



December 4, 2015

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SUBJECT: Response To Staff Report For Fox – Harbor Rental’s Site Specific Comprehensive Plan Amendment – Rural Protection to Rural Residential - Permit No: 15 00738

Dear Katrina, Jeff,

This letter is a response to the Staff Report issued on November 9, 2015 analyzing the Fox – Harbor Rental’s Site Specific Comprehensive Plan Amendment / Rezone proposal to reclassify and rezone his property on Garfield Avenue SE in the East South Kitsap County area. This parcel is further referenced by the above Kitsap County Assessor / Tax Number 332402-1-005-2000.

It is noted that the staff report contains no specific recommendation. There are none-the-less implied recommendations or conclusions. Many of the comments made by staff seem to ignore the applicant’s responses to the same questions. That begs the question as to how the two documents, i.e. the applicant’s responses verses the staff’s analysis is to be presented to the Planning Commission and ultimately to the Board of County Commissioners? Because that is unclear and because the staff analysis contains unsupported opinion and some inaccuracies it is necessary to object to much of what is in the staff report – particularly in the response to evaluation criteria. Also the format of criteria questions addressed by staff is problematic and therefore confusing as there are criteria questions not posed in the application material and there is a different order of criteria assessments not found in the Supplemental Site Specific Comprehensive Plan Criteria.

Herein are the applicant’s objections to the staff analysis and comments as contained in the staff report:

### **Background –**

The staff report recounts that the site has some environmental conditions that pose potential building limitations. Not mentioned in this context is the fact that portions of the site have no such apparent limitations. Also not discussed is the relevance of this feature to the proposed

Site Specific Comprehensive Plan Amendment/Rezone proposal or that other property west and north of the site has a greater extent of these potential building limitations than does the Fox-Harbor Rentals site. These are the areas Zoned Rural Residential.

**Staff's mention of this environmental features requires more context, especially noting that there is public water available to the site.**

#### **Surrounding Zoning and Land Use:**

It is important to note that parcels abutting the site are considerably smaller than what is proposed by the applicant. Public Water service is a distinguishing factor more than the road in this instance for what is appropriately Zoned Rural Residential than Rural Protection. Rural Protection areas county-wide seldom have a public supply of water available to those lands.

### **EVALUATION –**

#### **General Criteria (KCC 21.08.070.A)**

**These General Criteria questions were not part of the application material the applicant was required to address or at least not as worded and presented in the staff report. See also the comments recorded on Page 5 of this response regarding the Reclassification Request Criteria (KCC 21.08.070.D).**

The objections addressed herein and in subsequent discussions regarding criteria compliance, reflect some of the answers to these questions as posed in the application material.

#### **A.1. How circumstances related to proposed amendment and/or the area in which the property affected by the proposed amendment is located have changed since the adoption of the Comprehensive Plan or applicable development regulations –**

While the Staff says there are no changed conditions, that statement presumes several things that are not true:

1. The County in all previous planning exercises examined each and every individual parcel for its potential inclusion in one plan category or another;
2. That the County's opinion is superior to that of the landowner and that it knows what is best for an area;
3. That the "broad brush" with which the County paints properties green (or whatever color) includes a comprehensive understanding of local environments.

In this instance a "broad brush" was used to paint lands Rural Wooded that in this area are mostly public lands. The precedent for how property is used for residential purposes in this area is Rural Residential in character and not Rural Protection – especially for property that has substantial frontage on a collector arterial. The applicant has addressed the changed conditions and the above factors are relevant.

**Staff's conclusion on this point is not accurate, the applicant still contends the criteria is satisfied.**



**A.2. How the assumptions upon which the Comprehensive Plan is based are no longer valid, or there is new information available which was not considered during the adoption of, or during the last annual amendment to, the Comprehensive Plan or development regulations -** Staff says “the assumptions upon which the Comprehensive Plan is based are still generally valid.” But not addressed is the impact of four (4) lots and a potential of 10 people would do to the County’s overall population projects for the next 20 years.  
**Staff’s assessment is not complete. The applicant still contends the criteria is satisfied.**

**A.3 – How the requested re-designation is in the public interest and the proposal is consistent with the Kitsap County Comprehensive Plan -**

Staff says that “the County aims to focus a greater share of growth into urban areas.” And that “the application is not consistent with this aim.” Clearly the argument is “hog wash.” This is not a rezone request to change the balance of urban versus rural land. Also, the Staff has not defined what “public interest” has to do with this application. When one rules out, public health and safety, neither of which are manifest issues in the proposed Amendment / Rezone request, that leaves only welfare to be considered as a potential “public interest” topic. If a serious analysis is made of “welfare” with to either the general area in which the subject property is found or in what development options of the property may be, more data would have to be provided.

**Since the Staff has not defined what constitutes “public interest” and based on what Staff says about Comprehensive Plan compliance, the Staff’s comments are inconclusive. The applicant still contends the criteria is satisfied.**

**Reclassification Request Criteria (KCC 21.08.070.D)**

**D.1.a – The proposed amendment meets concurrency requirements for transportation, sewer and water, and will not result in significant adverse impacts on adopted level of service standards for other public facilities and services, such as police, fire and emergency medical services, park services and general governmental services -**

Staff’s discussion centers on small incremental changes in site density that may equate to small incremental demands for services. This is not an urban environment and one issue often overlooked in the public sector is that inhabitants of these areas do not have the same level of reliance on public services that those in urban areas do.

**Staff’s assessment is inconclusive. The applicant still contends the criteria is satisfied.**

**D.1.b – the proposed amendment is consistent with the balance of the goals, policies and objectives of the current Kitsap County Comprehensive Plan and reflects the local circumstances of the County –**

The Staff assessment of this issue indicates the small (miniscule really) incremental increase in population would diminish the amount of people going into urban areas. While technically true this is a ridiculous postulation that ignores among other considerations all of the non-

conforming lots found in rural areas that could be developed –even at urban densities such as in the South Kitsap Area of Manchester and Woods Road.

**The Staff's analysis and conclusions are in general are inconclusive. The applicant still contends the criteria is satisfied.**

## **Kitsap County Comprehensive Plan Goals and Policies**

### **Section 2.2 Urban Growth Areas of the Land Use Element of the 2012 Adopted plan –**

**Staff cites the 3A.2.1 Rural Lands section of the Land Use Element of the Comprehensive Plan and lays out Goal 1, Policy RL-1, RL-2 and RL-3.**

Staff says that the proposed Amendment / Rezone would retain the rural character of the County, but at a slightly higher density than allowed by Rural Protection.

**Staff comments are in general agreement that the proposal satisfies this goal but inconclusive with respect to preservation of land for timber production.**

### **Growth Management Act Planning Goals (RCW 36.70A.020)**

Staff references Goals 1), 2) 8), 9) and 10) and that the proposed Amendment / Rezone is not supported by these Goals because there would be pressure to convert other Rural Wooded properties to Rural Residential use. **The argument fails because of the public ownership patterns in the area as earlier noted.**

**D.1.c – The subject parcel(s) is suitable for the requested land use designation based upon, but not limited to, access, provision of utilities, consistency with existing and planned uses, environmental constraints and compatibility with the neighborhood –**

See above comments about GMA goals and policies and comments in D.1.b.

**Staff's analysis and conclusions are without merit and not correct.**

**D.1.d – The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning, and reflects local circumstances in the County –**

See above comments regarding Comprehensive Plan Compliance and that for D.1.b.

**Staff assessment and applicant's analysis are at variance with the applicant's analysis.**

### **Kitsap County-wide Planning Policies –**

Please note the applicant's objection to the County-wide Planning Policies (CPPs) being part of analysis criteria as explained on Pages 3 & 4 of the applicant's response to the Supplemental Comprehensive Plan Amendment Criteria. Also to be referenced here is the e-mail transmitted to Katrina Knutson and Dave Greetham on November 17, 2015 providing further discussion of why the CPPs should not be used to evaluate Site Specific Comprehensive Plan Amendment? Rezone proposals. If Staff continues to refer to these policies as set forth in their staff report for evaluative criteria and they can subsequently defend the use of those policies as discussed in the November 17, 2015 mentioned above, **the applicant reserves the right to address the**



Staff's compliance assessment either as contained in the November 9<sup>th</sup> staff report or as detailed in a response to that November 17<sup>th</sup> e-mail from W.M. PALMER CONSULTANTS.

Also note that County-wide Planning Policies (CPPs) are only to be employed as comprehensive plan framework criteria to judge that the County and the Cities have coordinated plans. Each of those jurisdictions have separately adopted CPPs, but none so far have tried to include them or portions of them in their respective comprehensive plans. **And that is a good thing** since the **so-called policies are mostly not policies at all**, they are written to be regulations with mandates like shall and must in the verbiage, but not codified as an ordinance. Just in the 2010-2011 amendments there are 118 instances when this has occurred. Many other so-called policy statements are laughable examples of meaningless platitudes.

**Note here the Staff returns to the assessment criteria as found in the application criteria.**

**Criteria 4a and 4b**

**Were addressed by the applicant and judged to be satisfied with the applicant's proposed Amendment / Rezone.**

Based on the analysis and conclusions Staff has presented, which have been refuted, this response and the original application material, demonstrates the Fox – Harbor Rentals proposed RP to RR Site Specific Comprehensive Plan Amendment / Rezone has met the criteria for approval.

Please allow the applicant to reply to any further Staff analysis and/or conclusions drawn, prior to submittal of document to the Planning Commission for Public Hearing. Also, clarification is needed to determine whether the comments contained in this letter are to be included in the response to the Draft Supplemental EIS, before the Final Supplemental EIS is published.

Thank you for the opportunity to respond to the Staff Report.

Sincerely,



William M. Palmer

W.M. PALMER CONSULTANTS

cc. Harbor Rentals