



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19653

Proposed No. 2023-0118.2

Sponsors Upthegrove

1 AN ORDINANCE concurring with the recommendation of
2 the hearing examiner to deny David Schaafsma’s request to
3 reclassify certain property located at NE Corner of SE
4 Kent-Kangley Road and Landsburg Road SE (vacant), as
5 described in department of local services, permitting
6 division file no. LUT4200002.

7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 SECTION 1. This ordinance adopts and incorporates the findings and
9 conclusions of the May 25, 2023, report and recommendation of the hearing examiner,
10 filed with the clerk of the council, for the Ravens Corner Rezone application to reclassify
11 property described in department of local services, permitting division file no.
12 LUT4200002.

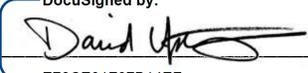
Ordinance 19653

- 13 SECTION 2. The recommendation of the hearing examiner to deny the
14 reclassification the subject property is adopted.

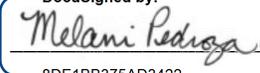
Ordinance 19653 was introduced on 3/21/2023 and passed by the Metropolitan King County Council on 7/18/2023, by the following vote:

Yes: 9 - Balducci, Dembowski, Dunn, Kohl-Welles, Perry,
McDermott, Upthegrove, von Reichbauer and Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:

E76CE01F07B14EF...
Dave Upthegrove, Chair

ATTEST:

DocuSigned by:

8DE1BB375AD3422...
Melani Pedroza, Clerk of the Council

Attachments: A. Hearing Examiner Report dated May 25, 2023

May 25, 2023

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REPORT AND RECOMMENDATION TO
THE METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Local Services file no. **LUT4200002**
Proposed ordinance no.: **2023-0118**

RAVENS CORNER REZONE
Rezone Application

Location: NE Corner of SE Kent-Kangley Road and Landsburg Road SE

Applicant: David Schaafsma
represented by **Duana Kolousková**
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Applicant: David Schaafsma
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FINDINGS AND CONCLUSION

Overview

1. David Schaafsma purchased a 21-acre parcel bordered by Landsburg Road SE to the west and SE Kent-Kangley Road to the south. Zoned RA-10, it can be subdivided into two approximately 10-acre, single-family residence lots. In 2020, a representative (Applicant) sought to reclassify the Property to RA-5, meaning it could be subdivided into four single-family lots. Exs. D4–D5. The Department of Local Services (Local Services) recommends against a rezone. Ex. D1. We went to hearing on April 24.
2. We start by summarizing the hearing testimony, before moving into our analysis. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we recommend against a rezone. The proposed rezone would not be consistent with the King County Comprehensive Plan (Comp Plan), but more importantly runs afoul of an actual code section. Plus, as the County is currently undertaking a subarea plan encompassing the very Ravensdale area in play here, the Comp Plan's language about discouraging and not allowing individual zone reclassifications in the Rural Area has added heft right now.
3. We close by recommending that the Council deny this rezone application. But we also recommend that the Ravensdale subarea plan currently underway include an analysis of several of the Applicant's arguments, that the County follow the requirement to develop specific strategies for incentivizing forestry in this area, and that the Council consider whether to amend Comp Plan language making "predominant lot size" the applicable legal standard in the future.

Hearing Testimony

4. Bill Moffet, Mr. Schaafsma's consultant, testified about the surrounding parcels, a pending application for a campground on the property to the east, the developed Ravens Corner area across Landsburg from the Property, his understanding of a Rural Forest Focus Area and its strategies, his conclusion that only a small portion of the Property is within a quarter-mile of the "actual" or "true" Forest Production Zone, and his unsuccessful efforts to get the County to purchase the Property as open space or as a natural area.
5. Paul Graves, a forest consultant for many properties in the vicinity, testified about the Ravensdale Retreat Natural Area (Retreat) across Kent-Kangley from the Property, his work with the commercial logging operations just south of the Retreat, rural forestry focus areas, forest stewardship plans, the County's Public Benefit Ratings System (PBRS), and the proposal's impact on commercial forestry prospects for the Property itself.
6. David Schaafsma testified about his initial plans for the property, his discussions with the County about using the eastern portion as a commercial site, greatly increasing the

housing density to one home per acre or two, or some sort of property transfer. He also provided his thoughts on why rezoning to RA-5 makes sense.

7. Paul McCombs, the County's master GISer, testified about forest production zoning for a portion of the Property, the zoning history of this property, the Rural Forest Focus Area, Council's role and process, and how he computed the Property's distance to the nearest active commercial forest.
8. Paul Fischer, the County forester who has worked on the Retreat, described the Retreat's forest stewardship plan and objectives, work conducted on the Retreat, the commercial viability of a five-acre versus a ten-acre plot, state replanting rules, and the County's forest-related assistance to small-scale property owners.
9. Ty Peterson, Local Services' product line manager, testified to the relationship between the Comp Plan and both the code and permit applications, forestry distinctions (forest zone, forest production district, rural forest focus area), the campground's application status, environmental restrictions on the subject property, how Local Services measures distances, and RA-5 versus RA-10 zoning.
10. Ivan Miller with Performance, Strategy, and Budget and until recently the County's Comp Plan manager, testified to Comp Plan history, the public input process on Comp Plan changes, the 1991 subarea planning¹ for this area, the difference between long-term zoning and present-day use, the process for removing lands from the forest production zone, the recently initiated subarea plan encompassing Ravensdale, rural forest focus areas, and incentives.
11. Duana Kolouskova made the Applicant's closing statement, while Tracy Cui made the County's.

Analysis

Basic Legal Standards

12. Per KCC 21A.44.060,

A zone reclassification shall be granted only if the applicant demonstrates that the proposal complies with the criteria for approval specified in K.C.C. 20.22.140² and 20.22.150 and is consistent with the Comprehensive Plan and applicable community and functional plans.

Our rules echo this, placing on an applicant the burden to prove its case by a preponderance of the evidence. Exam. R. XV.E. Unless directed to by law—and no special directive applies to today's case—we do not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3.

¹ <https://kingcounty.gov/depts/executive/performance-strategy-budget/regional-planning/king-county-comprehensive-plan/subareas.aspx>.

² KCC 20.22.140 does not add anything rezone-specific, merely instructing an examiner to make detailed findings and conclusions.

13. The starting point for our analysis is KCC 20.22.150:

When the examiner issues a recommendation regarding an application for a zone reclassification of property, the recommendation shall include findings on whether the application meets both of the following:

- A. The proposed rezone is consistent with the King County Comprehensive Plan; and
- B.
 1. The property is potentially zoned for the reclassification being requested;
 2. An adopted subarea plan, subarea study or area zoning specifies that the property shall be subsequently considered through an individual reclassification application; or
 3. The requested reclassification is based on changed conditions.

14. There is no dispute that the request meets B.1, as the proposal would double the allowed density, but the property would remain RA-zoned. We thus turn to consistency with the Comp Plan.

15. The Applicant cites to well-established case law that a comprehensive plan is only a general blueprint and a planning guide, not a “precise scheme” and land use decision-making tool, with only general (not strict) conformity required.³ That jurisprudence would have huge implications if we were dealing only with something like the above-quoted KCC 20.22.150, open-ended reference to consistency with the Comp Plan, a 623-page document anyone is free to cherry pick. Today’s scenario is different.

16. Rather than the smorgasbord approach a vague reference to “consistency” with a comprehensive plan could normally lead to, Comp Plan policy R-304 tells us *precisely* what policies to apply in the exact scenario presented today—an individual zone reclassification of an RA-zoned property:

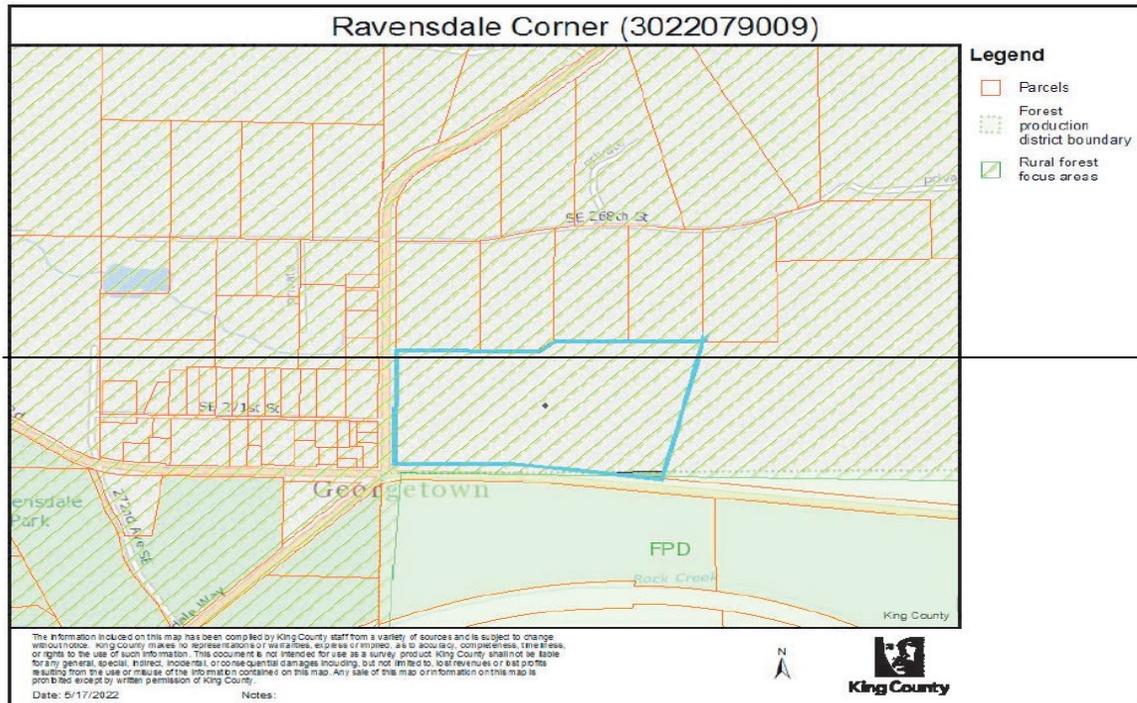
Rural Area zoned residential densities shall be applied in accordance with R-305–R-309. Individual zone reclassifications are discouraged and should not be allowed in the Rural Area. Property owners seeking individual zone reclassifications should demonstrate compliance with R-305–R-309.

In addition to an overarching standard of discouraging and not allowing individual Rural Area zone reclassifications, R-304 points to a small subset of additional policies to consult when considering a departure from that default. One of those policies (R-306) has been codified (as KCC 21A.04.060.B.3), there is no R-307, and R-309 and its RA-2.5 zone explanation is inapplicable to today’s RA-5 v. RA-10 zone question. So, we focus here on two additional Comp Plan policies and one code section—a “precise scheme.” We analyze each in turn.

³ Ex. A31 at 006 (citing *Willapa Grays Harbor Oyster Growers Ass’n v. Moby Dick Corp.*, 115 Wn. App. 417, 429, 62 P.3d 912 (2003), which itself cited *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn. 2d 861, 873, 947 P.2d 1208 (1997) and *Cathcart–Maltby–Clearview Community Council v. Snohomish County*, 96 Wn. 2d 201, 212, 634 P.2d 853 (1981)).

Specific Sections Called Out by R-304

17. **Policy R-305.** The Property, and those in the surrounding area not already in a Forest Production District, sit within a Rural Forest Focus Area, a “Mapped geographic area[] where special efforts to maintain forest cover and the practice of sustainable forestry are warranted.” KCC 21A.06.1014. Graphically, it is the diagonal lines on the attached map. (The subject property is in blue.)



18. Policy R-305 states that:

A residential density of one home per 20 acres or 10 acres shall be achieved through regulatory and incentive programs on lands in the Rural Area that are managed for forestry or farming respectively, and are found to qualify for a Rural Forest Focus Area designation in accordance with R-207.⁴

19. The Focus Area here it is not some new designation placed on the Property after the Applicant purchased it; as noted above, the Property has been in a rural forest focus area since at least 2001 and likely (under a different name) since 1994 or even 1985. Miller testimony. And while the Applicant asserts that the Property was placed in the Focus

⁴ R-207 states that:

Rural Forest Focus Areas are identified geographic areas where special efforts are necessary and feasible to maintain forest cover and the practice of sustainable forestry. King County shall target funding, when available, new economic incentive programs, regulatory actions, fee and easement acquisition strategies and additional technical assistance to the Rural Forest Focus Areas. Strategies specific to each Rural Forest Focus Area shall be developed, employing the combination of incentive and technical assistance programs best suited to each focus area.

Area without public input, that turned out to be incorrect; the Focus Area was adopted by ordinance after a public process. Miller testimony.

20. The Applicant is correct that the County has not developed a strategy specific to this Focus Area, as it is supposed to. The County should do so. But the County already has a robust County-wide public benefit rating system to reduce property taxes for forested properties, as well as forestry staff in the Department of Natural Resources and Parks who can help property owners. We see dozens of PBRS applications a year involving forest stewardship plans—the type Mr. Graves explained he helps prepare for property owners. Credit in the forest stewardship land category alone creates a 50% property tax break, and forested areas often qualify for other award categories that can boost the property tax reduction much higher. KCC 20.36.100.C; KCC 20.36.160. Perhaps the County should do more to incentivize forestry, but PBRS draws in a bevy of property owners every year.
21. Moreover, the Applicant has not made any showing that the Focus Area designation has placed some special, onerous restriction on the Property that prevents the Applicant from doing what owners of RA-10-zoned properties outside a Focus Area are allowed to do. The Applicant owns a 21-acre parcel that can be subdivided into two, 10-acre homesites,⁵ just like owners of similarly-sized, RA-10 area parcels not in a Focus Area are allowed to do. While the County has not been receptive to the Applicant's previous efforts to squeeze more intensive development out of the Property than the one home per 10 acres it is zoned for, it has resources available to help the Applicant or future owners of what may become two 10-acre parcels to obtain a significant property tax reduction.
22. In sum, R-305 cuts against the current proposal, but not that dramatically. R-305 seems more intent on explaining how the County should *achieve* a desired residential density (regulatory and incentive programs) on lands in the Rural Area that “are” managed for forestry. R-305 is far from dispositive, unlike the next section.
23. **Policy R-306, as codified by KCC 21A.04.060.B.3.** The County has codified R-306 as KCC 21A.04.060.B.3. It states that RA-10 is the appropriate zoning:

in rural areas where the predominant lot pattern is ten acres or greater but less than twenty acres in size. RA-10 is also applied on land that is generally environmentally constrained, as defined by county, state or federal law, to protect critical habitat and regionally significant resource areas (RSRAs). The RA-10 zone is also applied to lands within one-quarter mile of a forest or agricultural production district or an approved long-term mineral extraction site. ...⁶

⁵ We recognize that, at 21 acres, the Property could be subdivided into two slightly larger than 10 acre lots or four slightly larger than five acre lots. We will keep our discussion at 10 and 5 for simplicity sake.

⁶ R-306. A residential density of one home per 10 acres shall be applied in the Rural Area where:

a. The lands are adjacent to or within one-quarter mile of designated Agricultural Production Districts, the Forest Production District or legally approved long-term mineral resource extraction sites; or

We tackle the predominant lot pattern/sizes and environmental constraints topics in analyzing R-308 below, but the code itself is clear about the correct zoning for lands within a quarter mile of a forest production district: RA-10.

24. The Applicant attempts to avoid this by asserting that they are not within a quarter mile of a forest production district. That is incorrect on three levels: a portion of the Property itself is in the Forest Production District, the Applicant’s legal interpretation of the code is unpersuasive, and even if we accepted that construction as a matter of law the claim would still fail as a matter of fact.
25. First, a sliver of the Property itself is in the Forest Production District. On the page 5 map above, it is the southeast corner of the Property below the black line. Mr. McCombs and Mr. Miller explained that that was no mapping error but a long-standing, publicly adopted designation made decades ago via ordinance. Thus, there is zero distance from the Property to the Forest Production District. That alone makes the Property ineligible, absent a boundary line adjustment or something else to extricate the remaining parcel from that District.
26. Second, the forest production district continues south across SE Kent-Kangley Road to the Retreat. The Applicant asserts that because the Retreat is slated to be managed for recreation, wildlife, stream integrity, habitat, etc. (see exhibit D16) and not for commercial timber harvesting, it is not “actual” or “true” Forest Production District. Paul Fischer, the Retreat’s forester, agreed that the Retreat’s objective is maintaining the forest, not commercial logging. However, the Forest Production District is a zoning *designation* (and a “long-term designation” at that, policy R-621), not a description of current or even planned uses.
27. Our analysis would be different in the context of mining, because KCC 21A.04.060.B.3 measures the quarter mile from “an approved long-term mineral extraction site.” Similarly, as discussed above, R-305 pegs the analysis to “lands in the Rural Area that are managed for forestry.” The Council knows how to specify when it means a designation and when it means on-the-ground operations. And here the relevant reference is to a quarter mile of a forest production “district,” not to a quarter mile of an active commercial forestry site or of an area currently being managed for commercial forestry.
28. The Council certainly could have written KCC 21A.04.060.B.3 along the lines of “within a one-quarter mile of a designated Forest Production District site actively being managed, or likely to be managed, for commercial forestry,” but it did not. “When presented with such clear language, we must assume the Legislature meant exactly what it said and apply the statute as written.”⁷ We do not get to “add words where the legislature has chosen not to include them.”⁸ We do, however, recommend that Council consider

b. The lands contain significant environmentally constrained areas as defined by county ordinance, policy or federal or state law, or regionally significant resource areas or substantial critical habitat as determined by legislatively approved basin plans or Watershed Resource Inventory Area Plans; and

c. The predominant lot size is greater than or equal to 10 acres in size.

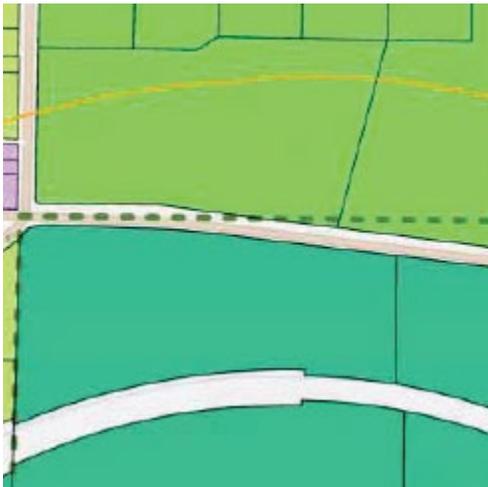
To the extent there is a conflict between a zoning ordinance and a comprehensive plan policy, such conflicts are resolved in the code’s favor. *Citizens*, 133 Wn. 2d at 873.

⁷ *University of Washington v. City of Seattle*, 188 Wn. 2d 823, 832, 399 P.3d 519 (2017) (citations omitted).

⁸ *Nelson v. Dept. of Labor & Industries*, 198 Wn. App. 101, 110, 392 P.3d 1138 (2017).

whether to allow some flexibility in this section the next time it considers KCC Title 21A legislation.

29. We add a recommendation below that the Ravensdale subarea planning agenda consider whether the corner of the Applicant’s property or the Retreat *should* in the future be included in the Forest Production District—given that such districts are focused on commercial forestry and neither the Property nor the Retreat is a commercial forest. But the District’s boundaries are where they are today, and policy R-621 states that lands may only be removed from the District through a subarea study (like the one currently underway, as discussed below). The Applicant’s proposed rezone violates KCC 21A.04.060.B.3.
30. Third and finally, even if we applied the Applicant’s novel legal interpretation that, rather than looking at the publicly adopted bounds of the Forest Production District, we should make a subjective call about whether, given the current use of the Retreat, the Retreat should “actually” count as Forest Production District, the Applicant’s argument would still fail as a matter of fact. The Property is well within a quarter mile from the nearest commercial forestry operation. And not just by a little.
31. While the Applicant asserted that only the “very southern boundary of the” Property is within a quarter mile of the “closest corner” of the commercial forest on the south side of the railroad tracks (exhibit A31 at 014), that is not what the evidence shows. Mr. McCombs used the GIS mapping tools to measure a quarter mile from the commercial forest south of the railroad bed. Ex. D23; McCombs testimony. As depicted by the yellow line, the *majority* of the Property is within a quarter mile of the commercially forested area south of the railroad bed (the curving white corridor below).



Thus, even under the Applicant’s novel legal interpretation, the Property fails the test.

32. Any way one slices it, the rezone would violate KCC 21A.04.060.B.3 (née R-306). The Applicant’s failure to demonstrate compliance should conceivably end the analysis—

since violating a code is not something we can authorize. Nonetheless, we turn to applying the remaining enumerated policy, R-308.⁹

33. **Policy R-308.** We begin this discussion with the Applicant's citation to an unpublished court of appeals opinion reviewing an earlier version of the Comp Plan and finding it:

evident that King County intends a comprehensive plan that attempts to recognize the reality of rural development, that such development runs the gamut from rural cities to forest production and farming. The comprehensive plan does not favor 10 acre zoning. Indeed, it favors 5 acre zoning in rural areas.¹⁰

34. Reading that opinion, it appears the court based its favoring-5-acre-zoning conclusion on the precursor to R-308, then labeled R-206, and stating:

A residential density of one home per 5 acres shall be used in portions of the Rural Area where the land is physically suitable for development and can be supported by rural services, and does not meet the criteria in this plan for higher or lower density designations.

35. The current version of R-308 tweaks this somewhat to:

A residential density of one home per five acres shall be applied in the Rural Area where:

- a. The land is physically suitable for development with minimal environmentally sensitive features or critical habitat as determined by legislatively adopted watershed based plans;
- b. Development can be supported by rural services;
- c. The land does not meet the criteria in this plan for lower density designations; and
- d. The predominant lot size is less than 10 acres.

36. Thus, the policy does not so much "favor" RA-5 as explain that RA-5 is the appropriate density if four different criteria are each met (the "and" being conjunctive). Contrary to Local Services' assessment, we conclude that the Property meets subsections (a), (b), and (d). However, it fails (c) and thus is inconsistent with R-308.

37. As to subsection (a), Local Services' staff report asserted (in the context of R-306's similar "environmentally constrained areas" language) that the parcels are environmentally constrained, given steep slopes in the northeast and a coal mine hazard in the southwest. We disagree. Having reviewed hundreds of rural properties as the hearing examiner, and before that as the rural ombudsman, there is nothing that stands

⁹ As noted above, there is no R-307, and R-309's RA-2.5 explanation is inapplicable to today's RA-5/RA-10 question.

¹⁰ *City of N. Bend v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 121 Wn. App. 1026 (2004) (unpublished).

out, environmentally about the Property. Yes, development will need to avoid the far southwest and northeast corners, but such constraints are garden-variety in rural areas. When we probed Mr. Peterson on the topic, he agreed that nothing environmental here would preclude development.

38. As to subsection (b), development at one home per five acres (as well as one home per ten acres) can be supported by rural services. The septic feasibility study showed that purchasers of 5-acre home sites could likely successfully install a sand-lined, bed-type onsite septic system. Ex. A4. And the Covington Water District has provided a (potable) water availability certificate. Ex. A5.
39. Subsection (d) asks whether the “predominant lot size is less than 10 acres.” The relevant definition of “predominant” is fairly consistent across dictionaries: “being most frequent or common” or “preponderant; prominent” or “most common or conspicuous; main or prevalent.”¹¹ While Local Services may be correct that the quarter section is entirely *zoned* RA-10, subsection (d) asks about the predominant surrounding *lot size*, not the surrounding predominant *zoning*. The Applicant has demonstrated that the preponderant/most frequent/most common *lot sizes* adjacent to the Property are under 10 acres, as depicted below.



40. Local Services and Performance Strategy, and Budget argue that the “the predominant lot size is less than 10 acres” language should not mean what it says, because 85% of RA-10 parcels are less than 10 acres and 60% of them touch RA-5 or RA-2.5 parcels. That in turn means that *most* RA-10 parcels would not meet the predominant lot size test. Ex. D1 at 007; Ex. D20; Miller testimony.

¹¹ See [https://www.merriam-webster.com/dictionary/predominant#:~:text=%3A%20having%20superior%20strength%2C%20influence%2C,being%20most%20frequent%20or%20common](https://www.merriam-webster.com/dictionary/predominant#:~:text=%3A%20having%20superior%20strength%2C%20influence%2C,being%20most%20frequent%20or%20common;); <https://www.dictionary.com/browse/predominant>; and <https://www.thefreedictionary.com/predominant>.

41. The County’s argument parallels Applicant’s argument, discussed above, that “lands within one-quarter mile of a forest... production district” does not mean what it says, because the outcome is inconvenient. As cited above in rejecting the Applicant’s argument, “When presented with such clear language, we must assume the Legislature meant exactly what it said and apply the statute as written.”¹² If the Executive branch believes the *consequences* of R-308(d) as it is currently written—with the touchstone being “*predominant lot size*”—are profoundly negative, then it should petition the Council to amend the language to something better during the current Comp Plan update.
42. However, that leaves subsection (c). Per R-308(c), RA-5 zoning is only appropriate if “[t]he land does not meet the criteria in this plan for lower density designations.” Again, KCC 21A.04.060.B.3 unequivocally states that the lower density designation of RA-10 applies “to lands within one-quarter mile of a forest... production district.” And not only is a sliver of the Property actually in the Forest Production District, but the Retreat across the street is in the Forest Production District, and the bulk of the Property is even within a quarter mile of an actual commercial forestry operation. The Applicant’s proposal fails R-308 for the same reason it fails KCC 21A.04.060.B.3.

Miscellaneous Points

43. Local Services cites R-302 (which discusses low densities outside rural towns), R-303 (infrastructure and minimizing conflicts), and R-208 (maintaining 20+-acre parcels) as also cutting against a re-zone. As explained above, because R-304 tells us *precisely* what to consider for an individual zone reclassification of an RA-zoned property, and because there is a code section directly on point, we do not reach for other Comp Plan policies.
44. As noted above, a conditional use permit application has been submitted to Local Services to develop the parcels due east of the Property as a campground. Local Services has deemed the application complete but had not started its substantive review. Whether such a use is appropriate is something to be decided after a thorough Local Services review and potentially (if the decision gets appealed) by us. We do not prejudge the outcome. We will not speculate, on whether, if that campground goes in, it would change the analysis of a *future* rezone application for the Property, although until KCC 21A.04.060.B.3 is softened or the Forest Production District line moves it is difficult to see how even a campground next door would change today’s analysis. In any event, the mere submittal of an application does not change the outcome of today’s rezone application.
45. The Applicant asserts that if the property was rezoned to RA-5, but with a caveat that the four future lots obtain forest stewardship plans and enroll in the Public Benefit Rating System (PBRS), this would essentially satisfy the forest production objectives discussed above. That is not quite accurate. Mr. Fischer was clear that 5-acre lots are not as economically viable for commercial forest as 10-acre lots, with 10 acres being the lower end of commercial viability where separate property owners are involved. We found Mr. Fisher’s analysis persuasive, and it meshed with our experience handling 400+ PBRS applications and with basic returns-to-scale principles. Additionally, because at least an acre envelope must typically be set aside for a home site, driveway, drainfield,

¹² *University of Washington v. City of Seattle*, 188 Wn. 2d 823, 832, 399 P.3d 519 (2017) (citations omitted).

landscaping, etc., a rezone would really mean four, separately-owned, 4-acre forests—better than nothing, but not keeping alive the prospect of commercial forestry.

Conclusion

46. Given the clarity of the Comp Plan, and more importantly the code, telling us that RA-10 is the proper zoning for properties within a quarter mile of a Forest Production District, we recommend Council disapprove the proposed rezone. And that is without referencing R-304's second sentence, that "Individual zone reclassifications are discouraged and should not be allowed in the Rural Area."
47. As the Applicant points out, there is some tension between that sentence and R-304's next sentence that "Property owners seeking individual zone reclassifications should demonstrate compliance with R-305–R-309." As analyzed above, the Applicant cannot demonstrate that compliance, but if ever there was a scenario where individual zone reclassifications should be discouraged it is where *there is a sub-area plan currently underway* covering the subject property and its environs. We will add a recommendation that the subarea planning process consider the specific issues the Applicant has raised, but the active subarea planning process strengthens our recommendation against approval here.

RECOMMENDATION:

1. We recommend that the Council DENY the Ravens Corner Rezone application.
2. If it is not already on the Ravensdale subarea planning agenda, we recommend that the County take a specific look at the Raven's Corner area, especially whether: (a) RA-10 is still the most appropriate zoning, (b) the rural forest focus area should continue to apply there, and (c) because the Retreat is not slated to be used as commercial forestry, the northern boundary of the Forest Production District should be moved south to the railroad corridor.
3. R-207 states that, among other items, "Strategies specific to each Rural Forest Focus Area shall be developed, employing the combination of incentive and technical assistance programs best suited to each focus area." We recommend that the County develop one for this Focus Area—although this recommendation is more of a reminder of what is already a mandatory duty, given the "shall" language.
4. KCC 21A.04.060.B.3 states that the RA-10 zone applies for lands within one-quarter mile of a forest (or agricultural) production district, without any allowance for or inquiry into whether there is or is not actual commercial forest production occurring on such properties or other considerations. The next time it considers KCC Title 21A legislation, the Council may wish to explore whether or not to soften, or to make more flexible, this language.
5. Finally, the Executive discussed the negative consequences a literal reading of the "predominant lot size" (R-306 and R-308) and "predominant lot pattern" (KCC 21A.04.060.B.3) language would create in rural areas. But the language says what it says; if that is not the Council's desired result, it may wish to consider amending the standard.

DATED May 25, 2023.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD), and providing copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner's recommendation. Please consult KCC 20.22.230 for exact requirements.

Prior to the close of business (4:30 p.m.) on **June 20, 2023** (June 19 being a County holiday), an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if the Clerk does not actually receive the fee and the appeal statement within the applicable time period.

Unless the appeal requirements of KCC 20.22.230 are met, the Clerk of the Council will place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner's recommended action.

If the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about "next steps."

**MINUTES OF THE APRIL 25, 2023, HEARING ON RAVENS CORNER REZONE,
DEPARTMENT OF LOCAL SERVICES FILE NO. LUT4200002, PROPOSED
ORDINANCE NO. 2023-0118**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Duana Kolouskova, Bill Moffet, Paul Graves, David Schaafsma, Tracy Cui, Paul McCombs, Paul Fischer, Ty Peterson, Ivan Miller, and Cristy Craig.

The following exhibits were offered and entered into the hearing record by the Department:

Exhibit no. D1	Department Staff Report
Exhibit no. D2	Site plan
Exhibit no. D3	PREA19-0162 meeting notes
Exhibit no. D4	Application
Exhibit no. D5	Notice of Application
Exhibit no. D6	SEPA threshold determination
Exhibit no. D7	SEPA checklist
Exhibit no. D8	Public comments
Exhibit no. D9	Applicant response to public comments
Exhibit no. D10	Assessor map
Exhibit no. D11	Critical Areas Report
Exhibit no. D12	Environmental Response Memo
Exhibit no. D13	Technical Information Report
Exhibit no. D14	Zoning map
Exhibit no. D15	Email re Forest Production District
Exhibit no. D16	Black Diamond Area Stewardship Plan
Exhibit no. D17	Development patterns map
Exhibit no. D18	Preliminary Septic Report
Exhibit no. D19	Covington Water Availability
Exhibit no. D20	RA-10 analysis
Exhibit no. D21	Applicant argument
Exhibit no. D22	Designated Forested Land Map
Exhibit no. D23	McCombs Map, entered April 25, 2023

The following exhibits were offered and entered into the hearing record by the Applicant:

Exhibit no. A1.	Department Preapplication Comments (PREA190162)
Exhibit no. A2.	Rezone Policies Narrative
Exhibit no. A3.	Critical Area Study
Exhibit no. A4.	Preliminary Septic Report
Exhibit no. A5.	Covington Water Availability
Exhibit no. A6.	SEPA Checklist
Exhibit no. A7.	Site Plan
Exhibit no. A8.	Surrounding Parcel Map
Exhibit no. A9.	Zoning Map
Exhibit no. A10.	Assessors Map SW302207
Exhibit no. A11.	Signed Application Forms

Exhibit no. A12.	King County Department Comments
Exhibit no. A13.	Photos from public comment
Exhibit no. A14.	Greater Maple Valley Unincorporated Area Council Public Comment Letter
Exhibit no. A15.	Brathovde public comments
Exhibit no. A16.	Applicant Response to Public Comments
Exhibit no. A17.	Revised Surrounding Parcel Map
Exhibit no. A18.	Ravensdale Retreat Management Plan
Exhibit no. A19.	Jones Comment Response Letter
Exhibit no. A20.	Topo Map
Exhibit no. A21.	Technical Information Report
Exhibit no. A22.	CADS20-0334 Approval Letter
Exhibit no. A23.	King County Department Comments
Exhibit no. A24.	Hydrology Report
Exhibit no. A25.	Kolouskova Response to County re Rezone
Exhibit no. A26.	King County Department Comments
Exhibit no. A27.	Jeffrey Jones Resume
Exhibit no. A28.	Larger area map
Exhibit no. A29.	Paul Graves Resume
Exhibit no. A30.	Comp plan land uses
Exhibit no. A31.	Prehearing Brief
Exhibit no. A32.	Striker Campground Information, submitted April 26, 2023

Certificate Of Completion

Envelope Id: 97EA91A385104C99AFBB37EC2CDFC5D4	Status: Completed
Subject: Complete with DocuSign: Ordinance 19653.docx, Ordinance 19653 Attachment A.pdf	
Source Envelope:	
Document Pages: 2	Signatures: 2
Supplemental Document Pages: 15	Initials: 0
Certificate Pages: 5	Envelope Originator:
AutoNav: Enabled	Cherie Camp
Enveloped Stamping: Enabled	401 5TH AVE
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	SEATTLE, WA 98104
	Cherie.Camp@kingcounty.gov
	IP Address: 198.49.222.20

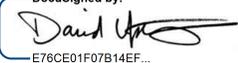
Record Tracking

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7/19/2023 8:31:00 AM	Cherie.Camp@kingcounty.gov	
Security Appliance Status: Connected	Pool: FedRamp	
Storage Appliance Status: Connected	Pool: King County-Council	Location: DocuSign

Signer Events

Dave Upthegrove
dave.upthegrove@kingcounty.gov
Chair
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

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Signature Adoption: Uploaded Signature Image
Using IP Address: 198.49.222.20

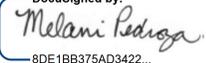
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Signed: 7/19/2023 9:57:21 AM

Electronic Record and Signature Disclosure:

Accepted: 7/19/2023 9:57:04 AM
ID: 497610c6-02d5-408e-8ef3-1deff9a32d9c

Melani Pedroza
melani.pedroza@kingcounty.gov
Clerk of the Council
King County Council
Security Level: Email, Account Authentication (None)

DocuSigned by:

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Signature Adoption: Uploaded Signature Image
Using IP Address: 198.49.222.20

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Electronic Record and Signature Disclosure:

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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
cherie camp cherie.camp@kingcounty.gov Legislative Clerk - Ccl King County Council Security Level: Email, Account Authentication (None)	COPIED	Sent: 7/19/2023 10:07:09 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Completed	Security Checked	7/19/2023 10:07:09 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact King County-Department of 02:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: cipriano.dacanay@kingcounty.gov

To advise King County-Department of 02 of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at cipriano.dacanay@kingcounty.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with King County-Department of 02

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

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- ii. send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

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- You can access and read this Electronic Record and Signature Disclosure; and
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- Until or unless you notify King County-Department of 02 as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by King County-Department of 02 during the course of your relationship with King County-Department of 02.