July 27, 1994, with SEPA approval Feb-Mar., and then scheduled for public hearing before the Planning Commission. He made the point too that he had two Planning Department recommendations, both recommending approval subject to conditions. The 5-acre parcel does not include the tree area to the south, and is currently residential with a 17'x18' building being used for occupancy and a single wide mobile, and Mr. Stanley showed pictures which indicated it was not a particularly attractive residential activity and had some number of old cars in various stages of disrepair. Proposed is to clean that up, establish a storage facility. An identified market has been established for such a facility and this client has developed such facilities previously [showed pictures of a similar facility developed north of Bellingham]. The facility would be back away from the highway, not more than two colors, and most of the access will be done with washed gravel, and the facility would increase the rural atmosphere of the area because there would be two buildings that look like barns behind the trees .

Conditions were worked out with the Planning Department and before the Planning Commission and applicant agrees with the conditions, and want to be good neighbors and understand the Kollmorgens concern about water and agree to abide by any regulations to necessary to protect it along with all regulations concerning storage of hazardous materials to protect the aquifer.

As far as specific comments on the recommendation of the Island County Planning Commission in their recommendation on USA #006/94, Mr. Stanley relayed the following comments on behalf of the applicant:

- agrees a use approval is required to convert rural residential into non-residential floating zone

- does not agree with the finding the request does not comply with the existing comp plan transportation element. There is currently a two-way left turn lane directly in front of this project as a result of the Ault Field Road/Highway 20 improvements. Directly across the street from the project is Midget Market with gas station and convenience store; directly to the north is mobile home park immediately adjacent to a gravel mine; there are several gravel mines in the immediate vicinity. The traffic light now provides adequate timing for left turns in and out, and phases north bound traffic.

- proposal is one of the insignificant traffic items one can put into an area; someone can always say there is another place it should be. In general the people who are developing property for a known need in the community generally develop property they own as opposed to developing property someone else owns Client owns this property, and feel it is an appropriate use. this is in noise zone 3 inside the 85 db zone and accident potential zone 2, and suggested uses in that area include warehousing. It is suitable for the area, in an appropriate area.

It is the Board's job to determine precedent and rules in the County. It is speculative to say zoning one particular piece of property for an appropriate use would somehow encourage inappropriate uses in the area.

Dealing with application of the GMA, Mr. Stanley referred to (copy provided) Engrossed Substitute House Bill 1724, and quoted the following from Sections 101 and 102 :

> "The legislature further finds that, while plans and regulations should be improved and refined over time, it is unfair to penalize applicants that have submitted permit applications that meet current requirements.".
>
> "If, during project review, a county or city planning under RCW 36.70A.040 identifies deficiencies in plans or regulations: (a) The permitting process shall not be used as a comprehensive planning process; (b) project review shall continue; and (c) the identified deficiencies shall be docketed for possible future plan or development regulation amendments.".

Therefore, Mr. Stanley contended that the project had been submitted under the existing Comprehensive Plan and should be judged based upon the Comprehensive Plan in existence at the time it was submitted.

Dr. William Applegate appeared before representing the majority of the Planning Commission (the majority of the Planning Commission there at the time when the subject was heard (4), asked to be present by those members in the majority. He corrected Mr. Moore in that no one on the Planning Commission changed their vote; it was a straight vote and a hard vote. The Planning Commission had some legal questions, noting this was not isolated application, that in addition to this application there were 6 or 7 other applications for non-residential floating zones waiting further processing and outcome of this particular legal question.

With regard to the recommendation of the Planning Commission on USA 006/94, he believed under the current Comprehensive Plan it was the duty of the Planning Commission and the Board to consider impacts on traffic. The current Comprehensive Plan dated 1977 states that Island County should consider the impacts of land use decisions on adjacent roads, and should implement tight controls over the number of commercial accesses along major arterials, i.e. State Route 20, 525 and 532, and that the design and location of all commercial business sites should be clustered to provide safe and convenient access for automobiles, pedestrians and suppliers.

The majority of the Planning Commission felt this was a particularly inappropriate place for an additional highway entrance; it is the highest traffic volume in all of Island County, and traffic consultant estimates that by the year 2002 there would be 21,500 average daily trips across that area. Construction of a mini-warehouse might not have a significant impact on traffic but when adding contractor's supplies there would be bigger trucks, tractor-trailers, things that move more slowly when entering the road at that point. and the Planning Commission (particularly one member) felt this would have a significant adverse impact on the traffic flow through that area.

Regarding location of the mini-warehouse facility and whether it should be located inside or outside the Oak Harbor UGA, Dr. Applegate stated he spoke with Tom Burdett, Oak Harbor Planning Director, on Friday and his main concern was that Oak Harbor had dedicated 478 acres to an economic enterprise zone between the current City Limits and Ault Field Road and wanted this kind of business in the City's economic zone; if the County allows it in the County land just outside the City's economic zone then the County would undercut the City.

The majority of the Planning Commission does not feel that this change is consistent with ESHB 1761 passed by the legislature in 1993.

Dr. Applegate stated that the property was for sale, being offered for commercial use among other things, and the majority of the Planning Commission felt this was a rezone request to increase or enhance the value of the property, and this was a bad precedent.

On June 22, 1992, the Board of County Commissioners , Mayor of Oak Harbor, Mayor of Langley and Mayor of Coupeville signed County-wide planning policies to guide development in the County before and during the preparation of the respective city comprehensive plans and the county comprehensive plan. Legal assistance is needed because item 6 under policy 5 of the county wide planning policies states that urban development should not be permitted outside of the boundaries of UGAs, and lists four exceptions -- what does the word "should" mean and is it mandatory in this case?

A legal opinion dated April 21, 1992 from Dave Jamieson was cited by Dr. Applegate with two excerpts quoted:

> "The Board forwarded a legal assistance request asking this office to determine if the county-wide planning policies adopted pursuant to the provisions of the Growth Management Act (GMA) contained in RCW 36.70A.210 are enforceable. The short answer to your question is 'yes' ".