



## Kitsap County Department of Community Development

### Hearing Examiner Staff Report and Recommendation

**Report Date:** September 17, 2021

**Application Submittal Date:** April 9, 2021

**Hearing Date:** October 14, 2021

**Application Complete Date:** April 9, 2021

**Project Name:** Jun Auto Wrecking – Rezone to Industrial

**Type of Application:** Rezone

**Permit Number:** 20-05249

#### Project Location

6472 State Highway 3 SW

Port Orchard, WA 98367

County Commissioner District 2 (South)

#### Assessor's Account #s

012301-4-021-1006

012301-4-030-1005

012301-4-031-1004

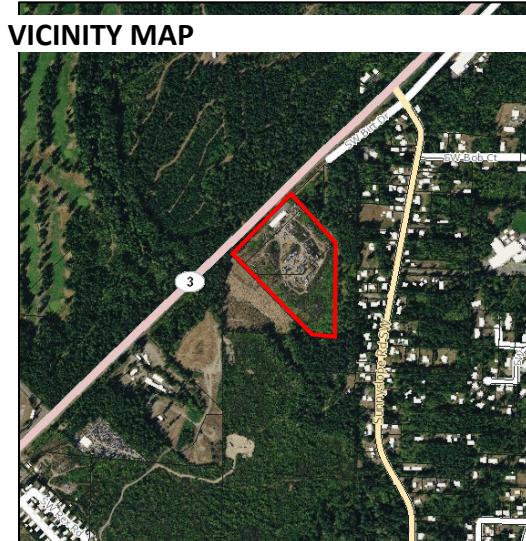
Commissioner District 2 (South)

#### Applicant/Owner of Record

Thomas Jun

15909 SE Cougar Mountain Way

Bellevue, WA 98006



#### Recommendation Summary

County staff recommends the rezone be approved subject to conditions in Section 14.

#### 1. Background

Thomas Jun (hereafter, "the Applicant") proposes to rezone three parcels from Business Center (BC) to Industrial (IND) to accommodate an auto wrecking yard. The project site operated as an auto wrecking yard as far back as 1994 as seen in aerial imagery, and wrecking yard operations ceased in 2008. The Comprehensive Plan Land Use Designation of the property has been Urban Industrial as far back as the 1998 Comprehensive Plan, and the Zone Classification for the property in 1998 was Urban Reserve. However, this zoning was changed during the 2006 Comprehensive Plan Update and to BC by Ordinance 370-2006.

Per KCC 17.570.020.A: "Unless specifically stated elsewhere in this title, if a nonconforming use not involving a structure has been changed to a conforming use, or if the nonconforming use ceases for a period of twenty-four months or more, said use shall be considered

abandoned, and said premises shall thereafter be used only for uses permitted under the provisions in the zone in which it is located.” Based on the lapse in permitted operations and the 2006 change in current zoning, auto wrecking is now an unpermitted use within the BC zone.

The request proposes changing the zoning to permit the auto wrecking yard through a subsequent conditional use permit and all other applicable regulatory requirements. The request is a corrective action originating from a complaint by the Washington State Patrol who observed a car being hauled on to the property for temporary storage on October 21, 2019 (Exhibit 1). County action and correspondence following the initial complaint is as follows:

- December 5, 2019: A site visit was conducted by a County construction inspector who found several cars being stored on the property.
- December 16, 2019: The applicant had a 30-minute staff consult to discuss corrective actions necessary for compliance.
- December 17, 2019: Applicant was contacted by the construction inspector outlining the requirements for wrecking yards, scrap processors, and hulk haulers, as well as the procedure and requirements for a rezone.
- January 23, 2020: The construction inspector contacted the applicant to discuss that the use of the property is in violation of the current zoning. The applicant agreed and contacted a planning consultant, and the consultant referred them to legal counsel.
- February 9, 2020: The construction inspector contacted the applicant’s legal counsel to clarify the County’s request for corrective action in the form of a rezone.
- February 11, 2020: The construction inspector contacted the applicant’s legal counsel to follow up on a phone conversation earlier that day. The construction inspector relayed information from the December 16, 2019 staff consult conducted with the applicant. Once the zoning issue is resolved, the applicant will need to apply for a Major Tenant Improvement to acquire a Certificate of Occupancy as no permits can be processed until the zoning has been changed.
- May 21, 2020: The applicant was contacted by the construction inspector asking for an update on the status of their submittals and asked for a response within the following two weeks.
- November 3, 2020: The construction inspector received a report from the Washington State Patrol that auto wrecking activities are ongoing and contacted the applicant to let them know that their application needs to be submitted within two weeks or they will issue a Notice and Order.
- February 11, 2021: The construction inspector contacted the applicant to make them aware of additional documentation that was necessary for their submittal.

## 2. Project Request

The proposal is to rezone three parcels within the BC zone to IND to permit the use of the site as an auto wrecking yard through a future conditional use permit and any other applicable regulations. The request is subject to a Type III process in which the Hearing Examiner and

the County Board of Commissioners have review and approval authority for this Rezone application under KCC Section 21.04.230. The Kitsap County Commissioners have determined that this application requires review and a recommendation of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, remand, or deny a rezone. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner can be found in KCC Chapter 2.10.

### **3. SEPA (State Environmental Policy Act)**

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of "major" environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-800(6)(c) and KCC 18.04 below, the proposal has been determined to be SEPA exempt. The Responsible official had the following comments on the request for a rezone:

- (c) Where an exempt project requires a rezone, the rezone is exempt only if:
  - (i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040;
  - (ii) The proposed rezone is consistent with and does not require an amendment to the comprehensive plan; and
  - (iii) The applicable comprehensive plan was previously subjected to environmental review and analysis through an EIS under the requirements of this chapter prior to adoption; and the EIS adequately addressed the environmental impacts of the rezone.

*Staff Comment: The subject parcels are largely surrounded by the Puget Sound Industrial Center (PSIC) urban growth area; the request does not require an amendment to the Comprehensive Plan as both BC and IND current zoning are permitted under the Urban Industrial Comprehensive Plan Land Use Designation; an EIS was completed during the 2016 Comprehensive Plan Update process and addresses the environmental impacts of the industrial designation of the site.*

### **4. Physical Characteristics**

The subject site is composed of three parcels with a total area of 17.7 acres accessed from

Highway 3 southeast of the Gorst Creek outlet to Sinclair Inlet. The property is generally flat and slopes gently northeast. The site sits northwest of a former landfill site, which was remediated in 2016 and has several development restrictions regulated by the Kitsap Public Health District (Exhibit 5). The landfill paralleled the north bank of Gorst Creek, a fish-bearing stream. The creek was remediated and restored during the landfill remediation.

Kitsap County resource maps indicate no critical areas on the subject site. However, the site is immediately adjacent to Gorst Creek and lies within the creek's watershed.

## **5. Comprehensive Plan Designation and Zoning**

The existing Comprehensive Plan Land Use Designation for the subject site is Urban Industrial, and the Zone Classification is BC. The IND zone is also within the Comprehensive Plan Land Use Designation of Urban Industrial. The following are descriptions of the existing and proposed zoning for the subject site:

### **a. Business Center Zone**

The BC zone is intended to provide for integrated grouping of medium to large size businesses within an attractive park-like setting. The BC zone allows flexibility in the amount of space within each business dedicated to office use, warehousing, and/or light manufacturing operations. Permitted businesses are intended to support the creation, development and retention of primary wage employment in the professional and technical fields, and not intended for the general retail commercial needs of the area.

### **b. Industrial Zone**

The IND zone allows a wide range of industrial activities including heavy industry such as fabrication, warehousing, processing of raw materials, bulk handling and storage, construction, and heavy transportation. This zone is intended to provide sites for activities which require processing, fabrication, storage, and wholesale trade. Generally, these activities require reasonable accessibility to major transportation corridors including highways, rail, airports or shipping.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Urban Industrial	Existing (BC)	Proposed (IND)
Minimum Density	N/A	N/A
Maximum Density	N/A	N/A
Minimum Lot Size	N/A	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	N/A	N/A
Minimum Lot Depth	N/A	N/A
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A

Maximum Lot Coverage	60% building coverage.	60% lot coverage.
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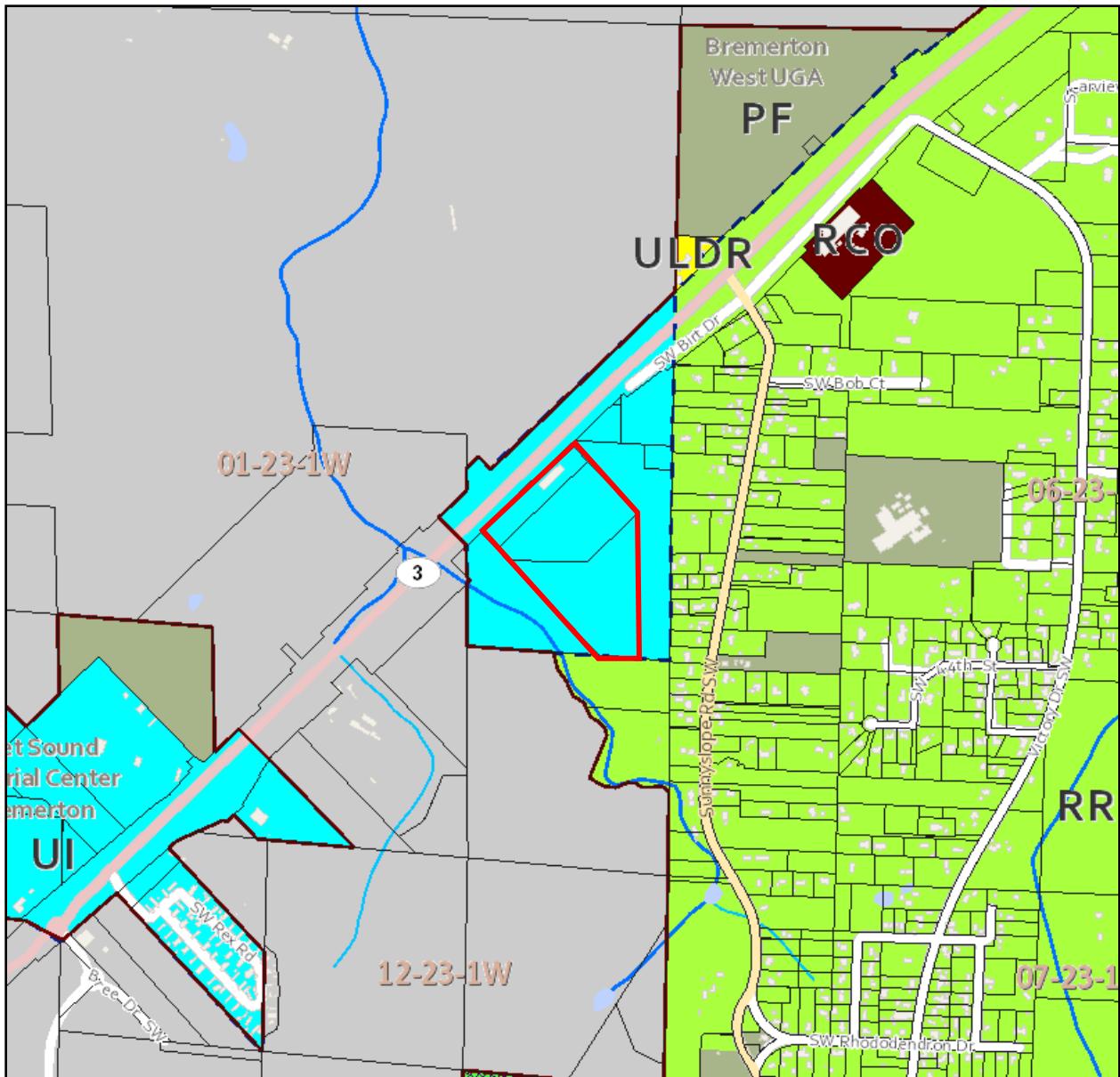
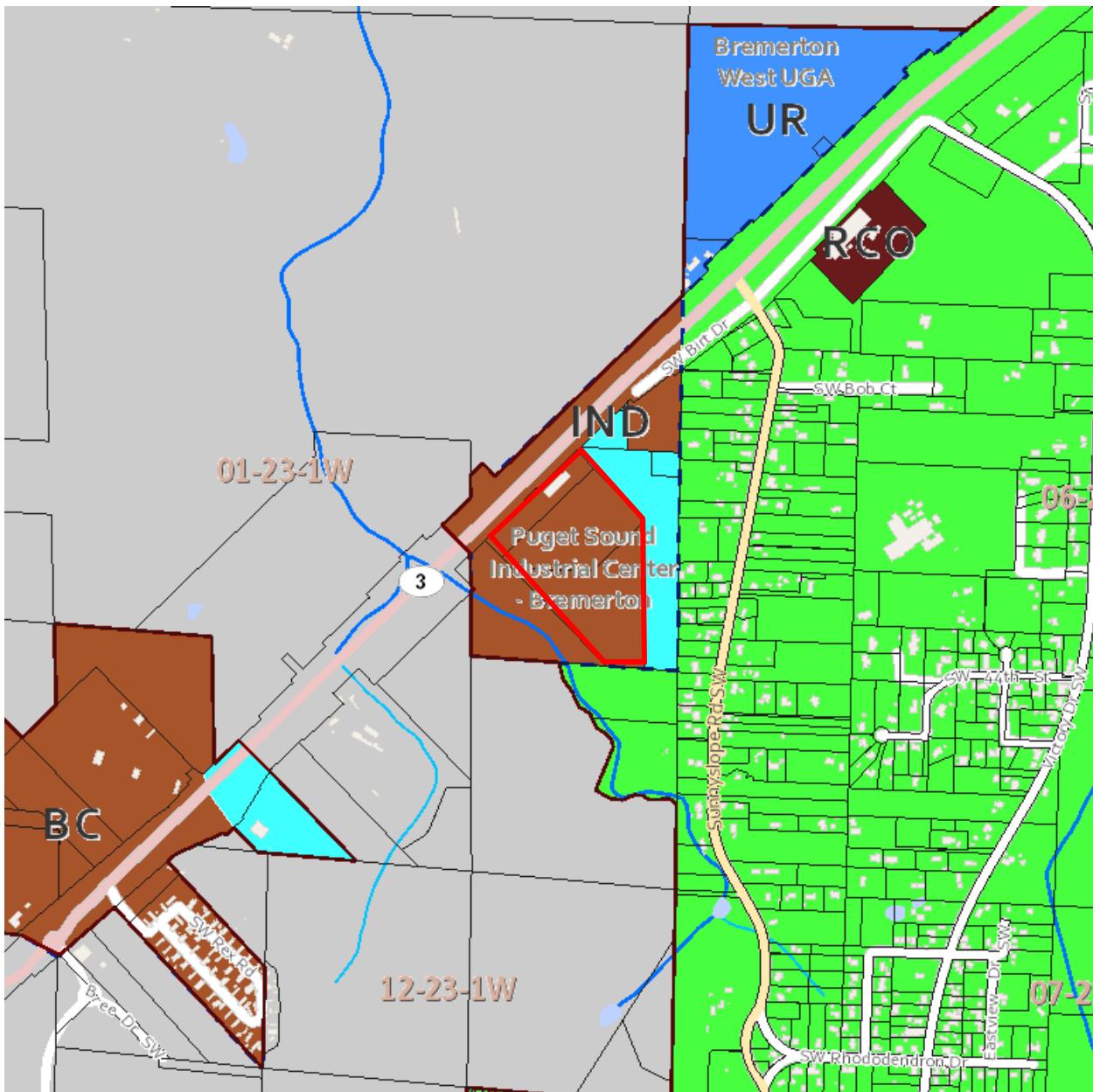


Figure 1 Comprehensive Plan Land Use Designation Map



*Figure 2 Current Zoning Map*

**Table 2 - Setback for Zoning District**

	Existing (BC)	Proposed (IND)
Front (North)	20 feet	20 feet
Side (West)	20 feet	N/A
Side (East)	20 feet	N/A
Rear (South)	20 feet	20 feet

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Highway 3, vacant land	City of Bremerton
South	Vacant land	Rural Residential
East	Former landfill, Gorst Creek	Business Center
West	Vacant land	Industrial

**Table 4 - Public Utilities and Services**

	Provider
Water	Sunnyslope Water District
Power	Puget Sound Energy
Sewer	Sunnyslope Water District
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

## 6. Access

Access is from the northernmost parcel via Highway 3. The other parcels are accessed via internal gravel driveways throughout the site.

## 7. Site Design

The request is for a rezone, no new development is proposed at this time.

## 8. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016 and amended April 27, 2020.

The following Comprehensive Plan goals and policies are most relevant to this application:

*Land Use Goal 1. Focus current and future planning on infill and redevelopment of existing Urban Growth Areas.*

*Land Use Goal 4. Coordinate with other jurisdictions, tribal governments, agencies, special districts, and property owners to ensure coordinated and compatible land use planning and utilize Urban Growth Area Management Agreements with cities, as feasible.*

*Land Use Goal 10. Maintain sufficient industrial land area in the Urban Growth Areas for future industrial use.*

*Land Use Goal 12. Ensure that land use decisions comport with Growth Management Act requirements concerning general aviation airports.*

*Economic Development Goal 1. Promote a healthy and diverse economy that provides for a strong and diverse tax base, encourages business formation, retention, and expansion; creates industrial and professional business and employment opportunities to attract new business to the County.*

*Economic Development Goal 3. Provide a diverse mix and appropriate range of commercial, industrial and business land uses that will encourage economic activity capable of providing living-wage jobs and reasonably scaled to the needs of the community.*

*Economic Development Goal 7. Encourage full utilization and development of industrially and commercially zoned areas.*

*Environment Goal 2. Coordinate with internal and external partners on natural environment management and recovery.*

*Environment Goal 3. Reduce the risk of damage to life, property and the natural environment through appropriate regulatory and incentive-based approaches in land use, transportation and development engineering programs.*

The County's development regulations are contained within the Kitsap County Code.

The following development regulations are most relevant to this application:

Code Reference	Subject
Chapter 16.62	Legal Lot Determination
Title 17	Zoning
Title 19	Critical Areas
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 21.04	Land Use and Development Procedures

## 9. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-13.

Exhibit #	Document	Dated	Date Received
1	Code Compliance Report #20 0013	01/21/2020	

2	Required Permit Questionnaire		04/09/2021
3	Project Narrative		04/09/2021
4	Rezone Criteria		04/09/2021
5	Kitsap Public Health District – Zoning Letter to DCD RE: Airport Auto Wrecking		04/29/2021
6	Washington State Patrol – Report of Investigation – Airport Auto Wrecking		05/03/2021
7	Notice of Application	07/06/2021	
8	Agency Comment Letter – Suquamish Tribe		07/21/2021
9	Notice of Public Hearing	09/29/2021	
10	Certification of Public Notice	10/01/2021	
11	Staff Report		
12	Staff Presentation		
13	Hearing Sign-In		

#### 10. Public Outreach and Comments

A Notice of Application was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment.

The Suquamish Tribe responded to the Notice of Application on July 20, 2021 with the following objection to the request and it is included in the record as Exhibit 8:

- Wrecking yard operations at the site ceased in 2008, which makes the use unpermitted per KCC 17.570.020, and the current Business Center zoning does not permit wrecking yards;
- The Gorst Subarea planning process developed the subject site's Business Center zoning intentionally because of the site's proximity to critical areas including fish-bearing stream and critical aquifer recharge areas;
- The Puget Sound Industrial Center (PSIC) Subarea Plan, formerly the South Kitsap Industrial Area (SKIA), prohibits junk yards on the project site, and these types of intensive uses are inappropriate on the site due to its proximity to critical areas;
- The request is for outdoor storage of industrial materials, which is incompatible with the recently remediated Gorst landfill site immediately to the south of the project site. The request may affect the health and sustainability of tribal resources and therefore rights reserved by treaty.

*Staff Comment: The City of Bremerton has adopted the PSIC sub-area plan, however, plans adopted by Bremerton are not applicable to the subject property as it has not yet been annexed. The subject property is associated with the urban growth area for the City of Bremerton, and there is a long-term goal for the annexation of urban growth areas. Within this context, a rezone would be appropriate, as the 'pre-zone designation' assigned to the site in the PSIC sub-area plan is General Industrial. Economic Development Goal 1 in the PSIC sub-*

*area plan is to establish the PSIC as a leader in sustainable industrial initiatives in the West Sound region. Sub-area plan goals related to sustainable and compact industrial uses and minimal impacts on the natural environment are better suited for analysis at a project level.*

*The Gorst Sub-area Plan, while showing the subject property in Development Zone 3B in the Gorst Creek Watershed Plan, does not address Rezones, nor does it address the Urban Industrial Comprehensive Plan Land Use Designation nor its servient Zone Classifications in its goals or policies.*

## **11. Analysis**

### **a. Planning/Zoning**

Per KCC 21.04.230 applications for a rezone may be recommended for approval by the hearing examiner, and may be approved by the board if the following criteria have been met:

1. The proposed rezone is consistent with the purpose and intent of the Comprehensive Plan, respective community or sub-area plan or other applicable regulations.

*Staff Comment: The property is located within the PSIC, formerly the SKIA, and was used as a wrecking yard until 2008, when operations ceased. The intent of the current comprehensive and current zoning of the property and the surrounding properties is to provide for a wide range of industrial activities including heavy industry such as fabrication, warehousing, processing of raw materials, bulk handling and storage, construction, and heavy transportation; such activities which require reasonable accessibility to major transportation corridors including highways, rail, airports or shipping.*

*The rezoning of the property from BC to IND and intended use of the property as an auto wrecking yard is consistent with the purpose and intent of the Urban Industrial comprehensive designation. The property is located near State Highway 3, State Highway 16, the Port of Bremerton, and the Bremerton National Airport; and the rezoning of the property is consistent with the Comprehensive Plan's Land Use Goal 10: Maintain sufficient industrial land area in the Urban Growth Areas for future industrial use.*

2. The proposed rezone will not adversely affect the surrounding community.

*Staff Comment: The adjacent properties to the North, East, and West are also within the BC or IND current zoning and the Urban Industrial comprehensive designation. The adjacent property to the south is zoned Rural Residential; per KCC 17.420.060.A.27: As approved by the director, wherever an industrial zone abuts a residential zone, a fifty-foot screening buffer area shall be provided. This screening*

*buffer is intended to reduce impacts to abutting residential uses such as noise, light, odors, dust and structure bulk. No structures, open storage, or parking shall be allowed within this area. The director shall only approve screening buffers that improve the compatibility between the proposed use and the residential zone. The director may reduce this buffer to a minimum of twenty-five-foot width only when based upon a site-specific determination that topography, berthing or other screening features will effectively screen industrial activities from the residential zone. Conversely, based upon a similar site-specific determination, the director may increase the buffer width from fifty feet to ensure adequate buffering and compatibility between uses. This buffer area will be evaluated at the time of a development application review.*

3. The rezone bears a substantial relationship to the public health, safety, or welfare of the community.

*Staff Comment: The current land use and permitting status of the property prevents inspection and regulation by local health and state safety organizations. The rezone would allow the applicant to apply for a conditional use permit and major tenant improvement, and subsequently inspections by the Washington State Patrol and Kitsap County Health Department. Both organizations have written to the construction inspector to express that it is in the public's best interest to escalate the rezone and subsequent permitting to insure operational, maintenance, and environmental requirements of potentially hazardous activities are properly regulated (Exhibits 5 & 6).*

4. The proposed rezone responds to a substantial change in conditions applicable to the area within which the subject property lies; better implements applicable Comprehensive Plan policies than the current map designation; or corrects an obvious mapping error.

*Staff Comment: The Comprehensive Plan Land Use Designation for the property has been Urban Industrial since the 1998 Comprehensive Plan Update. The current zoning of the property changed from Urban Reserve to BC during the 2006 Comprehensive Plan Update. However, the comprehensive designation for these parcels has been Urban Industrial, which permits both the BC and IND zoning for over 30 years.*

*The proposed IND current zoning and the intended use as an auto wrecking yard is consistent with the comprehensive zoning. The request responds to the 2006 change in zoning which created the conditions to make the use as an auto wrecking yard nonconforming.*

**b. Lighting**

Lighting was not analyzed as part of this proposal.

**c. Off-Street Parking**

Off-street parking was not analyzed as part of this proposal.

**d. Signage**

No signage is proposed or required.

**e. Landscaping**

Landscaping was not analyzed as part of this proposal. However, the proposal abuts residential zoning to the south. Per KCC 17.420.060.A.27, wherever an industrial zone abuts a residential zone, a fifty-foot screening buffer area shall be provided.

**f. Frontage Improvements**

No frontage improvements are required or proposed as part of this application.

**g. Design Districts/Requirements**

The subject property is not within a design district.

**h. Development Engineering/Stormwater**

No comments at this time.

**i. Environmental**

An Environmental Impact Statement (EIS) was prepared in conjunction with the 2016 Comprehensive Plan Update. The EIS addresses the subject property's Comprehensive Land Use Designation of Urban Industrial and as a result, the request is SEPA exempt as discussed in Section 3 of this report. Any future development proposals will be subject to environmental review.

While not directly relevant to the proposal, but informative on area development objectives, Environmental Development Goal 1 within the PSIC sub-area plan is to establish the PSIC as a leader in sustainable industrial initiatives in the West Sound region. Sub-area plan goals related to sustainable and compact industrial uses and minimal impacts on the natural environment are better suited for analysis at the project level. The PSIC largely envelopes the subject property on three sides.

The majority of the site is characterized as Development Zone 3B in the Gorst Creek Watershed Plan, which aligns with the higher-intensity development of the industrial nature of the proposed use as an auto wrecking yard. Specific standards for development of the site would be addressed at the project level.

**j. Access, Traffic and Roads**

No comments at this time.

**k. Fire Safety**

No comments at this time.

**l. Solid Waste**

No comments at this time

**m. Water/Sewer**

Potable water is provided by Sunnyslope Water District and sewage disposal is provided by an onsite septic system. Prior to site development activity the applicant must provide approval for the septic system from Kitsap County Health Department.

**n. Kitsap Public Health District**

No comments at this time.

**12. Review Authority**

The Hearing Examiner and the County Board of Commissioners have review authority for this Rezone application under KCC Section 21.04.230. The Kitsap County Commissioners have determined that this application requires review and a recommendation of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, remand, or deny a rezone. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner can be found in KCC Chapter 2.10.

**13. Findings**

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Industrial (IND) zone in Title 17.
2. The proposal meets the criteria for a rezone in KCC 21.04.230, as analyzed in section 11.a of this report.

**14. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 21.04.230, the Department of Community Development recommends that the Rezone request be approved, subject to the following condition(s):

1. The approval of the Rezone application does not vest the property to current development regulations. Future land use applications will vest to applicable development regulations at the time the County issues a Notice of Complete Application for such application.

**Report prepared by:**

Roxanne Robles  
Roxanne Robles / Project Lead

September 28, 2021  
Date

**Report approved by:**

Scott Diener  
Scott Diener, DSE Manager

September 29, 2021  
Date

**Attachments:**

None

CC: Thomas Jun (Applicant/Owner)  
William M Palmer Consultants (Authorized Agent)  
Interested Parties  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Roxanne Robles  
DCD File #20-05249