



December 4, 2015

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Port Orchard, Washington 98366

SUBJECT: Response To Staff Report For Sedgwick Partner's Site Specific Comprehensive Plan Amendment – Urban Low To Highway Tourist Commercial - Permit No: 15 00735

Dear Katrina, Jeff,

This letter is a response to the Staff Report issued on November 9, 2015 analyzing the Sedgwick Partner's Site Specific Comprehensive Plan Amendment / Rezone proposal to reclassify and rezone their property on 2232 SE Sedgwick Road (SR-160). This parcel is further referenced by Kitsap County Assessor / Tax Number – 122301-2-013 -2005.

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:

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Background –

The staff report mentions that a portion of the site has hydrologic soils and therefore is in or near a potential wetland. Also Staff mentions the “Moderate Geological Hazard Area” mapping that shows the subject property is near that feature of the landscape. What is not discussed is the relevance of those two features to the proposed Site Specific Comprehensive Plan Amendment/Rezone proposal. In the SEPA Checklist the applicant submitted, the questions about site development limiting features were answered in the negative. There are no wetlands on the subject property. The soils mapping data Staff references includes only one (soil conditions) of the three elements that must be present for there to be a wetland. If the other two are not found, i.e. wetland type vegetation and hydrology, there is no wetland. Also it is fair to comment that the soil mapping that was performed for Kitsap County was analyzed in the late 1970s and there have been no updates to that study/mapping since then. But in the meantime many features of the natural landscape have changed particularly in this area. Witness the large, small lot subdivision found on the north side of Sedgwick Road that lies right smack in the middle of the “moderate geological hazard area.” And then there is the road improvements the State Department of Transportation has made to Sedgwick Road (SR-160), which cuts across both of these soil / topographic features.

Staff’s mention of these environmental features is without context and begs the question of why the information was so conveyed?

Surrounding Zoning and Land Use –

The “Exhibit 1” chart found on Page 2 while technically accurate is not consistent with the information presented by the applicant. The current land use on the west side of the subject property is a narrow parcel of single-family residential land that lies adjacent to a large site of st Commercial (C) Zoned property in the City of Port Orchard. Both properties lie within Port Orchard’s city limits.

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 that conditions have changed, therefore this 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." However, reference is made to the 2006 Comprehensive Plan Update, when the reference should have been to the December 2012 update because the 2006 Comprehensive Plan with respect to UGAs was invalidated. Also there is a "see Error! Reference Source not found" note that makes no sense.

Staff's assessment is unclear and inconclusive. Applicant's response contends there is compliance with this criteria.

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 Port Orchard's UGA is "oversized in the No Action Alternative for employment capacity." The relevance of this statement is unclear. Since the subject property is included in all three alternatives to the Comprehensive Plan in the DSEIS, it is up to the City of Port Orchard to decide (with citizen input) what economic / employment capacity targets they wish to pursue. As of November 16, 2015 the City Council of Port Orchard has said they favor the "No Action Alternative." It is worthy of note that in 2012 when the County amended its comprehensive plan to reduce the size of the UGA, in this portion of South Kitsap there were no reductions. Also pertinent, is the fact that by 2012, Port Orchard had annexed most of the Bethel Corridor to include the parcel immediately abutting the site on the west. Since the subject property is located in Port Orchard's UGA in all three alternatives, there has to be the assumption that at some juncture the City will annex the subject property as well. Thus the discussion of oversizing of the Port Orchard's UGA is nothing more than an academic postulation that ignores what the City of Port Orchard has already said.

It may be noted that besides what the City Council of Port Orchard has stated, there are **many people in the South Kitsap area who will take great exception** to any reductions in Port Orchard's UGA. Public opinion seems to have gotten "short shrift" in the County's 2014 – 2016 Comprehensive Plan development process. Witness the fact that when the alternatives were crafted for the DSEIS there was no prior vetting with the citizens of the County, they were staff derived with some possible input from the City of Bremerton and maybe Poulsbo. Even in the November round of open houses there was not even a presentation of what alternatives the County was considering to the public. So what we have here is a "top down process" with no prior exposure to the decision making process of Staff and as it appears the Board of County Commissioners. The clear message to the citizens of this County is we do not care a whit about what works for them.

Think that statement is not true? Please examine the annexation actions of Port Orchard following the adoption of the 2006 Comprehensive Plan. The City did not initiate those proceedings.....property owners did! Why? Because of a basic distrust in County government, that had demonstrated a lack of commitment to past comprehensive plan provisions. Property owners in the Bethel Corridor were similarly displeased with broken promises of Kitsap County. Which promises you ask? The ones for traffic improvements to Bethel Road. For close to ten years the County had a plan on the books for this corridor and funded not one single improvement commitment spelled out in their corridor plan or took steps to secure grant funding for those planned improvements.

Next Staff states that "the proposed amendment does not appear to be in the public interest." While it is true that the criteria statement mentions "public interest," there is no context in which to make that judgement. All "public interest" considerations derive from the police powers accorded jurisdictions within the State of Washington from the phrase "public health, safety and welfare." Neither public health nor safety issues are manifest in the Sedgwick Partner's amendment request. "Welfare" can only be a consideration if Staff can show that somehow the "welfare" of the citizens of South Kitsap County is somehow in peril with this proposed amendment or the ultimate use of the site as allowed by the HTC Zone. The applicant argues that there is no such peril or jeopardy to the citizens of South Kitsap County or even in the immediate neighborhood.

Also germane to this issue is what evidence can the County provide that it even cares about what the people think, when all the County does is record comments provided and produce no evidence that public comment was cause for a change in policy or plan provisions? Consider as point in fact that the Citizen Participation process for this Comprehensive Plan update was designed to preclude face to face dialog about provisions to be included in the 2016 Comprehensive Plan. And when issues are presented in the public hearing process, at best a citizen gets three (3) minutes of verbal comments and the opportunity to submit written opinion that is as likely to be influential in the final plan provisions as chicken has of flying to the moon without a rocket or some type of aircraft.

Regarding the issue of *"designing a single isolated single-family residential property for high-intensity commercial is contrary to the County's goals for coordinated planning and focusing commercial growth in compact areas or along transportation corridors with a concentration of commercial and mixed-use properties,"* Staff must take into consideration that a.) the subject property does lie adjacent to a major "transportation corridor" and b.) in this part of South Kitsap the issue of a "compact commercial area" is quite out of character with the Fred Meyer complex, the commercially zoned land between Fred Meyer and the subject property. The statement really does not reflect the ultimate goal of the Growth Management Act, and of Kitsap County which is, when all of the rhetoric is pared away....."pack-em" and "stack-em" all in urban areas. Well this amendment proposal fits that goal. The subject property is within an urban area (by definition), therefore the proposed amendment is **not contrary** to the County's goals for "coordinated planning."

If the City of Port Orchard has submitted any comments or letters expressing lack of support for this amendment proposal, the applicant has no knowledge of that fact and therefore no prior opportunity to respond to any comments the City could have made. If somehow Staff has relied on those comments in their analysis, it is incumbent on Staff to have communicated those comments to the applicant or their representative prior to or at least as a reference document attached to the staff report. Because that was not done, the applicant reserves the right to address Port Orchard's comments after the deadline for comments of December 7, 2015.

So exactly what does it mean for Staff to argue the Sedgwick Partner's proposed HTC Comprehensive Plan Amendment / Rezone is not in the "public interest?"

Since the Staff has not defined what constitutes "public interest" and has set up a false premise regarding compliance with the County's goal of "coordinated planning," they have 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 **concur 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.

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 –

In the Staff assessment of this issue there are two errors. The first is a labeling error of "a" instead of D.1."b." Unfortunately this labeling error continues through to the Growth Management Act Planning Goals. The second is the Exhibit 5 "Error! Reference source not

found.” This is the second time this same “error” message has been inserted into the staff report. Is there no citation from the County’s 2012 Comprehensive Plan or one of the Appendices wherein the “County Vision for Economic Development and Urban Areas can be found?

Regarding the Staff comments that follow Exhibit 5, they **are not pertinent** to the contents of the chart. The discussion raises essentially the same issues as in Staff assessment in General Criteria A.3. Refer to the applicant’s response for that criteria as it is applicable here. **Staff cannot rely on Exhibit 5 to say that the proposed Sedgwick Partners’ HTC Comprehensive Plan Amendment / Rezone proposal is not supported by this Vision statement. A careful reading of that statement leads to the obvious conclusion that it does in fact support the applicant’s requested amendment and rezone.**

The Staff’s analysis is in error.

Kitsap County Comprehensive Plan Goals and Policies

Section 2.2.4.1 of the Land Use Element of the County’s 2012 Adopted plan –

Goal 6: Encourage and reinforce development patterns within UGAs that are distinct from those in rural areas.

Policy LU-29 – Encourage development patterns in UGAs that support and encourage transit use, such as in and around more intensive nodes of mixed use development along major transportation corridors, and major employment centers.

Staff says that the Sedgwick Partners’ HTC Plan Amendment/Rezone proposal is not consistent with Policy LU-29, but a reading of the policy in light of the context of the area west along Sedgwick Road (SR-160) leads to just the opposite conclusion and not to the opinion of Staff.

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, but Staff’s “b” should be “D.1.c” as shown above.

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. See comments on Page 2 of the applicant’s response and the discussion of General Criteria A.3 found on Pages 3,4 &5 of this response.

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 –

Note: Staff's "D.1.c." should be as recorded here: D.1.d.

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 –

Note: Staff's "D.1.d." should be as recorded here: D.1.e.

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 –

Note: Staff's "D.1.e." should be as recorded here: D.1.f.

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

Please note these goals are those that Kitsap County has to meet when their plan is adopted. These goals have already been satisfied when the defined Urban Growth Areas in 1998, 2006, and as they were revised in 2012 were adopted. Since the Sedgwick Partners' property is and has been located within Port Orchard's UGA in all three of those plans it is nearly pointless to use these goals to evaluate this kind of a change within a UGA.

Urban Growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

Staff assessment and conclusions notes there is compliance with this goal.

(1) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low density development.

Staff assessment and conclusions notes there is compliance with this goal.

(2) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services and public facilities.

Staff asserts that the proposed Sedgwick Partner's HTC Comprehensive Plan Amendment / Rezone proposal is supported by this goal, but goes on to comment that Port Orchard's UGA is oversized and that the proposed amendment is not supported by this goal. The Staff's arguments were refuted in the discussion of General Criteria A.3 and the applicant's response to Comprehensive Land Use Plan Element Policy LU-29.

Staff has expressed opinion in their findings which leads to a false conclusion.

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 use these policies as set forth in their staff report 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 9th staff report or as detailed in a response to that November 17th 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.

2.a. Demonstration from the jurisdiction affiliated with the UGA that the proposal has the capability and capacity to provide urban level services to the area.

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

The Staff states: *"The subject property is already within the Port Orchard UGA."* And *"However the City does not support approval of the amendment request as noted above."* Taking the first point, UGAs are not so designated without an analysis that leads to the conclusion that either the County or the adjacent jurisdiction has the capability and capacity to provide urban level services to the area. That fact has already been tested in the appeal of the County's 2006 Comprehensive Plan update and validated by the Growth Management Hearings Board following the adoption of the Revised 2006 Comprehensive Plan in 2012. Also, the underlying premise of UGA designation in GMA is that the entire UGA associated with a City will one day be annexed to that City. **So the issue of compliance with this criteria has been established without the necessity of a letter of concurrence from the City.**

Since there is apparently a letter from the City of Port Orchard providing comment on this amendment application, that letter or e-mail should have been sent to the applicant and included with the staff report. **Because neither took place, the applicant reserves the right to comment on the letter or e-mail after this response and before any public hearing date is set to consider this Site Specific Comprehensive Plan / Rezone amendment.**

Staff assessment is incomplete and conclusions drawn are without merit and incorrect.

2.b. Demonstration that the proposal is consistent with the associated urban growth area jurisdiction's Comprehensive plan –

Staff asserts: *"The City of Port Orchard does not support the amendment request as noted above."* And states: *"That the proposed amendment is inconsistent with the following Land Use Policy: POLU-5 Maintain and enhance single-family neighborhoods."* The issue of a letter/e-mail from the City of Port Orchard has been addressed in the response to 2.a. Regarding consistency with Policy POLU-5 the context of the area has to be considered. The site sits adjacent to Sedgwick Road and is in a different environment than the balance of the subdivision. When the subdivision was created in the mid 1980's there was no sewer service to this area and there had been no major road improvements to Sedgwick Road. In fact the State of Washington and Kitsap County had not yet consummated the trade between the old SR – 160 which use to be SE Mile Hill Drive and Southworth Drive and Sedgwick Road. Besides those two factors, the Fred Meyer complex had not been developed, the subsequent application of commercial zoning between Fred Meyer and the subject property had not occurred, Port Orchard had not annexed any property in the Bethel Corridor and sanitary sewer service had not been extended to the subject property (and not the balance of the subdivision). Thus, what looks like on the surface an isolated parcel proposed for commercial use is not a "whole story" analysis or conclusion.

Regarding Port Orchard's Policies POSK-23 "Maintain and enhance the single-family residential neighborhoods," POSK-38 "Maintain and strengthen existing commercial areas by focusing development within them and establishing development guidelines", and POSK-42 Discourage strip commercial land use development patterns and concentrate commercial/office development in pedestrian friendly centers," these policies too, when applied to the subject Comprehensive Plan Amendment / Rezone application have to be examined in light of the context of the area as mentioned above.

The applicant's response comments to Criteria A.3 are factors to be considered here as well and are repeated here for emphasis.

"Staff must take into consideration that a.) the subject property does lie adjacent to a major "transportation corridor" and b.) in this part of South Kitsap the issue of a "compact commercial area" is quite out of character with the Fred Meyer complex, the commercially zoned land between Fred Meyer and the subject property. The statement really does not reflect the ultimate goal of the Growth Management Act, and of Kitsap County which is, when all of the rhetoric is pared away....."pack-em" and "stack-em" all in urban areas. Well this amendment proposal fits that goal. The subject property is within an urban area (by definition), therefore the proposed amendment is **not contrary to** the County's goals for "coordinated planning."

Staff assessment and conclusions are incomplete because area context was not considered and therefor a finding of inconsistency with these policies is not supported.

3.c - Demonstration that the proposal meets the affiliated jurisdiction's transportation standards –

Aside from Staff's notation that the City does not support the request, see response to 2.a above, the Staff concludes that: "The rezoning of a relatively small parcel by itself is not anticipated to have significant adverse impacts on transportation. The proposal is included in the 2016 SEIS cumulative analysis of transportation."

See applicant's response on Pages 4& 5.

This criteria has been satisfied.

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,



William M. Palmer

W.M. PALMER CONSULTANTS

cc. Sedgwick Partners