent: Monday, August 6, 2018 5:16 PM
To: Louisa Garbo <lgarbo@co.kitsap.wa.us>; Jack Stanfill <JackStanfill@hotmail.com>
Cc: bricklin@bnd-law.com; sidles@bnd-law.com; Scott Diener <SDiener@co.kitsap.wa.us>; alison <aosullivan@suquamish.nsn.us>; Peggy Cahill <cahill@bnd-law.com>; Bob Buck <bobbuck69@gmail.com>; Tim Little <rose@rosefdn.org>; pdutky@gmail.com; Dianne Iverson <dianneivr@comcast.net>; EastonShepard11@gmail.com; david nelson <david.nelson@kitsapsun.com>; Scott Diener <SDiener@co.kitsap.wa.us>; Dave Ward <dward@co.kitsap.wa.us>
Subject: RE: Zoning Incorrect?

Hi Jack,

This message is to verify that we will add the information referenced below to your public comment regarding proposed amendment 18-00431.

Thanks,

Liz Williams
Planner
Planning and Environmental Programs
Kitsap County Department of Community Development
(360)337-5777 ext. 3036
lwilliam@co.kitsap.wa.us

From: Louisa Garbo
Sent: Monday, August 6, 2018 8:17 AM
To: Jack Stanfill <JackStanfill@hotmail.com>
Cc: bricklin@bnd-law.com; sidles@bnd-law.com; Scott Diener <SDiener@co.kitsap.wa.us>; alison <aosullivan@suquamish.nsn.us>; Peggy Cahill <cahill@bnd-law.com>; Bob Buck <bobbuck69@gmail.com>; Tim Little <rose@rosefdn.org>; pdutky@gmail.com; Dianne Iverson <dianneivr@comcast.net>; EastonShepard11@gmail.com; david nelson <david.nelson@kitsapsun.com>; Scott Diener <SDiener@co.kitsap.wa.us>; Liz Williams <lwilliam@co.kitsap.wa.us>; Dave Ward <dward@co.kitsap.wa.us>
Subject: RE: Zoning Incorrect?

Comment #22

Reply all | Delete Junk | •••

Louisa

From: Jack Stanfill <JackStanfill@hotmail.com>
Sent: Sunday, August 5, 2018 10:30 PM
To: Louisa Garbo <lgarbo@co.kitsap.wa.us>
Cc: bricklin@bnd-law.com; sidles@bnd-law.com; Scott Diener <SDiener@co.kitsap.wa.us>; alison <aosullivan@suquamish.nsn.us>; Peggy Cahill <cahill@bnd-law.com>; Bob Buck <bobbuck69@gmail.com>; Tim Little <rose@rosefdn.org>; Jack Stanfill <jackstanfill@hotmail.com>; pdutky@gmail.com; Dianne Iverson <dianneivr@comcast.net>; EastonShepard11@gmail.com; david nelson <david.nelson@kitsapsun.com>
Subject: Fw: Zoning Incorrect?

Dear Director Garbo,

Will you please add Kitsap County Senior Manager, Scot Diener's August 23, 2017 email (below) to my comments concerning Public Comment for Ueland's Site-Specific Comp Plan Amendment 18-00431?

Mr. Diener's states, "Please note the zoning is not incorrect and has not been revisited anytime recently, including the 2016 Comprehensive Plan update. There is no error in the zoning, nor is there any plan to change the zoning designation(s)."

Mr. Diener also wrote, "**Finally, please know that the Ueland Tree Farm mining operation is vested to the code under which it was submitted, so that even additional development or restrictions were put in place, they could not impact what has been approved."**

The Ueland property, that Mr. Diener responded to me about with his email mentioned above, is **NOT** zoned with a mineral resource overlay.

Thank you for your help with this, and I hope someone at DCD will respond that these comments have been added to the comments for Ueland's 18-00431.

Best Regards,

Jack Stanfill, President - Registered Agent
Chico Creek Task Force
2461 Northlake Way NW
Bremerton WA 98312

From: Scott Diener <SDiener@co.kitsap.wa.us>
Sent: Wednesday, August 23, 2017 9:50 AM
To: Jack Stanfill (jackstanfill@hotmail.com)

Comment #22

Reply all | Delete Junk | •••

Subject: FW: Zoning Incorrect?

Jack:

Kitsap County has considered your email of July 21, 2017. The County certainly understands your desire to remain vigilant about natural systems in your area. To help you understand more we have prepared additional information. Please note this response does not address any of the area that is under the City of Bremerton's jurisdiction.

Please note the zoning is not incorrect and has not been revisited anytime recently including during the 2016 Comprehensive Plan update. There is no error in the zoning, nor is there any plan to change the zoning designation(s).

As to the 'green' or 'protection zone' which was outlined during the collaborative Gorst Subarea planning process with the City of Bremerton, please be aware that the 'planning tool designation' was a recommendation and was not given any subsequent legislative, regulatory or code-based standing by any agency or jurisdiction. There are no plans at this time to revisit the Gorst Subarea Plan or its findings. However, if you wish to gain momentum with your request for future consideration, you may wish to consult with the landowner (requests to impose development restrictions on another's land are often easier to support if the landowner agrees).

Finally, please know that the Ueland Tree Farm mining operation is vested to the code under which it was submitted, so that even if additional development regulations or restrictions were put into place, they could not impact what has been approved.

We hope that this email informs you more of the circumstances of the area and the nonbinding recommendations of the Gorst Subarea Plan. Please feel free to contact me if you have further 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
t: 360-337-5777
f: 360-337-4415
//kitsapgov.com/DCD

From: Jack Stanfill <JackStanfill@hotmail.com>
Date: July 21, 2017 at 10:37:46 AM PDT
To: "ewolfe@co.kitsap.wa.us" <ewolfe@co.kitsap.wa.us>, "cgarrido@co.kitsap.wa.us" <cgarrido@co.kitsap.wa.us>, "rgelder@co.kitsap.wa.us" <rgelder@co.kitsap.wa.us>

Comment #22

Reply all | Delete Junk | •••

<jmcnichols@kuow.org>, Christopher Dunagan <chrisbdunagan@gmail.com>
Subject: Zoning Incorrect?

Dear Commissioners,

We are concerned with the current zoning of the Heins Basin that includes all of the UTF Quarry B, and about half of Quarry C. Since the original FEIS in 2009, the Washington Department of Ecology has designated that portion of the Heins Basin as a "Green Zone".

Kitsap County has it zoned for urban development with a mineral overlay. This appears to be in conflict with the allowed uses of the uphill property. We seek to ensure this area is protected per WDOE regulations. What do we need to do to start a progressive action with the County to make this happen?

Thank you,

Jack Stanfill

August 5, 2018

This statement is regarding the Site-Specific Amendment involving Roland Culbertson and Kitsap Reclamation & Materials, Inc. request for Land Use Change from Rural Protection to Mineral Resource Overlay.

Submitted by Sally and Blake Harrison, landowners of 2987 and 2957 Sand Dollar Road West, Bremerton, WA.

We understand the need for additional gravel resources in our county. Kitsap County is growing and needs a reliable source of gravel. From a business perspective, it makes sense to expand the former reach of the KRM quarry since it is already established. However, we need to illustrate the consequences of what we've been dealing with for the past 25 years living as close as we are to this property.

Since speaking at the first open house last month, we have done research into the sale of KRM to ACG Materials who is ultimately owned by the global private equity/alternative assets investment firm HIG. It feels to us like a David vs. Goliath situation. Although significant, the neighborhood voice is small compared to the assets of big business. It's very difficult - to say the least – to have our life-long investment plans threatened with annihilation.

When we bought our land in 1992, we didn't realize KRM would soon be starting operations but they did and we dealt with the disruptive blasting and rock crushing that ensued. The Culbertson property was listed in the tax records as forest land, and has been so for most of our time here. We made attempts to contact the Culbertson family shortly after building our home to find out what their long-term plan for their property was at that time. It was part of our investment planning strategy. We never heard back from them.

When the quarry at the end of Werner Road shut down operations and business increased at KRM, settling issues increased for us as I mentioned at the first open house, and illustrated with photos.

We've been considering building a single-level retirement home on the property at 2957 Sand Dollar Rd. West, which is directly adjacent to the to the property being considered for rezoning. We thought we'd be able to continue enjoying the natural environment and wildlife that we've become accustomed to over the years. We've always considered ourselves informal protectors of the watershed next to us.

We had no inkling heading toward retirement that we'd be facing the challenge of having to spend the time and energy fighting to protect our property value. We've already spent a significant amount of money on maintenance and repairs due to settling over time. Even without the quarry expanding next to us, we are still legally bound to disclose to any potential buyers the settling issues we've experienced.

It's given us a very slim ray of hope to hear about the resolution of a similar situation playing out in Mason County with Grump Ventures.

In essence, if this land use change is approved and the quarry is expanded, our property value will be significantly devalued. Even if operations are well monitored and regulated, with strong legal assurances in place to rectify further property damage, including possible damage to the aquifer we rely on for water, the resale value will be negatively impacted from what we hoped to recoup on our investment.

Another impact we'd like to see addressed is in regard to the existing wildlife population. It doesn't seem like very acceptable wildlife management to simply have them chased out of their habitat by destruction of said habitat.

There are more questions occurring to us as this process proceeds. We feel that the time allotment we've been given to respond to this rezoning situation has been inadequate to fully address all issues.

We strongly urge the business interests involved in this situation to consider a more remote location for a quarry site, perhaps more like this area was 25+ years ago. It is pointed out in the geological survey that there are extensive basalt resources in the Green and Gold Mountain areas which, while less accessible, are less populated.

Thank you very much for your time, attention and consideration of our plight.

Sincerely,

Sally and Blake Harrison


Comment #27
Eastern face
of House


Concrete Deck Looking South
Comment #27

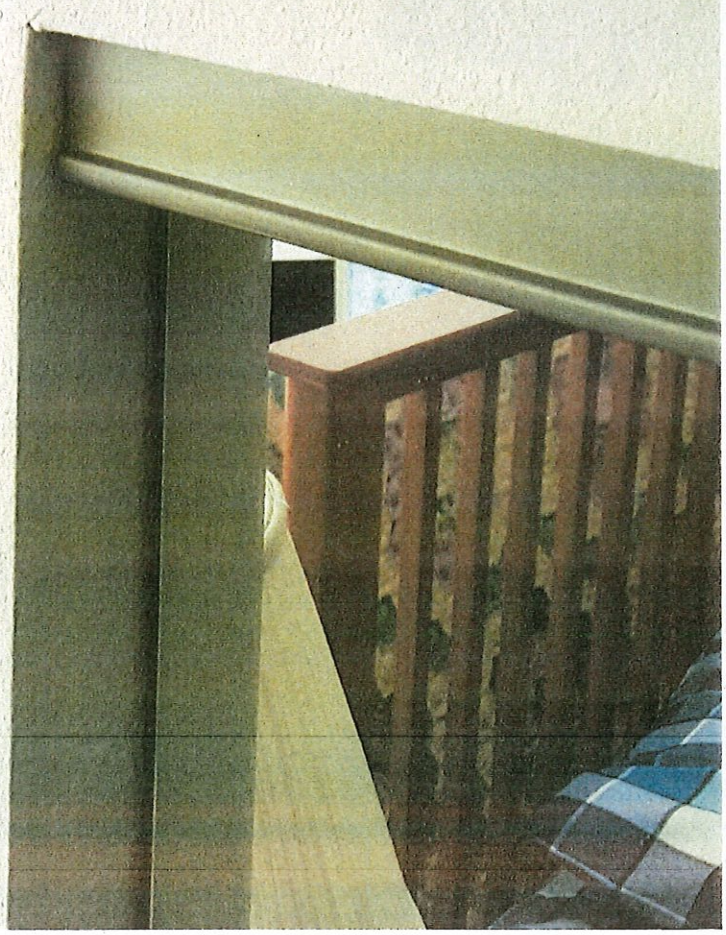

NE Corner of Deck ①
Comment #27


NE Corner of Deck
rotated Left of (1)
Comment #27


Deck Door ↑
Middle of Deck
Comment #27

loft
- Repaired w/ spackle + paint

Comment #27




Support Beam @
bottom of stairway
Comment #27


Garage
Comment #27

Comment #33

Struck Environmental, Inc.
P.O. Box 2168, Poulsbo, WA 98370

TEL | 360-710-8661
EMAIL | phil@struckenv.com
WEB | StruckEnv.com

Submitted Via Email to CompPlan@co.kitsap.wa.us

August 7, 2018

Kitsap County Planning Commission
Kitsap County Department of Community Development
614 Division Street, MS-36
Port Orchard, WA 98366

Subject: Proposed Culbertson Site Specific Comprehensive Plan Amendment 18-00490
Additional Information Submitted in Response to Public Comments

Dear Planning Commission Members:

This letter is being submitted in response to public comments on the above referenced site-specific amendment proposal. Struck Environmental, Inc. (SEI) is providing this letter on behalf of the applicant Kitsap Reclamation and Materials, Inc. (KRM).

Response to Specific Concerns Expressed by Area Residents

Adjacent residential land owners have expressed concern about potential noise, dust, blasting and environmental impacts from the proposal. The following information is provided in response to these comments:

- Noise and Dust: The future quarry would be approximately 1,000-ft from adjacent existing residences (see attached Exhibit I) based on information from the Kitsap County GIS parcel mapper. This separation will significantly mitigate impacts from quarry operations including noise and dust.

- Blasting: Each blast is monitored by seismographs located on the perimeter of the quarry. All monitoring results from locations over 300-ft from the quarry over the last four years met the federal standard that is based on prevention of plaster cracking, which is the building feature typically considered most sensitive to ground movement.

- Environmental Resources: there are no fish bearing streams on the site and the site is not located in the Gorst Creek watershed. An adjacent wetland would only encroach onto a small area on the west side of the site, if at all, and would be buffered pursuant to Kitsap County standards.

- Groundwater resources: groundwater is discontinuous within the basalt formation and is typically encountered only in localized fractures. The quarry setback would provide significant protection of localized groundwater that is used for potable supply.

Site Suitability

The existing quarry has been in operation for over 20 years and has an excellent history of compliance with applicable standards, and responsiveness to neighbor concerns. The four attached letters from adjacent property owners, all located within 300-ft of the site, attest to KRM's effective mitigation of impacts from blasting and other quarry operations.

Overall, KRM believes the Culbertson property is well suited for the proposed zoning designation. There is undeveloped forest land or industrial land use on three of four sides, and on approximately 80 percent of the site perimeter. Adjacent residential use is very low density and the portion of the site to be mined will be separated from existing residential structures by approximately 1,000-ft of natural vegetation and slopes.

Consistency with Kitsap County Policy

KRM understands that any future development proposal on the site would be reviewed through a conditional use process, and KRM is committed to conducting the necessary assessments and studies to ensure that future operations mitigate impacts in accordance with applicable policies, standards and regulations. The conditional use process will ensure that the site's significant mineral reserves would be developed in a manner that is compatible with existing adjacent land uses.

In closing, we trust that this letter demonstrates the proposed MR designation is appropriate for the site and consistent with Kitsap County policy for designation and protection of commercially significant and locally important mineral resource lands.

Thank you for your consideration of this letter. If you have any questions or need any information, please contact me any time.

Sincerely,
STRUCK ENVIRONMENTAL, INC.

Phil Struck
Principal

Attachments

cc: Liz Williams, Kitsap County DCD
Peter Best, Kitsap County DCD
Pat Lockhart, KRM

Comment #33

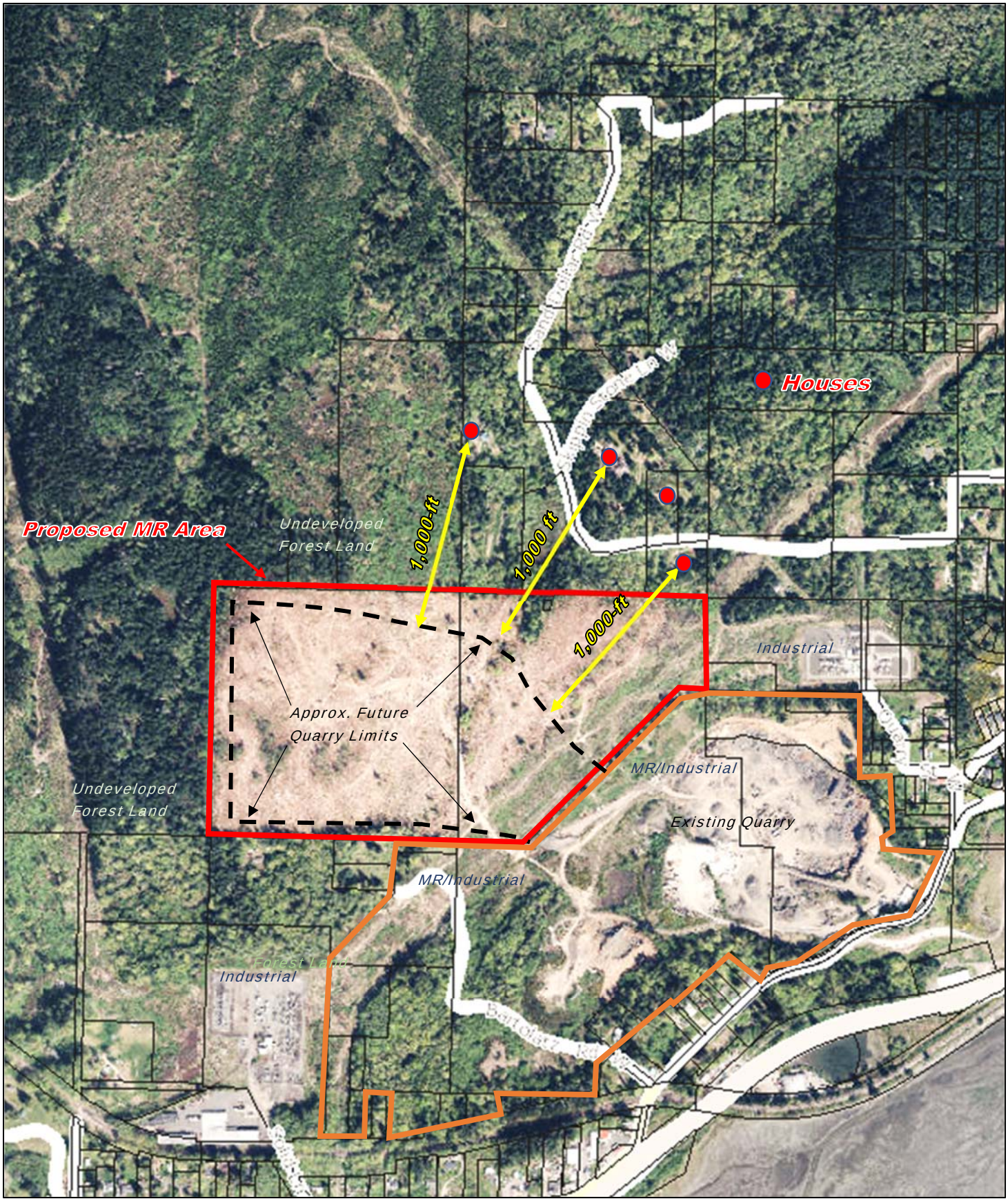


EXHIBIT I.
Culbertson Site Specific Comprehensive Plan Amendment
Mineral Resource Designation
Adjacent Residential Land Use and Setbacks

August 7,2018

Comment #33

Lawrence Ether
5988 Sherman Hts Rd
Bremerton, WA

July 25, 2018

Pat Lockhart
Kitsap Reclamation and Materials, Inc.
3020 W. Sherman Heights Road
Bremerton, WA 98312

Subject: KRM Quarry Operations

Pat:

This letter is regarding quarry operations and impacts to my property. My property is located about 200-ft from the quarry.

Blasting at the quarry has not caused any structure damage to our buildings such as foundation, wall or window cracking. We have also not felt any ground vibrations from blasting. Overall, the quarry has been a good neighbor.

Sincerely,

Lawrence J Ether

Comment #33

Kenneth Stearns

2723 Quarry ST

Bremerton, WA. 98312

July 25, 2018

Pat Lockhart
Kitsap Reclamation and Materials, Inc.
3020 W. Sherman Heights Road
Bremerton, WA 98312

Subject: KRM Quarry Operations

Pat:

This letter is regarding quarry operations and impacts to my property. My property is located about 200-ft from the quarry. The quarry has been a good neighbor and we have not had any impacts to our residence due to blasting at the quarry.

Sincerely,

Kenneth Stearns

Comment #33

Karin J. Stanley
5712 Sherman Hts. Rd.
Bremerton, Wa.

July 25, 2018

Pat Lockhart
Kitsap Reclamation and Materials, Inc.
3020 W. Sherman Heights Road
Bremerton, WA 98312

Subject: KRM Quarry Operations

Pat:

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Sincerely,

Karin J. Stanley

Comment #33

6000 W Sherman Heights

Bremerton, WA 98312

Tyler Miller

July 25, 2018

Pat Lockhart
Kitsap Reclamation and Materials, Inc.
3020 W. Sherman Heights Road
Bremerton, WA 98312

Subject: KRM Quarry Operations

Pat:

This letter is regarding quarry operations and impacts to my property. My property is located about 200-ft from the quarry.

Blasting at the quarry has not caused any structure damage to our buildings such as foundation, wall or window cracking. We have also not felt any ground vibrations from blasting. Overall, the quarry has been a good neighbor.

Sincerely,

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Comment #34

FW: Mineral Resource Overlay at KRM/ACG

Liz Williams

Tue 8/7/2018 9:47 AM

To: Rhea Canas <rcanas@co.kitsap.wa.us>;

Hi Rhea,

Can you please add the comment below from Mr. Bennett to the public comment matrix?

Thanks,

Liz

From: Liz Williams
Sent: Monday, August 6, 2018 5:17 PM
To: ericmbennett12@gmail.com
Cc: Comp Plan <compplan@co.kitsap.wa.us>
Subject: RE: Mineral Resource Overlay at KRM/ACG

Hi Eric,

Thank you for reaching out to the Department of Community Development regarding the Culberson Comprehensive Plan amendment.

We strive to provide public notification in a number of ways to ensure public participation in this important process. For this amendment notification was provided via:

- Our Online Open House: https://spf.kitsapgov.com/dcd/Pages/2018-Comprehensive-Plan-Amendments.aspx
- Legal notice published in the Kitsap Sun newspaper;
- Broadcast announcements via email, text message, Facebook.com, Twitter.com, and Nextdoor.com;
- Notice signs posted on site-specific amendment properties;
- Postcard notices mailed to property owners located 800 feet from site-specific amendments and other geographically specific amendments; and
- Formal letters to Tribes with usual and accustomed area in Kitsap County.

We took a look at our records and it appears your property is located more than 800 feet from the subject site which is why you did not receive a post card mailing regarding the request. Kitsap County does have an electronic notification system which you can sign up for at the following link: https://public.govdelivery.com/accounts/WAKITSAP/subscriber/new. You will want to select the “Comprehensive Plan Announcements” list to ensure you receive all future project announcements regarding the proposed amendment.

You mentioned that the proposed truck route will be on Quarry Street. Based on the application materials submitted it is our understanding that all truck traffic will utilize the existing quarry entrance on West Sherman Heights Road. To address potential impacts associated with future development, the Department is recommending changes to the Kitsap County Code that would require the applicant to obtain a conditional use permit prior to a “mineral resource extraction” development occurring on the site. The conditional use permit process will allow public participation in identifying impacts and proposed mitigation measures to address the impacts associated with any future site development activities.

Comment #34

We understand that you missed the open house and public hearing. Please note that public comment for the Planning Commission's consideration is currently being accepted until 11:59 PM on August 7th. We encourage you to provide public comment on the proposed amendment using one of the following means:

- Online comment form: https://app.smartsheet.com/b/form/d542ec4c01a44275943da3c983473b50
- Emailed to CompPlan@co.kitsap.wa.us;
- Mailed to 614 Division St - MS36, Port Orchard, WA 98366; or
- Dropped off at the Permit Center at 619 Division St, Port Orchard.

I am available via phone or email to discuss the proposed amendment in greater detail.

Thanks,

Liz Williams
Planner
Planning and Environmental Programs
Kitsap County Department of Community Development
(360)337-5777 ext. 3036
lwilliam@co.kitsap.wa.us

From: Peter Best **On Behalf Of** Comp Plan
Sent: Monday, August 6, 2018 10:25 AM
To: Liz Williams <lwilliam@co.kitsap.wa.us>
Subject: FW: Mineral Resource Overlay at KRM/ACG

Liz,

Can you provide a response to Mr. Bennett regarding the notification issue. Clarification regarding the truck route and process might also be helpful.

Peter

From: Eric Bennett <ericmbennett12@gmail.com>
Sent: Sunday, August 5, 2018 12:57 PM
To: Peter Best <pbest@co.kitsap.wa.us>; Comp Plan <compplan@co.kitsap.wa.us>
Subject: Mineral Resource Overlay at KRM/ACG

My wife and I are homeowners on Quarry Street. First, I'm curious as to why we didn't receive any type of notice regarding this proposed mining operation? From what I understand the proposed route for all the trucks will be up and down Quarry street which directly effects my family and I. Disregarding the fact this road isn't large enough for trucks and trailers to be running up and down the road all day and has a 90 degree blind corner, we have serious safety concerns for the families living in the impacted area. There are about 20-30 new houses built up on Sand Dollar Rd. There families with children, grandchildren, pets. People walk and ride bikes along Quarry all day long, I worry for the safety of everyone on this road.

We have submitted multiple noise complaints to Kitsap county regarding the noise levels of the Quarry. Noise levels often times were WELL above the permissible levels of the Kitsap County Noise

Comment #34

Ordinance. We've even met with the previous owner of Kitsap Reclamation and Materials. I find it hard to believe that a mining operation on top of that will be within 17.170.030.H.

Although it's not documented I'm sure the blasts from the quarry have structurally affected my house and houses around me. Now we'll have even more to deal with? Are there any safeguards for us?

How can 17.170.070 even be legal? If they throw a rock through my roof or I get some sort of health issue from all the dust and smoke, tough luck?

We're angry we weren't made aware of this until now, as I would've liked to have gone to the open house or public hearing but we're finding out second hand from a Sand Dollar resident.

And we're angry that something like this is even being considered.

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Comment #36

Download Show email

PB

Peggy Bishop <pegb2852@hotmail.com>

Mon 8/6, 8:57 PM

Comp Plan; elz850@yahoo.com; Peter Best

Reply all

Fw__.zip

11 MB

Download Save to OneDrive - Kitsap County

My husband and I have resided at 2708 Quarry St., Bremerton 98312, since 1976. We built onto our home in 1984 after the former mining company (Pioneer Quarry) was permanently shut down in 1983.

We were not provided with any notices regarding the proposed amendment and the sale of the sale of KRM to a huge mega corporation. The quarry was to be forever shut down in 1983.

The history of the quarry is as follows:

1. April 14, 1983: Prior mining operation (Pioneer Quarry) permanently shut down via Kitsap County Superior Order. You should have a copy of the Order provided by Elfie Zaeh.
2. July, 1986: US Navy requested use of the prior quarry site to dump dredged waste and bury it at the site. After hearings, an article in the Kitsap Sun and a TV news interview with Bryan Johnson, the request was denied.
3. 1993: KRM quietly started business as a recycling center for brush, trees, natural vegetation, etc.
4. Approximately 2005? KRM started mining operations and shut down the recycling business.
5. 2008: We were given notice that the quarry operations were expanding their quarry operations.

I could not possibly give you all of the details of the county officials, the numerous complaints to KRM and Pat Lockhart that I have dealt with from the beginning. I have spoken with and emailed Commissioner Garrido (2 years or so ago), I have talked to the fire marshall, the department of public works, on and on.

I have attached copies of my letter to Kitsap County dated August 29, 2008 and a letter from Parametrix (KRM's expert) dated June 11, 2009, addressing the county's concerns about the adjacent residential neighborhood. My letter to the county should give more details of what we have put up with from Pat Lockhart all of these years. I have much more to tell, but too much to write here. I have copious hand written notes of the blasts, the drilling, and on and on. We also have PHOTOS of the equipment on the ridge in 2016, which clearly show how far down the ridge has been taken

I respectfully request that you review the enclosed and DENY this ridiculous proposal. I cannot sell my home next to a rock quarry, my taxes should be reduced due to the location of my home, and Pat Lockhart should be made culpable for the damages to our homes, loss of quiet use and enjoyment, nuisance, etc.

Thank you for your consideration. Peggy Bishop

I called KRM in approximately May 2007, and believe I spoke with Travis Lockhart, to voice my objection to the blasting. Although I cannot recall exactly what he said, he basically told me that the quarry operations were well within what is allowed, and that he had previously placed some kind of monitor in our neighborhood to measure the impact of the blasts. A representative from the quarry came to my home while I was at work and spoke with my 19 year old daughter. My daughter was unable to relay what was said since the conversation was so technical.

The Quarry operations directly affect our neighborhood. Blasting shakes our homes and is damaging; the noise level is bothersome, not only from blasting, but from dumping, drilling, etc.; the large trucks entering and exiting the Quarry are a nuisance; dust is also a factor.

During the summer of 2007, from approximately August 20, 2007 through August 30, 2007, the quarry was jack-hammering and drilling on the west buffer which abuts our neighborhood. The jack-hammering and drilling went on some days all day long. The noise was absolutely deafening. In fact, I left my house on those days that I was off work because the noise was so loud and disrupting.

The map shows a 240 foot buffer – our homes range from approximately 240 feet to 375 feet from the west boundary of the quarry. Last summer, many of the very large long-standing fir and pine large trees sitting on top of the buffer abutting our neighborhood were blasted off of the buffer zone. I believe that the 240 foot buffer is less than what was supposed to be a 320-350 foot buffer.

We request that KRM mining operations be shut down entirely. Quarry operations were permanently closed down in 1983 by order of the Kitsap County Superior Court. Why should KRM be allowed to do now that which what was previously court ordered be permanently shut down?

We request copies of all written materials, notices of hearings, mitigation papers, and notice of all developments in this matter. Please advise if a hearing will be scheduled.

Sincerely,

Peggy A Bishop

Peggy A. Bishop
John H. Bishop
2708 Quarry St. W.
Bremerton, WA 98312
Email: pegb2852@hotmail.com
Home: 360-377-0941; Work: 360-876-4800

cc: Preston & Barbara Summers
Earl & Vicki Veach
Mary Ericksen

Comment #36

Proposed buffers:
Description of proposal to mitigate quarry impacts to adjacent residential neighborhood to the east. D. Grotham 8/10/09
(Extra copy attached).

Parametrix
4660 KITSAP WAY, SUITE A
BREMERTON, WA 98312
T. 360 . 377 . 0014 F. 360 . 479 . 5961
www.parametrix.com

June 11, 2009
PMX No. 233-2704-002 02/05

Dennis Oost
Kitsap County Department of Community Development
614 Division Street, MS-36
Port Orchard, WA 98366-4682

Re: Kitsap Reclamation and Materials, Inc. (KRMI), SDAP 05 30920
Cross-Sections and Buffers to Adjacent Property

Dear Mr. Oost:

The purpose of this letter is to respond to your email dated June 2, 2009 that requested the following information:

> *"To better help us understand the impact or lack of impact, please provide a couple of scaled sections of the working grades and final grade of the pit relative to the residential neighborhood that the ridgeline currently buffers."*

Pursuant to your request, attached please find three figures showing cross-sections through the east boundary of the site. Please note the following as you review these figures:

Section A-A: There is currently a 40-ft vertical buffer and 4300-ft horizontal buffer at this location (which is provided by adjacent property owned by KRMI property owners Pat and Cheryl Lockhart). At final grade, there will be a 70-ft vertical buffer and a 300-ft horizontal buffer.

Section B-B: There is currently a 100-ft vertical buffer and 300-ft horizontal buffer at this location to the nearest structure. At final grade, there will be an 80-ft vertical buffer and a 180-ft horizontal buffer.

Section C-C: There is currently a 100-ft vertical buffer and 700-ft horizontal buffer to the nearest structure at this location. At final grade, there will be a 70-ft vertical buffer and a 250-ft horizontal buffer.

The cross-sections demonstrate that significant vertical and horizontal buffers will be maintained between the quarry and adjacent residential areas. Potential impacts and mitigation measures associated with quarry operations adjacent to the east property boundary area are discussed below.

Potential Visual Impacts

The vertical buffer would be maintained throughout the project life; therefore, long term visual impacts are not expected. Short term visual impacts may occur due to land clearing activities during removal of the rock ridge; however, these impacts will be short-lived and will likely not exceed two construction seasons. No visual impacts

Comment #36

are associated with rock removal because this will occur by blasting benches from the working face on the inside of the quarry, which eliminates the need for excavating equipment on the eastern face of the rock ridge.

Potential Air Quality Impacts

The Puget Sound Clean Air Agency (PSCAA) is the regulatory agency for air quality and currently requires an air quality permit for the KRMI operation. As part of this permit, KRMI must provide on-going compliance with all local, state, and federal regulations, including the National Ambient Air Quality Standards (NAAQS) for PM10 and PM2.5 (particulate matter). KRMI controls fugitive dust emissions by using enclosed conveyors, wet suppression techniques, windbreaks, street sweeping and reducing the freefall distances for transferring materials. These controls, in conjunction with regulatory oversight by PSCAA, ensures that little if any fugitive dust leaves the project site.

Potential Noise Impacts

Potential noise impacts could be associated with clearing of the eastern face of the rock ridge in preparation for mining, blasting, and general operations within the quarry. Each of these potential impacts is discussed below.

Limited use of large equipment for clearing of the eastern face of the rock ridge may be needed to prepare the site for rock removal (i.e., vegetation removal and berms). This equipment could be working in locations not protected by existing topography, and noise from these activities would likely be audible at the nearest receivers. However, clearing and berm construction is a temporary construction activity, which is exempt from the County noise limits during daytime hours. These construction activities would occur only during daytime hours to minimize potential noise impacts. Therefore, construction-related noise is not expected to result in significant noise impacts.

Kitsap County's noise code identifies sounds created by blasting between the hours of 7 a.m. and 10 p.m. as exempt from the maximum permissible sound levels described in KCC 10.28.040. Blasting noise is therefore is not expected to result in significant noise impacts.

Noise impacts from general quarry operations are not expected to increase over existing levels due to several factors, including:

- The highest potential off-site noise impact would occur at residential property owned and controlled by the mine property owner. Noise impacts are a subjective response and may be influenced by relationships with a noise producer. Residents leasing property from KRMI would be allowed to move if they feel overly affected by noise related to the quarry.
- Blasting has been occurring at the site for over 15 years. Although blasting sound levels might be noticeable if they occurred in the absence of other noise sources (i.e., passing traffic, lawn maintenance activities, etc.), there is little potential for significant impact due to the short duration of each event coupled with the infrequency of the event (approximately once every month).
- Noise impacts from general quarry operations will not significantly change because large horizontal and vertical buffers will continue to be maintained, and the nature of quarry operations will remain essentially the same as under current conditions. Buffers will continue to shield adjacent properties and provide

Comment #36

Parametrix

significant noise dampening. While the quarry footprint is changing, it is occurring on property zone for Mineral Resource use and that has also supported quarry operations for several decades.

In conclusion, although construction related noise may occur during clearing, this impact is very short-term and exempt from Kitsap County noise standards. Noise attenuation for quarry operations will be provided by bo horizontal and vertical buffers and setbacks. Horizontal setbacks to adjacent residential areas range from 180- to 300-ft and consist of permanent buffers, reclamation setbacks, and adjacent property owned by the applica Permanent, undisturbed vegetation buffers to adjacent residential areas ranges from 50-ft to over 100-ft. Quar operations are shielded by existing quarry walls, and will be occurring at depths of at least 70-ft below adjace residential property. This combination of factors and mitigation measures will help prevent noise impacts.

We trust that this letter adequately responds to your comment. If you have any questions or need additio information, please contact me anytime at (360) 850-5340.

Sincerely,
Parametrix, Inc.

Phil Struck
Project Manager

cc: Travis Lockhart, KRMI
file

Attachments

This page intentionally left blank.

Comment #37

Download Show email

ES eddy solis <esolis85623@yahoo.com>
Yesterday, 11:50 PM
Comp Plan; Evelyn Solis <esolis803@gmail.com>; E S <esolis85623@yahoo.cor

Reply all

To whom it may concern,

I am writing on behalf of the Solis family as a whole.

My wife and I live at 2608 Skippin Stone Ln W off of Sand Dollar Rd W parcel: 292401-4-028-2004

We also own approximately 8.9 acres of raw undeveloped land off Sand Dollar Rd W parcel: 282401-2-005-2006, 282401-2-002-2009, 282401-2-006-2005.

My father and mother also own parcel: 292401-1-003-2009, 292401-1-013-2007, 292401-1-012-2008

Allowing the expansion of mineral resource overlay will greatly affect our property values, water, land use, watershed/retention, and wildlife.

Residents of Sand Dollar Rd and Skippin Stone Ln are on wells. If our well water is negatively affected will the mining company fix and compensate surrounding home owners? Will they repair damage to homes from continued blasting?

Yes, we bought land and a home close to a mine. This decision was based on current land use and a new home site development. How could a mine expand with 30-50 new homes being built very close to said mine?

Power substations are also very close to mine, not to mention the cascade natural gas pipline. https://wutc.maps.arcgis.com/home/webmap/viewer.html?webmap=5a9ae27035b04680bf644f7ba39f5a9b

We have a wide array of wildlife in the area. These hills are home to black bear, bobcat, coyote, deer, bald eagles, great heron, wood ducks, mallards, owls, western tanager, american goldfinch, (believe it or not) turkey vultures, etc.

Please be advised that Kitsap Reclamation-Materials was acquired by ACG Materials based out of Oklahoma owned by H.I.G. Capital based out of Miami FL. KRM is no longer a family owned business, it only serves to line the pockets of ACG Materials and H.I.G. Capital. Many of the surrounding houses are owned by KRM Real Property Investment LLC and Lockhart. The people living in those homes will not speak out in fear of reprisal. Is that really how you want the people of Bremerton to live?

Allowing the mine to expand will create irreversible damage to this land, to our homes, and wildlife habitat. Once it is allowed there is no turning back. This project is not right for our community.

Thank you for your time,

Regards,

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Comment #42

WM PALMER CONSULTANTS In Planning & Design

July 31, 2018

Kitsap County Planning Commission
619 Division Street, MS – 36
Port Orchard, Washington 98366

SUBJECT: Applicant Testimony – Hanley Construction, Inc.'s Comprehensive Plan Amendment Urban High to Commercial – Application No: 18-000447

Honorable Commissioners,

This letter is a means whereby Mr. Hanley of Hanley Construction, Inc. objects to the assessment of DCD staff that his duly filed Comprehensive Plan Amendment / Rezone request be postponed until 2019 or some later time. The substance of the Staff analysis hinges on the characterization of Mr. Hanley's long-term business occupation of his site on Fircrest Drive SE as a contractor storage yard. Also, staff has asserted that his use of the site is "industrial" rather than "commercial." This characterization of his business and nonconforming use of his site, is not entirely accurate given the provisions of the Commercial Zone.

APPROPRIATENESS OF THE REQUESTED COMMERCIAL COMPREHENSIVE PLAN AMENDMENT AND ZONING:

The conclusions reached by staff in their assessment of Mr. Hanley's business use of his site ignores the following provisions of the Commercial Zone (KCC 17.410). Consider these allowable or conditionally allowed uses in this Zone:

Subsection 226 – Engineering and construction offices. Mr. Hanley has had for many years, (well over 22 years) his construction company office at this Fircrest Drive location.

Subsection 250 – General office and management serves – 10,000 S.F. or greater. While his office and management services do not quite occupy this amount of space, the company could with growth of the business.

P. O. BOX 6 PORT ORCHARD, WASHINGTON 98366
TEL: [360] 621-7237 or [253] 858-3644 . FAX: [253] 858-3654 e-mail: wmconsults@telalwta.net

Subsection 504 – Assembly and packaging operations. Much of the space in is two principal buildings is where his roofing and related products are stored and prepared for loading on to trucks and delivered to a site for installation.

Subsection 520 – Manufacturing and light fabrication. This is a sometimes business use that takes place in his buildings if there is a special kind of roof or very steep roof where it is necessary to erect platforms for safe work.

Subsection 536 – Indoor storage. There are no specifications pertinent to this subsection of the Zoning Ordinance limiting or even suggesting what can or cannot be stored "indoors." Mr. Hanley does store roofing materials and items related to their installation in his two principal buildings.

Subsection 542 – Storage, vehicles and equipment. Mr. Hanley does park vehicles used in his business on his property and does store some equipment used in the installation of roofing. Given this provision in a Commercial Zone, Mr. Hanley's current and historic use of his site is consistent with allowable uses and therefore constitutes a subsection compliant use.

Note: none of the footnote references for the Commercial Zone, 19,30,48,57 or 101 provide any limitations on uses within this Zone when applied in South Kitsap County.

When taken altogether there is clearly support for the requested Comprehensive Plan Amendment change from High Urban to Commercial. Just because DCD staff evaluated Mr. Hanley's business as only a "Contractor Storage Yard," does not mean the existing uses are not allowable in a Commercial Zone.

HISTORICAL BACKGROUND:

Questions have arisen over the years about the "nonconforming use status" of Mr. Hanley's construction business. The attached letter dated June 8, 2018 to Scott Diener answers those questions in some detail. Worthy of note to Planning Commission members is what happened on or about September 8, 1995. It was on that date that the Central Puget Sound Hearings Board, invalidated Kitsap County's newly adopted comprehensive plan and zoning. The result of that decision was Kitsap County had no zoning controls what-so-ever. Zoning was not re-established until late in October of that year, when the Board of County Commissioners adopted an interim ordinance and an interim Urban Growth Area boundary. The significance of this month's period of time was, among other issues, a "re-set" period during

which no use of property was non-conforming. Regardless of what uses existed on a site that might have been considered non-conforming under the pervious zoning regulations, they were all valid uses until the County adopted the new interim regulations.

Pertinent to Mr. Hanley's use of his Fircrest Avenue SE property, even though his business was established in the early 1980s, his prior nonconforming use status did not start again until late October 1995. Details of how his use of the property has evolved since 1980 and since November of 1995 are discussed in the attached letter.

SUGGESTED POSTPONEMENT OF THE HANLEY CPA/ZONING REQUEST UNTIL 2019:

Mr. Hanley wants it known that he submitted a valid Comprehensive Plan and Zoning request back in January of this year. He believes that he has properly assessed the Plan Amendment criteria. Thus, he is arguing now that his amendment be approved this year.

Based on past experience with DCD staff, there is an apparent reluctance on the part of staff to admit that Mr. Hanley's nonconforming use of his property is a viable business operation that should be encouraged. In fact, there appears to be an abiding wish that Mr. Hanley's business should be located elsewhere. Never mind the fact his business is long standing or that it contributes to the tax base of Kitsap County. Amazingly, those factors are of little consequence when making zoning compliance assessments. Contrary to DCD staff's views Mr. Hanley has a very substantial investment in his facilities on Fircrest Drive SE. Such investment cannot be abandoned and then duplicated somewhere else – the cost to do so is prohibitive.

Also, relevant, Mr. Hanley does not want to become involved in a protracted legal battle with the County over his right to continue his business at this location and provide for the needed parking facilities of his vehicles. A means of addressing his nonconforming use status, he has requested that his property be zoned appropriately to continue to serve his customers from this historic location. This Comprehensive Plan Amendment and Rezone request is a means by which legal battles can be avoided in the future. It almost goes without saying that everybody needs a new roof, have their roof repaired or have their roof redone. Mr. Hanley has served this community and all points in Kitsap County and the surrounding jurisdictions for about forty-years.

The real question is does Kitsap County support local businesses? Or does the County want to postpone an action just because the County is unwilling to do today what can be put off until tomorrow.

If indeed the decision is to postpone this application's consideration until 2019, such decision must be followed with a TIME CERTAIN commitment and with associated costs being assumed by Kitsap County.

Respectfully submitted on behalf of Oliver Hanley,

William M. Palmer
W.M. PALMER CONSULTANTS

cc. **Oliver Hanley**
Morgan Hanley

Comment #42

WM PALMER CONSULTANTS In Planning & Design

June 8, 2018

Scott Diener, Manager
Development Services Division
Department of Community Development
619 Division Street, MS – 36
Port Orchard, Washington 98366

SUBJECT: Hanley Nonconforming Use Of Property On Fircrest Drive, South Kitsap County

Dear Scott,

You requested I address the Non-Conforming Use of the Property located at 1752 Fircrest Drive SE, Port Orchard, Washington. While I am not quite sure what your real question is, I assume it relates to both history and how his existing use conforms to the new Commercial Zone.

Prior to the time Oliver Hanley acquired his property on Fircrest Drive, the site had been occupied by Ryan Built Homes and owned by Charlie Ryan. Ryan's business office was next door in the building later occupied by Sewer District No. 5 and now incorporated in the Fire District No: 7 complexes. While used by Charlie Ryan, he stored his construction equipment / material and supplies used in his business on property acquired by Oliver Hanley. Mr. Ryan's use of the now Hanley property predated the 1977 Zoning Ordinance before it went into effect in August of that year. The earlier 1969 Zoning Ordinance had very general provisions in all zones, so it was possible to establish uses in a residential area that would later be excluded. Such was the case for Ryan Built Homes.

Oliver Hanley's commercial use of the three properties that make up his business site started in 1980. In 1980, Ryan Built Homes still had equipment, construction materials and supplies stored on the property that Mr. Hanley had acquired. In fact, Mr. Ryan's equipment and supplies remained on the property until sometime in 1981. Thus, Hanley's business, which also involved outdoor storage of construction materials as well as truck and equipment parking, represented a continuation of a nonconforming use.

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When the 1980s era began, the Comprehensive Plan classified the site as Semi-Urban and the Zoning was RS-7,500. The Zoning Ordinance in effect at the time was the August 1977 Ordinance. As a note of interest, the 1977 Code was replaced in 1978 by a Code with that year's tag. However, the 1978 Code was overturned by a Superior Court decision because of its inclusion of a provision for "Lot Averaging." The "Interim Code" enacted after the Court decision was essentially the earlier 1977 Code and it remained in effect until June of 1983. Once adopted, it was amended six times between June of 1983 and April of 1986, and the 1983 Code continued to be Kitsap County's Zoning Ordinance until December of 1994.

Beginning in late 1994 and officially launching in January of 1995, Kitsap County's new zoning controls was the January1995 Interim Ordinance. Under these regulations the Hanley property was Zoned Urban Low (UR-6), again a residential zone reflecting the prior subdivision pattern and typical lot sizes found in the South Park area wherein the Hanley property can be found.

In September of 1995, the Central Puget Sound Growth Management Hearings Board rendered a decision on an appeal of Kitsap County's December 1994 adopted Comprehensive Plan and implementing zoning. The Board ruled in their decision issued in early September (on or about September 8th) that Kitsap County's Plan and Zoning was invalid. That had the immediate effect of wiping out all pervious zoning boundaries and allowed uses in these now defunct zones (the adoption action in December of 1994 made no provisions for what would happen if the plan and zoning might be invalidated). Clearly stated and an important consideration of the Hanley property, is that there were no use restrictions applicable to his property – none, zilch, nada. The direct implication was then and even now, Mr. Hanley's commercial use of his property has/had a new start time even if there might be any questions about his prior status. That start time was September 10, 1995 and this is the start date for all nonconforming property conditions and uses in all parts of unincorporated Kitsap County.

Kitsap County was without any comprehensive plan or zoning, throughout the balance of September of that year and most of October. Around the 20th of October 1995, Kitsap County adopted interim zoning regulations, but could not adopt a Growth Management Act Compliant Comprehensive Plan until May of 1999. And even that plan was not certified by the Hearings Board until August of that year.

The October 1995 Interim Zoning reestablished residential zoning on Mr. Hanley's property as well as that of Fire District No: 7's facility and the building that at the

time still housed the offices of Sewer District No: 5, both immediately adjacent to the Hanley property on the south side. So, once again, the Hanley Roofing business became a non-conforming use.

Relevant to the issue of how Kitsap County has recognized Mr. Hanley's prior commercial use of his property is the fact that Mr. Hanley applied for and received building permit approval for the two-warehouse buildings that accommodated his business activities. One such building permit was issued for Lot 038 in the mid-1980s (It came on the tax rolls in 1985) and the second on Lot 040 in the 1990s (it came on the tax rolls in 1996). Besides fulfilling all of the building permit requirements, occupancy permits were received for each building. The north building, on Lot 040 includes an office for his business. That office is still a functioning part of Mr. Hanley's roofing business, even though he has other office space in downtown Port Orchard.

Because these buildings had received prior approval (before September 1995) by Kitsap County, regardless of any assumptions made by the Department of Community Development, these buildings, parking of vehicles, outside storage of construction materials on the property and the commercial use of the property became fully legitimized when Kitsap County had no zoning restrictions. After October of 1995, Mr. Hanley's commercial use of his property became a "legal non-conforming use as earlier observed.

Apparently, even in the 1980s and continuing through the early 1990s, the Department of Community Development staff had no concerns about Mr. Hanley's use of his property. Had there been an issue, there was none evident in the issuance of his building permit applications. It is noteworthy too, that when Fire District No: 7 conducted Fire Code Compliance inspections, these buildings passed inspection every year that the District was in charge of inspections. When DCD's Fire Marshall took over that inspection function sometime in the late 2000s there have been no inspections. These facts along with the re-establishment of the business use of his property in mid-September of 1995, should forever resolve any questions present day staff of DCD about the legitimacy of his now non-conforming use.

The Zoning on Mr. Hanley's property changed again as part of a "Site Specific Comprehensive Plan Amendment that was approved in late 2002. At that time property to the north and including Mr. Hanley's business site was classified by the Plan and applied Zoning as Urban High allowing a maximum of 30 dwelling units per acre residential density. Because Urban High is still a residential zone, Mr. Hanley's commercial use remained "nonconforming."

The loss of "institutional knowledge" of past zoning and property use conditions apparently, has led the Department of Community Development staff to the conclusion that perhaps Mr. Hanley's nonconforming use of his property somehow lacks legitimacy. Mr. Hanley has, thus received communications form DCD staff within the last year to that effect, even though past investigations by Mark Grim, when he was the Building Official for the County (and a prior code compliance investigator) proved that Mr. Hanley had then a legitimate "grand fathered" use of his property. That investigation took place in the late 1990s.

Rather than "go to the mat" with DCD staff about his past and present use of his property Mr. Hanley chose this year to seek commercial zoning for his property. The arguments supporting his decision are clearly set forth in his Site-Specific Plan and Zoning Amendment application filed in January of this year.

In early March of this year the Board of County Commissioners elected to proceed to have Mr. Hanley's application for Commercial Zoning reviewed along with other application submitted for the 2018 Plan Amendment cycle. DCD staff had opined previous to this decision that the application for commercial zoning was out of context and perhaps even. not the right zoning to characterize his past and present use operations. There was little opportunity to argue the conclusions of staff at that time, but a review of the 2016 Zoning Ordinance allowable use provisions for Commercial Zoned property indicates his existing use of the property fits this Zone as well as his plans for additional parking provisions for his vehicles. Mr. Hanley is prepared to make that presentation when the public hearing consideration of his Site-Specific Plan and Zoning Amendment application proceeds to public hearing.

Regarding the issue of Mr. Hanley's Non-Conforming Use of his property, the preceding discussion should allay any of DCD staff's concerns about his past and present use of his property. He clearly has a legitimate Non-Conforming Commercial use that has been in existence for now thirty-eight years and counting Ryan Built Homes' prior use of the property for more than forty (40) years.

I trust that this letter has addressed the issue of how Mr. Hanley has and continues to use his property. If there remain any questions, please let me know.

Sincerely,
William M. Palmer
W.M. PALMER CONSULTANTS
cc. Oliver Hanley