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## THE SUQUAMISH TRIBE

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December 7, 2015

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MS-36, 614 Division Street  
Port Orchard, Washington 98366

Subject: Draft Kitsap County Comprehensive Plan Updates 2015

Kitsap County lies within the Suquamish Tribe's "Usual and Accustomed Fishing Area" (U & A). The Tribe seeks protection of all treaty-reserved natural resources through avoidance of impacts to habitat and natural systems. The Tribe urges Kitsap County to avoid land use decisions that will impact natural resources within the Tribe's U & A. The Tribe has reviewed the draft and has the following comments.

### General

Development regulations have not yet been released for review and a preferred alternative has not been identified, therefore Tribal comments are somewhat limited as we do not know specific details on how the county is proposing to implement the goals and policies identified. It is unclear if there will be future opportunities to address SEPA concerns when the development regulations are available.

Ensure that there are no inconsistencies between the Buildable Lands report, the draft Comprehensive Plan, the draft Capital Facilities Plan and the draft Supplemental Environmental Impact Statement (SEIS). See letter from Jerry Harless dated December 7, 2015 submitted via email for additional information regarding inconsistencies.

### Site Specific Rezone Requests

As per the most recent buildable lands analysis the County has enough area currently to address the population and there is no need to expand the UGA's at this time. To do so without appropriate need would violate the Growth Management Act. In addition, the need to identify new commercial and industrial lands should also be determined using population, employment forecasts and market assessments. Kitsap County has not defined additional needs for either of these designations and it is recommended that the County wait until the need arises before proceeding with the rezoning of properties, otherwise, this action is contrary to the GMA.

Schools, libraries, churches and other public amenities should be located near the majority of the population (in UGA's). These projects require urban services and extending services to projects located in the rural areas is not only expensive but contrary to the GMA. Allowing these developments and expensive service requirements also increases costs to the public.

The Tribe does not support the rezoning of rural protection parcels to more intensive uses. These areas were zoned rural protection due to the fact that they were constrained over 50% by critical areas such as wetlands, streams or steep slopes. Additional project specific comments are as follows:

Permit Number: 15 00378 - DJM Construction

The Tribe does not support the expansion of an existing Type I LAMIRD boundary to include an undeveloped forested property with significant environmental constraints and building limitations. The appropriate logical outer boundary of the existing George's Corner LAMIRD was subject to review by the Growth Management Hearings Board in 2005 and upheld. The proposed amendment would expand the logical outer boundary and would not be compliant as per RCW 36.70A.070(5)(d).

Grovers Creek is approximately 5 miles long and includes several unnamed tributaries. This drainage is by far the largest contributing to Miller Bay and is characterized as very low gradient with large wetland plateaus. Grovers Creek supports fall Chinook (primarily hatchery returns), chum (to hatchery rack at RM 0.05) and coho, Puget Sound steelhead (ESA listed) and cutthroat to the headwaters.

The Suquamish Tribe is concerned about stormwater impacts resulting from any increase in impervious surfaces. The Tribe is concerned as Grovers Creek has unique features, which make it particularly sensitive to stormwater and groundwater impacts. Stormwater runoff is known to increase the frequency and magnitude of peak flows, as well as increasing erosion, fine sedimentation, bank instability, and reduced baseflows. Ongoing and pending development (reduction in recharge and increase in impervious surfaces and groundwater withdrawals) in the watershed poses significant risk to the ability to maintain the natural hydrographic regime in the watershed. Streamflow data for Grovers Creek collected by the Suquamish Tribe near the hatchery from March through December 1993 measured an average monthly flow of 7.19 cfs, a maximum monthly flow of 27.2 cfs, and a minimum monthly flow of 1.47 cfs (*Salmonid Habitat Limiting Factors*, Washington State Conservation Commission November 2000). The Department of Ecology has determined that Grover's Creek and tributaries exhibit low summer flows and have the potential for drying up or inhibiting anadromous fish passage during critical life stages. Therefore, no further water is available for consumptive appropriation from June 1 – October 15 (*Salmonid Habitat Limiting Factors*, Washington State Conservation Commission November 2000).

As you know the Suquamish Tribe operates a Chinook and chum salmon hatchery on Grovers Creek near the head of Miller Bay. The hatchery uses water from the creek to raise fish. The purpose of the Suquamish enhancement effort is to restore salmon on- and near- the reservation. As a result all fisheries (non-Indian sport and commercial) are intended to benefit. The incubation and rearing success of these juvenile salmon is very important to the overall Chinook program throughout Kitsap County to provide broodstock. The Grovers Creek hatchery is also the mid Puget Sound indicator stock for Chinook salmon under the U.S. Canada Salmon Treaty. Unlike most hatcheries the Grovers hatchery is designed to promote the upstream passage of fish and also allows for egress of smolts. The Tribe is passing all returning coho upstream of the hatchery facility. We are recovering the tags and enumerating the natural and adult wild coho status. In the spring we then count the out migrating smolts. All cutthroat and steelhead are also passed upstream of the hatchery. The Suquamish Tribes salmon hatchery is already impacted by problems associated with changes in water quality and quantity. The incidence of bacterial gill disease, which is generally associated with water quality degradation, has increased at the hatchery even though the number of fish reared and hatchery practices did not change. Also, Chinook rearing time has been truncated due to insufficient water quantity at progressively earlier dates in the spring thus further compromising rearing practices.

Grovers Creek is on the CWA 303(d) list of impaired water bodies for exceedance of fecal coliform criteria. The Bremerton-Kitsap Health District has been collecting water quality information at five locations in the

Grovers Creek watershed since 1996. Identified water quality concerns include high fecal coliform levels and consistent observations of dissolved oxygen levels (*Salmonid Habitat Limiting Factors*, Washington State Conservation Commission November 2000). To prevent continued degradation we need to maintain wetland and riparian functions throughout the watershed, prevent additional wetland filling associated with residential and commercial development and ensure that the most up to date stormwater protection is implemented on any pending or future development within the watershed.

Permit Number: 15 00522 - Bremerton West Ridge

The Tribe has concerns regarding additional densities and more intensive uses in the Chico Watershed. The Chico Creek drainage is one of the largest and most productive in East WRIA 15. Almost 68 miles of streams and tributaries compose the Chico Creek watershed, of which approximately 17 miles are accessible to anadromous salmonids (Kitsap Refugia Study). The four major tributary streams to Chico Creek include Kitsap, Dickerson, Lost, and Wildcat creeks. There are also two major lakes in the watershed, Kitsap and Wildcat lakes. Chico Creek enters Chico Bay on the western shore of Dyes Inlet at the community of Chico. The drainage supports chinook, chum, coho, steelhead (ESA listed), and cutthroat. The Mountaineers Foundation has acquired over 400 acres of pristine habitat at the junction of Lost/Wildcat/Chico creeks that should provide essential long-term habitat protection; this acquisition includes one of the only remaining late successional forests on the Kitsap Peninsula. Kitsap Creek, between Kitsap Lake and the mainstem of Chico Creek, is critical habitat for chum, steelhead (ESA listed), and coho.

Permit Number: 15 00380 - Ryan

The Gorst Creek watershed supports runs of Chinook, coho, and chum salmon as well as steelhead and cutthroat trout. Sockeye are occasionally observed although it is unknown whether they are of local origin. The lower mainstem of Gorst Creek has historically supported heavy spawning activity by chum salmon, although this segment has been affected by development and road encroachment. The headwaters located to the north of SR-3 are in good condition (Kitsap Peninsula Salmonid Refugia Study, 2000).

The Suquamish Tribe operates two Chinook rearing ponds and yearling fall Chinook raceways within the lower mainstem. This program was established in 1981 as a cooperative effort with WDFW, the City of Bremerton, and the Poggie Club to provide salmon for both Tribal and sport harvest (*Salmonid Habitat Limiting Factors*, 2000).

In 1999 the City of Bremerton was awarded a \$386,000 Salmon Recovery Funding Board (SRFB) grant to remove 750 feet of concrete channel and restore over 1000 feet of meandering stream channel. This was the first SRFB project awarded to East Kitsap WRIA 15. Former Bremerton Mayor Glenn Jarstad is promoting a long-term plan to purchase all the properties downstream of this project and restoring the entire lower 0.8 miles of Gorst Creek (*Salmonid Habitat Limiting Factors*, 2000). The addition of significant amounts of impervious surfaces associated with urban high intensity commercial/mixed use development and associated parking directly adjacent to Gorst Creek are in direct conflict with these efforts to restore habitat.

### **Draft Supplemental Environmental Impact Statement (DSEIS)**

The most recent Buildable Lands Analysis indicates that there is sufficient land in the UGA that expansion is not warranted at this time. Therefore the text for Alternative 1 stating that there is insufficient room is not correct. This also makes Alternative 3 not a viable option as any expansion of the UGA violates the GMA and would leave the county vulnerable to litigation. Alternative 2 appears to be the preferred option as it provides the most efficient use of land and provides better protection of critical areas in several key locations. However, without more detail (development regulations) we are unable to determine if the DSEIS is adequate. It should be noted that densification should not be located in areas immediately adjacent to critical areas or their buffers.

The DSEIS identifies that there will be additional sanitary sewer service needed. New development is not allowed to install septic in the urban areas.

The DSEIS relies on the KCC 19.400 Critical Areas Ordinance as a mitigation measure for critical area and associated buffer protection. This is somewhat misleading as many if not most projects occurring on properties with critical areas do not maintain the buffers identified to protect functions due to variances, buffer reductions, fill permits or reasonable use exceptions. The Tribe recommends developing and implementing a rigorous monitoring plan that tracks, maps, and evaluates the effectiveness or impacts of all permitted CAO and SMP code deviations.

The Tribe is also concerned that there are no policies and/or procedures relating to inadvertent discovery of cultural resources. The process does not have to be long or particularly detailed. However, it must be in partnership with the Tribe, coroner, and the Washington Department of Archaeology and Historical Preservation (DHAP) and may need to include other entities. Procedures should primarily consist of whom to contact (lead) and outline the procedures that follow.

There is no reference to the Chico Watershed Plan (Suquamish Tribe 2014) which identifies areas and actions for protection and restoration. The recommended strategies focus on resilience to future disturbance in the watershed (including changes driven by natural variability as well as human impacts) to ensure the continued productivity of chum salmon and help recover populations of coho and steelhead in the watershed. The Tribe requests that the County incorporate the Chico Watershed Plan by reference.

## **Draft Comprehensive Plan**

### Chapter 1 – Land Use

Page 12, Land Use Policy 9 and 10. Text states “Continue to review and assess data for application of reasonable measures. Measure, adopt and implement reasonable measure if the Buildable Lands Report finds inconsistencies in planned growth”. This policy needs additional detail on what this actually means. RCW 36.70A.215 (4) and CPSGMHB Case No. 04-3-0031c 1000 Friends Final Decision and Order states that the county is required to annually monitor reasonable measures however, it is unclear how and if this has occurred.

### Chapter 3 – Environment

#### Page 41, Environmental Goal 1

The Tribe commends the County for recognizing and treating natural resources and the environment as important assets that require conservation and investment to support increased population, just like other public infrastructure. We look forward to working with the County on exploring ways that we can turn this principal into effective action so that habitat, natural resources, and the environment improve as our communities grow.

Page 43, Environmental Goal 3, Policy 15. Text states that compensatory mitigation shall be the last option of resort in mitigation sequencing. The emphasis should be on avoidance (avoid, minimize, then mitigate in that order) and if mitigation is determined to be necessary there should be a detailed description of what efforts were taken to avoid impacts to the extent possible. There should also be more discussion on compensatory mitigation including monitoring of all compensatory mitigation both at individual sites and at a landscape/watershed scale so that the effectiveness/impacts can be evaluated individually and cumulatively. Typically on-site and in-kind mitigation is preferred. If this is not possible or another option is more beneficial then supporting information must be provided.

## Chapter 8- Subarea Plans

Trails are common components of both Neighborhood and Sub Area plans as part of open space and recreational components. However, it must be remembered that trails although providing an educational and recreational component do have impacts. Buffers are the areas that surround wetlands and streams and reduce adverse impacts to natural processes from adjacent development. The literature indicates that buffers reduce impacts by moderating the effects of stormwater runoff including stabilizing soil to prevent erosion; filtering suspended solids, nutrients and harmful or toxic substances, and moderating water level fluctuations. Buffers also provide essential habitat for various species for use in feeding, roosting, breeding and rearing of young, and cover for safety, mobility, and thermal protection. Buffers reduce the adverse impacts of human disturbance on wetland habitats including blocking noise and glare; reducing sedimentation and nutrient input; reducing direct human disturbance from dumped debris, cut vegetation, and trampling; and providing visual separation. (Wetland Buffers Use and Effectiveness, EPA, February 1992).

Pedestrian paths should be minimized to the extent possible and not intrude into the wetlands and streams or their associated buffers. Viewing platforms are acceptable and we understand that some buffer intrusion may be needed, however, the majority of the paths should try to avoid intrusion whenever possible. Tree removal should be minimized to the greatest extent possible. Creosote and Pentachlorophenol should not be used for any part of trail structures. The Tribe is concerned that development standards for trails are not always applied/followed, particularly on county park properties.

None of the plans goals and/or policies specifically identifies protection of natural and cultural resources. This is a significant oversight and needs to be remedied. Natural resources include but are not limited to streams, wetlands, riparian areas, and shorelines. Objectives including but not limited to the following would address some of these concerns.

- protect and enhance the habitat of aquatic resources;
- protect and enhance the water and sediment quality of shoreline areas to levels that provide for aquatic resources which are safe for human consumption;
- support and protect the rights of treaty tribes having usual and accustomed fishing, shellfish harvesting and gathering areas;
- and protect tribal access to aquatic resources.

None of the plans specifically identify or address reasonable measures. The Manchester plan does say that existing code will be maintained and enforced regarding legacy and nonconforming lots. However, it has been proven that this is not enough and additional measures need to be taken not only in Manchester but in any area that has legacy and nonconforming lots and/or sprawl.

## Appendix G draft Reasonable Measures Assessment

- Clustering and master planned developments are not reasonable measures and do not reduce density. All references to clustering should be removed from the reasonable measures assessment.
- McCormick Woods and Arborwood are examples of sprawl and what should not happen in the future.
- Success should not be measured in plat applications. This does not take into consideration already existing legacy and nonconforming lots.
- Addressing legacy and nonconforming lots should not be a “recommendation for the future” this should already be occurring. The county should already be encouraging lot consolidation/aggregation/minimum lot sizes for development on legacy and/or nonconforming lots.

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- Maintaining a variety of lot sizes in the rural areas should be emphasized. Currently all properties could be subdivided to a minimum of 5ac. Rural areas need to also include 10 and 20 acre parcels.
- This assessment has little to no information regarding success of previously implemented reasonable measures or recommended measures that need to be implemented for success.

### **Capital Facilities Plan**

It is unclear what the status is of sewer facilities and the UGA's (percent currently serviced at the end of the planning period). It also appears that the county has an over reliance on maintaining septic systems within the UGA's. The Tribe understands that transition takes time but there also needs to be a degree of commitment.

Thank you for the opportunity to provide these comments. We look forward to submitting additional comments as more information becomes available. If you have any questions or would like to discuss these comments, please contact me directly at (360) 394-8447.

Sincerely,



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Biologist, Environmental Program