

## Andrew Boughan

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**From:** Shelley Kneip <donotreply@wordpress.com>  
**Sent:** Tuesday, November 30, 2021 1:56 PM  
**To:** Andrew Boughan  
**Subject:** [] Comment on the Up Castle Land Use & Rezone Amendment

**Name:** Shelley Kneip

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**Type of Comment?:** Comment on the Up Castle Comprehensive Plan Amendment proposal.

**Do you support the Up Castle Comprehensive Plan Amendment?:** I do not support the Up Castle Comprehensive Plan Amendment proposal., SEPA Determination comment.

**Comment:** Thank you for the opportunity to comment on the scoping process for the Up Castle comprehensive plan amendment, rezone and code change. While this may seem like a simple project to some, it involves serious questions concerning Thurston County's comprehensive plan and protection of rural areas as required under the state Growth Management Act. I applaud staff for recognizing the complexity of this proposal and issuing a determination of significance.

1. Rural Use/Consistency between the comprehensive plan and the zoning code. The proposal is to "amend the comprehensive plan and zoning to allow general industrial development." The applicant plans to site a distribution warehouse on the site and hopes to change the comprehensive plan land use designation from Rural Residential to Rural Industrial. The comprehensive plan describes RI lands as follows:

"Commercial uses will be small in scale and will provide convenience services to the rural neighborhood. Industrial uses will generally be those that are related to and dependent on natural resources such as agriculture, timber or minerals." The proposal does not meet the criteria in the comprehensive plan for a rural industrial use, as it is not (1) small in scale or (2) related to and dependent on natural resources. Similarly, the zoning code sets forth a purpose for RI lands as follows:

The purpose and intent of the rural resource industrial district is to provide areas where industrial activities and uses that are dependent upon agriculture, forest practices and minerals may be located. The district also allows such uses that involve the processing, fabrication, wholesaling and storage of products associated with natural resource uses. The standards in this chapter are intended to protect the rural area from adverse industrial impacts. All industrial uses must be functionally and visually compatible with the character of the rural area.

TCC 20.29.010. Again, the proposal does not meet the purpose of the RI zone as it is not dependent on agriculture, forest practices and minerals. To the extent that the code may be (or has been) interpreted to allow other types of industrial uses, this is a clear conflict with the comprehensive plan and not permitted under GMA. RCW 36.70A.040. (Development regulations must implement and be consistent with the comprehensive plan).

Moreover, the Growth Management Hearings Board have also held that rural industrial uses that are resource based. Dawes v. Mason County, WWGMHB Case No. 96-2-0023, Final Decision & Order (Dec 5, 1996) ("Rural population centers must accommodate only commercial enterprises which serve neighborhood needs and only industrial enterprises which are resource-based.").

This issue must be taken account in considering alternatives in the EIS. These types of rural uses are not consistent with Thurston County's comprehensive plan or the GMA.

2. Off-site Alternatives. Because this proposal includes a rezone, other sites must be considered as alternatives. The SEPA rules, WAC 197-11-440(5), incorporated by reference into the Thurston County code at TCC 17.09.020, provide: (d) When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site. This

subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA. Further, alternative sites may be evaluated if other locations for the type of proposed use have not been included or considered in existing planning or zoning documents. See also, *CAPOW v. City of Auburn*, 126 Wn.2d 356 , 894 P.2d 1300 (1995).

Even though this is a private proposal, it is asking for a change in the comprehensive plan and a rezone of the property. Therefore, other sites must be considered as alternatives to the proposed action, which are "actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation." WAC 197-11-440(5)(b). I urge Thurston County to look at capacity in Urban Growth Areas in order to preserve and protect rural areas and farmland.

3. Impacts of Proposed Development. The EIS must consider the impacts of the proposed development, regardless of the fact that this is a "nonproject" action. Changing the comprehensive plan and zoning designations, as well as changing the zoning code to fit the applicant's proposal will result in impacts from the proposed use. The Growth Management Hearings Boards and the courts have held that the impacts from the final development must be considered:

"Non-project actions are not exempt from adequate SEPA review. In fact, jurisdictions may not evade SEPA review by deferring analysis until later stages of actual development. This Board has often considered SEPA requirements in regards to nonproject actions. Thus, when a city amends its comprehensive plan or changes zoning, a detailed and comprehensive SEPA environmental review is required. SEPA is to function "as an environmental full disclosure law," and the City must demonstrate environmental impacts were considered in a manner sufficient to show "compliance with the procedural requirements of SEPA.""

*Olympians for Smart Development & Livable Neighborhoods, et al., v. City of Olympia*, Case No. 19-2-0002c, Order Denying Motion to Dismiss, Allowing Supplementation f the Record, Granting Summary Judgment at 6, March 29, 2019. (citing WAC 197-11-055(2)(a)(i), *Alpine Lakes Protection Society v. DNR*, 102 Wn. App 1, 16 (1999); quoting *Association of Citizens Concerned about Chambers Lake Basin et al., v. City of Olympia*, GMHB No. 13-2-0014 (Final Decision and Order, August 7, 2013) at 5 (footnotes omitted).

Thank you again for the opportunity to comment. I do hope Thurston County will evaluate this proposal in light of one of the main goals of GMA: protecting and preserving rural and natural resource lands.

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Time: November 30, 2021 at 9:55 pm

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