



November 24 , 2015

Katrina Knutson, ACIP
Jeff Arango, ACIP, Senior Associate, BERK Consulting
Department of Community Development
614 Division Street, MS - 38
Port Orchard, Washington 98366

SUBJECT: Response To Staff Report For Chuck Bair's Site Specific Comprehensive Plan
Amendment – Rural Residential 5 Ac. To Rural Industrial - Permit No: 15 00697

Dear Katrina, Jeff,

This letter is a response to the Staff Report issued on November 9, 2015 analyzing the Bair Site Specific Comprehensive Plan Amendment / Rezone proposal to reclassify and rezone Mr. Bair's property on Hilltop Lane NW & Chico Way NW. This parcel is further referenced by Kitsap County Assessor / Tax Number – 082401-3-068-2002.

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 Supplement Site Specific Comprehensive Plan Criteria.

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

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Background –

The staff report mentions that the parcel occurs in a “Category II critical aquifer recharge area,” but fails to make it clear as to how that is pertinent to the analysis of the proposed Comprehensive Plan Amendment or proposed use. For example, there is only minimal aquifer recharge (if at all) on a developed parcel. In the portion of the site where the auto repair activity took place, there is no green area and a large graveled parking / driveway area. Where the single-family residence once stood, there was an area for septic waste disposal. If the site has / had any aquifer recharge it was from the septic waste disposal system. That fact would not appreciably change were the site to be developed in accord with the allowable uses found in a Rural Industrial site. Thus other than mentioning this environmental condition it is not a significant factor by which to evaluate either the prior existing uses of the site or the potential use of the site.

Surrounding Zoning and Land Use –

The “Exhibit 1” chart found on Page 2 is not accurate and not consistent with the information presented by the applicant. The current land use on the south of the subject property is **not** Government and Services. It is in fact an industrial use and has been for a very long time, even predating GMA planning activity. The site, i.e. Tax Parcel No: 082401-3-067-2003 was owned by Triton Marine Construction Corp. at the time of application. This company was not a “government owned” or could in anyway be considered a government entity even if it had had a contract with the Navy or some other governmental agency.

In July of this year (2015) Triton Marine Construction Corp. sold the property to Dana C. and Donna L. Pieze and they have since established their Dana Heating Company there. They had a right to do so because the prior and continuing use of the property was / is nonconforming Industrial. The chart, thus should be changed to reflect the actual use of Parcel 067.

On Page 3 in the discussion of Rural Industrial, there is bold text stating “Error! Reference source not found.” What is the meaning of this bold text? It is unclear and reflects the fact that perhaps the Staff could not find in the Comprehensive Plan where there is a discussion of Rural Industrial.

Regarding the sentence found at the bottom of Page 3, while it is a fact that “lot size and density are inapplicable in the Rural Industrial Zone. How is this fact relevant to the proposed Rural Industrial Zone?

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 -

Staff says there are “no substantially changed circumstances since the adoption of the comprehensive plan.” This statement has no context. First in order to make such a statement one must first reference the adoption date of the Comprehensive Plan. For example, the Comprehensive Plan was first adopted in May of 1998 and amended several times since that date. The last major update took place in December 2006. Of course the provisions of that plan were appealed and the County had to redo the plan in the 2010 – 2012 period with adoption in December of 2012. Meanwhile in 2010, several plan amendments were passed affecting Rural Kitsap County. Those amendments (and they were not changed substantially in 2012) have a significant bearing on how one may answer this question in the context of the Bar Plan Rural Industrial Amendment/Zoning proposal. Among the changes were the provisions for Rural Industrial and Rural Commercial.

Prior to 2010 Industrial and Commercial plan provisions were not distinguishable between UGAs and Rural Areas. Thus the criteria for what was / is appropriate in rural areas had to be similar to the same criteria in UGAs. And the Title 17 code amendments also adopted in 2010 reflected the Changes to the Rural Element of the Comprehensive Plan. By making a distinction of a “Rural” Industrial or “Rural” Commercial it was possible to apply these plan/zone classifications independent of an assessment for availability of public services. Certainly, this is a “changed condition” that is in fact different than what was possible in the 1998 – 2009 era. “Changed Conditions” can be both policy and environmental / physical circumstances.

In case Staff wishes to argue that there have been no changed conditions since December of 2012 to the physical environment, clearly that is an argument without context. In 2012 the planning process tasks were to reduce the size of the UGAs as that was the primary focus of the appeal of the 2006 comprehensive plan. The County did not revisit the rural areas as they had been addressed in 2010. And in both 2010 and 2012 there was not a comprehensive analysis of all rural areas (even though many such areas were analyzed) to determine how the new “Rural Commercial” and “Rural Industrial” Plan provisions might be applied in specific locations. Also, in December of 2010, the Board of County Commissioners set a three year moratorium on Site Specific Comprehensive Plan / Rezone Amendments. Because of the mandatory redo of the 2006 Plan that was adopted in 2012, Site Specific Comprehensive Plan / Rezone Amendments were discouraged in 2012 and the process for such was further postponed from 2013 until the 2015-2016 require Plan Update. So there has not been an opportunity for individuals to evaluate their property in light of the changes that occurred in 2010. Thus, the 2010 Rural

Element Plan Amendments are in fact the "changed condition" that prompts the Bair Rural Industrial Plan Amendment/Rezone proposal.

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." Considering the fact staff did not reference a specific date wherein the Comprehensive Plan was adopted or amended, there is no context to make this statement. Clearly, when one examines the plan amendments for rural areas to include the provisions for "Rural Industrial" and "Rural Commercial" the assumptions in the Comprehensive Plan are not the same as what the County adopted in the 1998 Plan, the 2002-2003 Amendments or the 2006 Update. The 2010 Amendments did in fact make changes in the "Rural Element" of the comprehensive plan and a number of assumptions were changed from the way the County had addressed rural versus urban areas in the 1998 and amendments or updates adopted after those dates. So what Comprehensive Plan is the Staff referencing?

Also, the statement that "Updated growth targets and capacity analysis is being conducted as part of the 2016 Comprehensive Plan update, but in general that process will not change the assumptions relative to the subject property." This statement ignores several issues and facts:

- a.) There is no reference to what assumptions the Staff has in mind, either as expressed by policy in the Comprehensive Plan or as may be addressed by the Buildable Lands Report. And regarding the latter, it is well known by staff that the BLR is under appeal so how can one know what that report will eventually conclude?
- b.) If one were to Examine Exhibit 4. County Vision for Rural and Urban areas what aspects of the Bair Rural Industrial Plan Amendment/Rezone proposal are inconsistent with this "Vision" statement? And does this chart represent the "assumptions" the Staff say have not changed? If so, then the Staff should so state that fact. If there are other assumptions to be referenced what are they?
- c.) If there are Updated growth targets what are they and what aspects of the Bair Rural Industrial Plan Amendment/Rezone proposal are inconsistent with those targets? Without specifics how does one know how much or how little commercial or industrial land is appropriate for a rural versus an urban area?
- d.) According to the Buildable Lands Analysis Report in all of Central Kitsap County excluding the City of Bremerton there are only 37.66 net developable acres of commercial (all types) land within the UGA and no acres of industrial property. (See Employment Capacity chart in Appendix C). In all of unincorporated Kitsap County there is only 22.80 acres of vacant rural industrial land spread out north to south in the County. And according to the BERK Memorandum dated December 11, 2013 and updated February 6, 2014 that company points out in their Land Use Targets (See Page 2) Kitsap County had provided them with no adopted long-range employment targets. This memorandum is also found in Appendix C. Therefore it is incumbent on Staff to provide information not available to the applicant prior to February 27, 2015 if this issue

is going to be part of "compliance criteria" to judge Mr. Bair's proposed Rural Industrial Classification / Rezone request.

Staff's assessment is flawed and therefore leads to a false conclusion.

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 the urban areas." And the Staff goes on to say that "The proposed amendment is inconsistent with this goal as it would increase industrial development intensity and capacity in the rural area and introduce a single isolated RI parcel in an otherwise RR Zone." There are several problems with this statement:"

- a.) When one considers the scale of the proposed Bair Rural Industrial Plan Amendment/Rezone proposal **it is difficult for Staff to argue** that the Bair Amendment is inconsistent with this aim of the County.
- b.) In 1998 and in subsequent Comprehensive Plan updates or amendments, the County chose to arbitrarily ignore the urban level services and development patterns that are present in the Chico Way corridor and in the Erlands Point area. Consequently the County painted the area Rural Residential, when in fact this corridor and the Erlands Point Area **does not meet** the criteria for a Rural Residential designation. See Policy RL-1 *"Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service."* So if sewer service is present in the Chico Way corridor (which it is in the north end of the corridor), the development pattern of lots is small in the half-acre to acre sizes and developed with homes, businesses, apartment houses, a major golf course, industrial uses and the roadway is a major north/south arterial, somehow that is rural?
- c.) Just like it did to ignore the urban level development in the Chico Way Corridor and the Erlands Point area, Kitsap County chose not to recognize a long standing industrial use on property immediately adjacent to the Bair property in all prior comprehensive planning efforts. Also ignored in all of those prior comprehensive planning exercises was the automotive repair business that operated for many years on the Bair property.
- d.) Had the above mentioned conditions had be recognized there is no way to conclude that the Bair Rural Industrial Plan Amendment/Rezone proposal is introducing "a single isolated RI parcel in an otherwise RR Zone." Also, by mischaracterizing the industrial use of the former Triton Marine Corporation Company property as "governmental or service related" the Staff has set up a false premise to come to a false conclusion.

Reclassification Request Criteria (KCC 21.08.070.D)

Note: Staff has managed to confuse the presentation of their Reclassification Request Criteria discussion so that it is different than how these same or similar questions were posed in the application material the applicant was required complete. Also, the Staff provides no

recognition of the applicant's answers to these same questions. This unnecessarily complicates both the applicant's response to the Staff Report and suggests to the Planning Commission and ultimately the Board of County Commissioners that the applicant did not respond to the appropriate questions. Why is it the Staff chose to use a different format in how it addresses the criteria than the one used in the application material?

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 essentially concurs with the applicant that there are no significant adverse impacts on adopted levels of service standards or other public facilities and level of service standards for other public facilities and services. See applicant's response to Question e. found on Page 3 of the applicants "Supplemental Comprehensive Plan Amendment Criteria" discussion.

The statement the Staff makes about "a greater impact could occur (on transportation access) if this spot rezone sets a precedent of **concentrating employment uses in this location**" is a false conclusion for two reasons: 1.) It ignores the long standing industrial use on the adjacent parcel and 2.) it ignores the small scale of development that the Bair and Dana Heating parcels represent.

Further, for-all-intents-and-purposes the Growth Management Act did away with "spot zoning." The case law addressing this issue, which dates back to the pre-GMA era, is not applicable to Site Specific Comprehensive Plan Amendment proposals because by definition such proposals are across the board a type of what was once called "spot zoning."

Regarding this issue, the Staff has presented an inaccurate statement that leads to a false conclusion.

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 -

Staff says the Bair Rural Industrial Plan Amendment/Rezone proposal is not supported by the above rural and resource lands vision as found in Exhibit 4. County Vision for Rural and Urban Areas. It may be noted that while Exhibit 4 addresses Rural Areas it also is applicable to Urban Areas (see title of the chart). Regarding Rural areas, the "Vision Statement" includes this statement "Allow for limited commercial and industrial uses in rural areas, while preserving rural character." Given the scale of the combined area of Mr. Bair and the now Dana Heating Company, by any standard of measurement this is a limited area for an industrial use. Also see comments in applicant's response to Staff's analysis for KCC 21.08.070.A.2. **The Staff's analysis is in error.**

Staff says the Bair Rural Industrial Plan Amendment/Rezone proposal is not supported by the vision statement in Exhibit 4 because it constitutes and expansion of industrial zoning into an area that has "historically been designated for low density rural residential use." Again this is a

statement without reference to a specific Comprehensive Plan. For example, between the years 1978 and 1995 County's rural areas were 2.5 Acre Zoned with the possibility that smaller lot sizes could be created in these rural areas by use of the Rural Planned Unit Development standards. Prior to 1975 nearly all of rural Kitsap County had a minimum lot size of 35,000 square feet and the shoreline areas were mostly zoned R-2, which allowed divisions of land into 20,000 square feet lots. So "historically" Kitsap County did not zone property to today's Rural Residential Standards. The Chico Way corridor, however was not zoned Agriculture, Forest or Undeveloped Land in the 1968 – 1974 era and not Rural 2.5 in the 1975 – 1994 time frame. It was zoned Single Family Residential with some mix of Commercial, allowing lot size creation in the 7,500 – 20,000 square feet range. Evidence of that fact exists when looking at the lot size configuration of the parcels found in the Chico Way Corridor and in the business that developed in this corridor. **The Staff's analysis and conclusion is not correct.**

Staff says the Bair Rural Industrial Plan Amendment/Rezone proposal "would constitute an expansion of industrial zoning as the subject property is not within an existing rural commercial or industrial area. **This is a false conclusion for two reasons:** 1.) the Comprehensive Plan's discussion of "Rural Industrial" found in the discussion of 3A.1.8 Rural Economies, Page 38 **does not limit** expansion zoning to be "within and existing industrial area;" 2.) It ignores both the past use of Mr. Bair's site and the existing industrial use of the property adjacent to the Bair parcel on the south. The further statement about "not establishing new disconnected industrial areas though the re-designation of individual parcels is both false for the same two reasons. Also the point is, the Comprehensive Plan addressing the provisions for rural commercial and industrial contradict the Staff assertion that rural industrial zoning cannot be "disconnected from other industrial areas" see paragraph at the bottom of page 36 and top of page 37 of 3A.1.8 Rural Economies. This paragraph says that there are "some commercial and industrial activities outside these areas (Type III LAMIRDs). **Clearly the Staff's analysis and conclusions are not correct.**

Kitsap County Comprehensive Plan 2036 Goals and Policies

Note: There are no Kitsap County Comprehensive Plan 2036 Goals and Policies and the subsequent discussion under this heading are the goals and policies as adopted in 2010 and 2012. Therefore this is both a misleading heading and an inappropriate characterization of what follows in the goals and policy analysis.

3A.2.3 Rural Lands – Goal 2. And Policy RL-8 –

Please note that while Policy RL-8 is in the Comprehensive Plan it is both poorly worded, not a policy, but a regulation and fails to recognize that compliance with GMA is the necessary responsibility of Kitsap County when it adopts a comprehensive plan and not a requirement for development or subsequent zoning to be compliant with GMA. Consider the fact that different jurisdictions such as Pierce and Thurston Counties have provisions in their Rural Elements that allow clustered development in Rural Areas and therefore lot sizes below five

(5) acres in their rural areas. That is "GMA" compliant whereas in Kitsap County that type of "compliance" allowance is not permitted. Incidentally, GMA's provisions for Rural Areas makes no distinction for minimum lot or parcel sizes. See RCW 36.70A.070.5. (b) & (c).

Staff says that the Bair Rural Industrial Plan Amendment/Rezone proposal is not consistent with Policy RL-8, but a reading of the policy in light of Mr. Bair's proposal should indicate that only "limited expansion" of an existing industrial use is involved.

As for "consistency with GMA and Comprehensive Plan requirements for rural areas, preserve Kitsap County's character and shall not allow urban-type uses or services" the Bair proposed LI Zoning has virtually no adverse impact on the rural character of the Chico Way Corridor and the proposed use is no more an Urban-Type use than the facility next door or the type of mini-storage / RV storage development found in South Kitsap County on Spring Creek Road next door to the Auction Barn and the State Department of Transportation facility. In the for-what-its-worth department, both the Stokes Auction Barn and the State DOT facility are Zoned Rural Residential.

Staff makes an unfair statement about Mr. Bair by saying that *"Zoning should reflect a coordinated effort to plan for commercial and industrial development at the neighborhood district or sub-district level and not be based on the personal interests of a single property owner."* First of all that is opinion not supported by a careful analysis of Kitsap County's prior development to include such zoning as described in the preceding paragraph. Second, it fails to recognize that it takes individuals like Mr. Bair to propose uses that increase the economy of the County if only by the increase in tax base. For example the former Triton Marine Corporation and now Dana Heating site has a value of \$370,000.00 or \$9.44 per square feet (both buildings and land) and Mr. Bair's site, while still residentially zoned has a value of \$75,000.00 or \$2.46 per square feet (land value). A simple analysis reveals that Mr. Bair's zoning request does result in a net benefit to Kitsap County and all of the special purpose taxing districts. Again it is unfair to say or imply that Mr. Bair is the only one to benefit by the proposed LI Zoning.

Clearly the Staff Analysis and Conclusions are not correct.

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 –

Note here the Staff Report goes back to the Criteria Questions found in the application material.

Regarding this question see applicant's response on Page 2 of the Supplemental Comprehensive Plan Amendment Criteria. Staff assertion that the property is "not suitable for the proposed land use designation" is a conclusion based on opinion and ignores the industrial use of the abutting property on the south. Even though staff stipulates there is a non-conforming use to the south they characterize it as commercial not industrial. Equally a

problem is the notation that this non-conforming use will be phased out over time. The industrial buildings on the south side of the Bair property have been in use since 1982 and have been and are now occupied by yet another industrial business. This was earlier noted in this response on Page 2. The prospect of the industrial use being phased out any time within the next twenty (20) years is next to nil. Therefore this is a false assessment and if Kitsap County had done a proper analysis of existing industrial uses in this portion of the County either in 2010 or 2012 there should have been a recognition of this long standing use and the establishment of RI Zoning here rather than force the owner of the property to live under the specter of non-conforming status.

Staff goes on to say that "Future industrial development should locate in existing areas that have available capacity for new or redevelopment." This is a statement not supported by analysis of these so-called "existing areas." Where are they? And why was the existing industrial use overlooked or mischaracterized first as a Government or Service use and now by calling it commercial?

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 applicant's response on Page 2 & 3 to the Supplemental Comprehensive Plan Amendment Criteria.

Staff response essentially agrees with the discussion presented by the applicant, i.e. there is compliance with this criteria.

D.1.e – the proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall areas of the urban growth area -

See applicant's response on Page 3 to the Supplemental Comprehensive Plan Amendment Criteria.

Staff response essentially agrees with the discussion presented by the applicant, i.e. there is compliance with this criteria.

D.1.f – The proposed amendment is consistent with the GMA, Kitsap County-wide Planning Policy, state and local laws and other applicable Inter-jurisdictional policies or agreements - Please note the applicant's objection to the County-wide Planning Policies (CPPs) being part of analysis criteria as explained on Page 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.

Regarding staff's discussion on this criteria – the GMA citation of RCW 36.70A.020 as explained by staff talks about (2) "Sprawl" as defined by "low-density development." That discussion is not applicable to Rural Industrial for three reasons: 1.) "low-density development" describes residential patterns of growth not commercial or industrial; 2.) the collective development of the existing (now Dana Hearting use) and Mr. Bair's proposed use is in fact a low intensive type of industrial use; 3.) Kitsap County amended its Comprehensive Plan in 2010 to provide for Rural Commercial and Rural Industrial. Those amendments were judged compliant with the GMA by both the State Department of Commerce and Kitsap County. Thus, the Staff's inclusion of this GMA provisions for "sprawl" is not an appropriate measure to analyze the Bair Site Specific Comprehensive Plan Amendment / Rezone proposal.

Regarding (5) Economic development. – Staff's comments are reflective only of opinion and not a careful review of even their own comprehensive plan. See prior response comments to D.1.b on page 6 of this letter.

Staff assessment and conclusions are either inappropriate to the Assessment Criteria, incorrect or nothing more than opinion.

3.a. Demonstration of unmet need for the proposed land use designation in the rural area -

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

Regarding unmet need for the proposed land use designation in the rural area – Staff says *"the unmet needs identified by the applicant pertain to the specific circumstances of the property owner and are not connected to the public interest."* **This statement by Staff is not accurate.** The applicant's response detailed an "unmet need" by comparison with a Rural Industrial Zoned property in South Kitsap not just the specific circumstances of the property owner. If Staff is going to make reference to "public interest," a term not included in this Criteria, there needs to be a definition of what that means. When an individual pursues an economic enterprise he or she does so to address an unmet need of one kind or another. Economies grow no matter where located only when business are formed to meet unmet needs. Clearly Kitsap County has addressed this "public interest in Section 3A.1.8 Rural Economies when it states *"The Growth Management Act recognizes and encourages rural economic development that is focused on providing employment and services to rural residents."* See page 37 of the County's Comprehensive Land Use Element.

The Staff goes on to state: *"The applicant has provided no evidence that the unmet need cannot be accommodated with in urban areas or land already zoned RI."* Point in fact the applicant did address that aspect of the unmet need by stating there are no available industrial or even Rural Industrial Zoned areas within the close by UGA to accommodate the applicant's proposed use. Also there are no Rural Industrial Zones with convenient access to Chico Way.

Staff assessment and conclusions are without merit and incorrect.

3.b. Rural Character preserved or unaffected by the change –

Staff asserts: *"The introduction of industrial zoning in a Rural Residential neighborhood would not preserve the rural residential character of the area as the subject property would be the only property in the immediate area with the industrial zoning designation."* This statement while technically accurate is not a practical reality because it does not address or recognize the long standing existing non-conforming industrial use abutting the Blair property on the south. Also if the Staff could be candid, there is nothing about the Chico Way Corridor or the Erlands Point area that has "Rural Residential Character" that must be why the Staff goes on to suggest that *"Concentration of UI (urban industrial?) is more in keeping with rural character rather than single industrially zoned parcels."* Note a clarification of UI has been added, which is the only way to make sense of that statement. Even with the clarification the statement still makes no sense.

Staff assessment and conclusions are without merit and incorrect.

3.c - Demonstration that proposed designation will principally serve the rural area –

See applicant's response on Page 8 also on Pages 5-7 to the Supplemental Comprehensive Plan Amendment Criteria.

Staff asserts that *"The applicant has provided no evidence that the proposed designation will principally serve the rural area."* The applicant did indeed provide such evidence by comparison to a South Kitsap County Rural Industrial area. Also, the text of the applicant's response indicates that the service area for this proposed Rural Industrial site extends to Wildcat Lake, Camp Union and even Seabeck, but the focus is on the so-called Rural Residential Chico Way Corridor, which as earlier observed does not meet the criteria for a Rural Residential Comprehensive Plan classification or Zoning designation. And the Chico Way Corridor as well as Erlands Point does not fit the Rural Character description found in 3A.1.3 of the Land Use Element of the Comprehensive Plan on Pages 4 -8. Thus for Staff to say further that the proposed amendment appears solely for personal gain and not based on public interest" is problematic for the same reasons identified in the criticisms of the Staff analysis / assessment of 3.a. Central to Staff's contention is this so-called "public interest" issue that is not mentioned in the criteria or defined by Staff.

A redundant comment is in order if Staff is going to continue to base its judgements on "public interest." Before raising that as a criteria three factors need to be addressed: 1.) What constitutes "public interest" in the context of uses serving a rural area or an area like the Chico Way Corridor, which is only rural by virtue of an artificially applied zoning category? 2.) How "public interest" is tied to an assessment of what use will or will not principally serve the rural area. And 3.) How "public interest" is manifest in economic enterprises? Are not economic enterprises primarily driven by private sector gain of one sort or another? Is the Staff trying to suggest that only when government proposes a business that somehow that is in the "public interest" and that any enterprise promoted by individuals is not in the public interest because there is remuneration that only redounds to an individual?

Clearly Staff has made an assessment, has drawn a conclusion that they cannot defend, that is in essence without merit and incorrect.

3.d. Demonstration that appropriate rural services are available –

See applicant's response to the Supplemental Comprehensive Plan Amendment Criteria on applicant's Pages 1 & 8.

Staff comments concur that this criteria has been satisfied.

3.e. Demonstration that the proposal is contiguous to existing industrial or commercial zoning –

Staff's assessment is that no such zoning abuts the property. However when Staff goes on to state that "there is no unique or exceptional need has been identified," they have in fact failed to recognize either the prior existing use of automotive repair that took place on the site (with the garage facility still evident there or the industrial buildings of which there are three (3) on the property to the south that houses an industrial use. These ignored facts are unique and exceptional in the context of this area of the Chico Way Corridor. It may be noted also that Triton Marine Construction Corporation held the Blair property in its ownership and had slated it as an expansion area for their use.

Failure of Staff to recognize these factors as addressed by the applicant in his responses provides an incomplete assessment on their part and leads to an inappropriate conclusion.

3.f. Demonstration that the property is sized appropriately for the proposed land use designation -

Staff's assessment that the site does not meet this criteria is not based on facts. The Rural Element of the Comprehensive Plan, particularly the discussion on Page 37 of Rural Industrial emphasizes "the intent and function of the Rural Industrial Zone is to provide for small-scale light industrial....." All of the examples cited in that text are sites in the half-acre to acre range and do not have multiple properties. Also to be noted is the discussion the applicant provided in his assessment of compliance with this criterion – see page 9 of the Supplemental Comprehensive Plan Assessment Criteria.

Staff's assessment and conclusion is without merit and incorrect.

3.g. Demonstration that there is a lack of appropriately designated and available sites within the vicinity –

Staff asserts that the subject property "is located just north of the City of Bremerton and south of a Rural Commercial area that has capacity for new development and redevelopment." The applicant has responded this question that no such properties are available. In the City the closest vacant parcel of similar size is Zoned Light Commercial and that zone does not permit the kind of use Bair envisions for the property subject to proposed LI land use classification and ultimate zoning. Property that staff says is available and has the capacity for new development or redevelopment is a. not identified as a specific site and b. is either already developed commercially or has a substantial single-family or multi-family residential use on it. The applicant has considered this area but not found an available property.

It may be noted that within the Rural Commercial (RCO) Zoned area, it is apparent that Kitsap County has ignored some industrially developed properties as well as some multiple-family

structures and used a broad paint brush when the RCO Zoning action took place. Also ignored is the presence of a sanitary sewer, which should have qualified the zoned area as "urban" not rural. This is further evidence to the arbitrary nature of how zoning decisions have been made in the Chico Way Corridor and the same can be said for the Erlands Point area too.

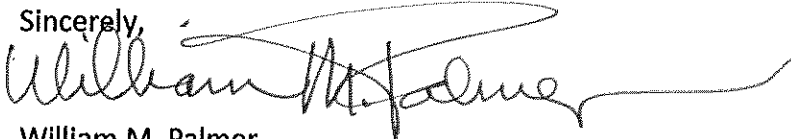
The Staff assessment and conclusions reflect opinion rather than specific examples to contradict the analysis of the applicant.

Based on the analysis and conclusions Staff has presented, which have been refuted, this response and the original application material, demonstrates the Bair proposed Rural Industrial 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,

A handwritten signature in black ink, appearing to read "William M. Palmer", with a long horizontal flourish extending to the right.

William M. Palmer
W.M. PALMER CONSULTANTS

cc. Chuck Bair