



2017 Docket Report

King County Comprehensive Plan

December 2017

I. About the Docket Process

The King County Docket was established in 1998 in accordance with Revised Code of Washington 36.70A.470 to provide an opportunity for residents of the County to register comments on the *King County Comprehensive Plan* and associated development regulations. The Docket process, as shown in King County Code 20.18.140, is available to the public to identify a deficiency (i.e., an absence of required or potentially desirable contents) or to propose changes to the Comprehensive Plan's policies, area-wide land use designations, development regulations, and site-specific land use and zoning. For docket requests that require a site-specific change in a land use designation or zoning classification, submitters may be referred to the appropriate process for requesting these changes.¹

The Docket is open continuously and, each June 30, the items registered in the previous twelve months are considered. Requests are compiled into a **Summary of Docket Submittals Report** which is made available via the Comprehensive Plan website. Following this, the County classifies whether each Docket is appropriate for the Annual Cycle (which allows primarily technical updates and corrections and amendments that do not require substantive changes to policy language) or Four-Year Cycle (wherein all changes may be considered) update. This classification guides whether the Docket item could be included in the following year's Comprehensive Plan update.²

The next phase includes analysis by County departments, outreach to the proponent, determining the appropriate mechanism for public engagement (dependent on the type and scale of the request), and coordination with relevant entities such as adjacent cities or special purpose districts. Note that the level of analysis and type of engagement is guided, in part, by the aforementioned classification.

On the first business day of December, the Executive transmits a **Docket Report** with analysis and recommendations to the Council. The Council then includes all proponents of Docket requests in the mailing list for the relevant Council committee meetings, and notifies them of any other opportunities for public testimony, as it considers **Council Action** on the requests.

¹ King County Code 20.18.050 and 21A.44.060

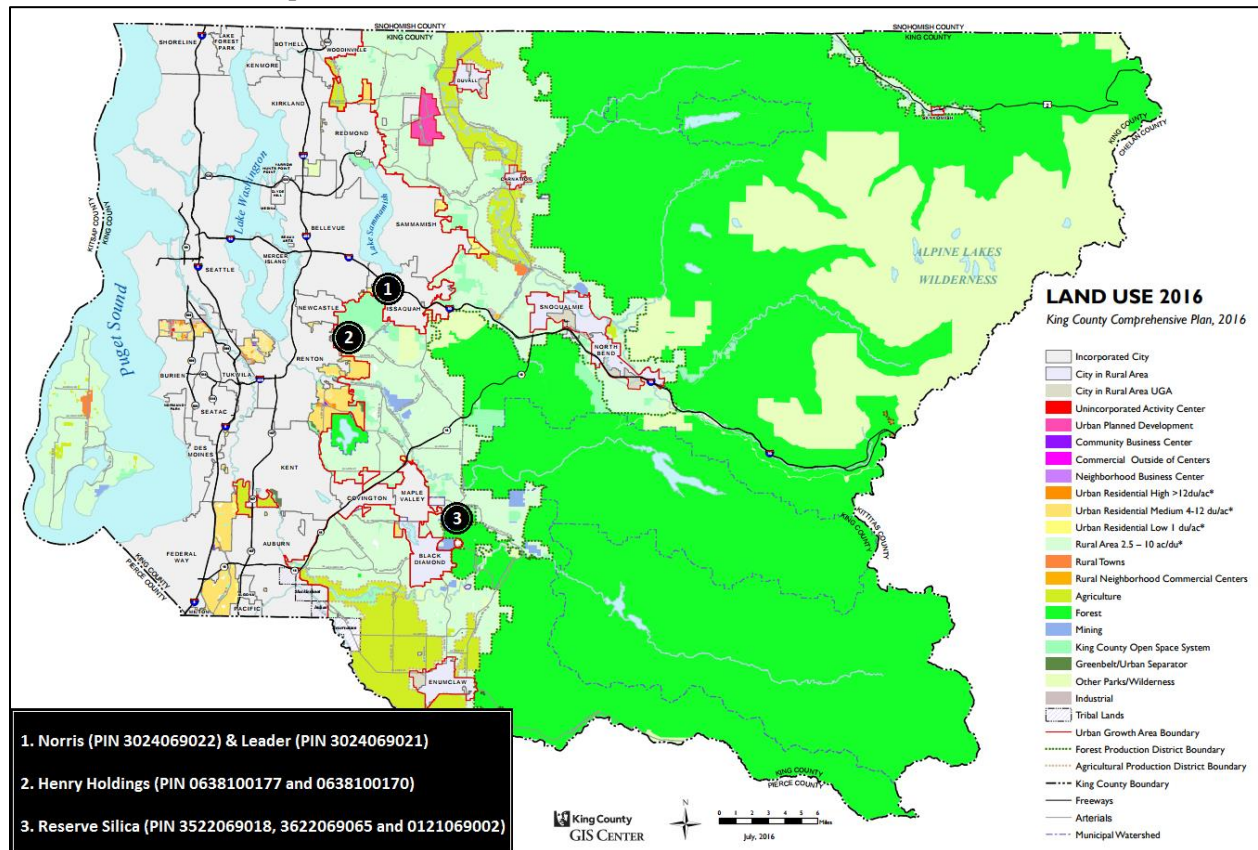
² King County Code 20.18.140 and 20.18.030

II. Summary of Submittals

King County received the following three items for the Docket period that closed on June 30, 2017:

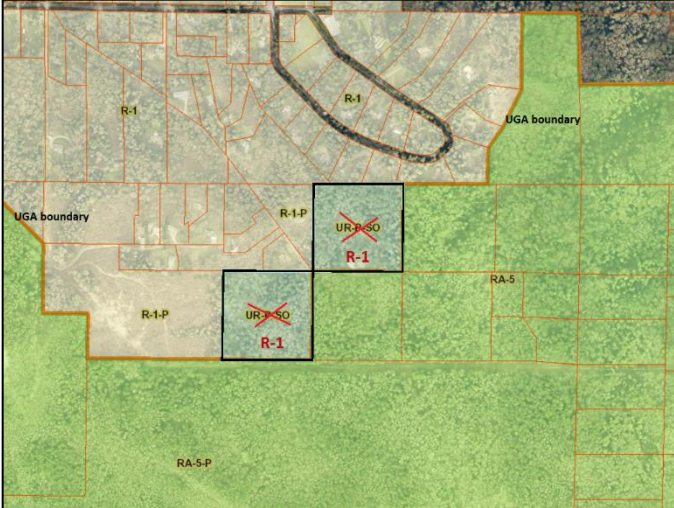
Docket #	Applicants Name(s)	District #	Summary of Requests
1	Mr. Norris Mr. Leader	CD 3, Councilmember Lambert	Request to increase the zoned density on two urban residential parcels in East Cougar Mountain unincorporated urban area, near the Cities of Issaquah and Bellevue
2	Henry Holdings, LLC	CD 9, Councilmember Dunn	Request to move two Rural Area parcels into the Urban Growth Area boundary using the Four to One Program, near the City of Renton and East Renton Potential Annexation Area
3	Reserve Silica Corporation	CD 9, Councilmember Dunn	Request to de-designate three Mining parcels and change the zoning to Rural Area 10 to allow residential development, near the cities of Maple Valley and Black Diamond

Below is the Docket map with Parcel Identification Numbers (PINs).



III. Submittals and Recommendations

The following lists the Docket applicant(s), identifies the County Council district and general location, and includes the full text of the requested change and submitted background information. This is followed by discussion and analysis of the relevant issues including classification and consistency review, and concludes with an Executive Recommendation.

Docket #1: Norris/Leader at East Cougar Mountain	
<p>Docket # 1 Applicant Names(s): Mr. Norris and Mr. Leader Council District # 3: Councilmember Lambert Location: Within the East Cougar Mountain Potential Annexation Area</p>	<p>Request: Rezone and reclassify the land use on parcels 3024069021 and 3024069022 from Urban Reserve zoning to Urban Residential 1 zoning (and from Urban Planned Development land use to Urban Residential Low land use). The docket request notes that they are the only Urban Reserve-zoned parcels remaining in this part of the unincorporated Urban Growth Area, and that all adjoining parcels are zoned Urban Residential 1 as a result of the 2016 Comprehensive Plan Land Use Amendment # 6 – East Cougar Mountain Potential Annexation Area.</p>
	
<p>Discussion and Analysis: The submittal does not request a change to any broad Growth Management Act land categories (such as Rural to Urban, or Resource to Rural), does not request moving the urban growth area boundary, and does not require any substantive amendments to Comprehensive Plan policies or King County Code. As such, the request is eligible for consideration in the annual cycle.</p> <p>The current zoning on these two parcels is Urban Reserve. These are in fact the only Urban Reserve parcels in the entire area. The parcels are bounded on the north and west by Urban Residential Low parcels and on the south and east by Rural Area 5 parcels, including parcels that are in Cougar Mountain Park. The request would represent a five-fold increase in potential densities from the current Urban Reserve (1 unit per 5 acres) to Urban Residential 1 (1 unit per 1 acre).</p> <p>In the 2016 Comprehensive Plan update, twenty four parcels in East Cougar Mountain were removed from the Urban Growth Area and the City of Issaquah's Potential Annexation Area. This was based in part on a request by Issaquah to remove them, given the City's stated intent to no longer commit to annexing any portion of this area due to environmental constraints and service provision challenges. The City of Bellevue expressed the same sentiments. These issues were discussed in the Executive Recommended 2016 Comprehensive Plan, in Area Zoning and Land Use Study #20.</p>	

Docket #1: Norris/Leader at East Cougar Mountain

The twenty-four parcels included in the 2016 amendment, for the most part, had designated Potential Landslide Hazard Areas and Buffers and/or Potential Steep Slope Hazard Areas, did not have homes on them, and lacked infrastructure and roadway access. These same conditions are not present on the two Docket parcels, and they both have existing homes, roadway access and limited steep slopes.

The Docket Request is to change the zoning on the Docket parcels *in the opposite manner* from the changes in 2016 update, namely to increase the allowed densities by changing the zoning from Urban Reserve to Urban Residential Low. The City of Issaquah submitted a comment letter in September 2017 stating they are opposed to this request and any increase in zoning in the East Cougar area. (*see section V: Public Comments*)

Per policy U-201, the Comprehensive Plan seeks to focus growth in cities and in areas affiliated with cities for annexation. In policy U-125, the Comprehensive Plan supports density increases when a number of criteria are met, including adequacy of public facilities and services to support the growth; this is not the case in this area. The infrastructure deficits and position of the City of Issaquah and City of Bellevue not to annex this area make this density increase inconsistent with County policies.

Executive Recommendation #1: Given County goals to focus unincorporated urban growth into areas affiliated with Cities for annexation, the complexities of the service provision, limited infrastructure, and the City of Issaquah and City of Bellevue's stated positions in 2016, and City of Issaquah position in 2017, not to annex these areas, the request to increase the densities on these two parcels is not recommended.

Not changing the zoning and land use on these parcels means that they will have zoning that is functionally equivalent to the adjacent properties in the Rural Area on the east. It may be appropriate to reconsider this issue in a future Four Year cycle update, at which time changes to the urban growth area boundary (expansions and contractions) are eligible for consideration.

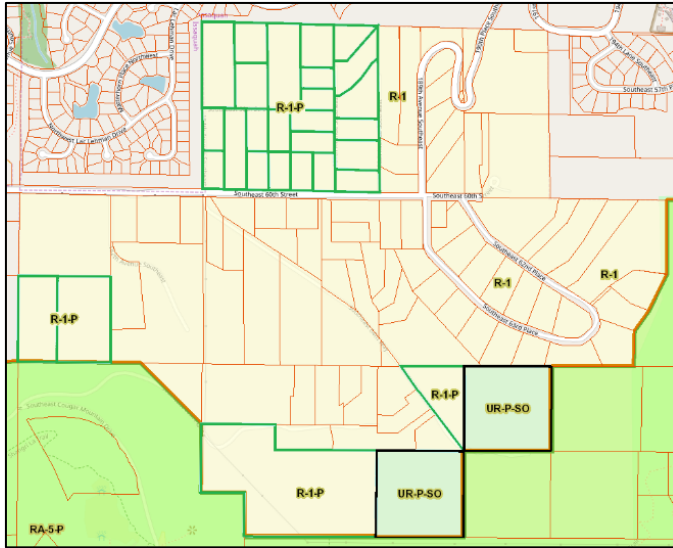
Reference Materials:

- Comprehensive Plan Land Use [Amendment # 6](#) – East Cougar Mountain Potential Annexation Area, starting on page 20 (December 2016)
- Executive Recommended 2016 Comprehensive Plan, [Area Zoning and Land Use Study #20](#), starting on page 144 (March 2016)

Issue #2 – Special District and Property Specific Condition: A related issue is that the two Docket parcels, along with numerous adjacent parcels in the East Cougar Mountain Area, have outdated development conditions imposed on them that are remnants of the 1993 Newcastle Community Plan.

- [Newcastle Property Condition 01 \(NC-P01\)](#): Cougar Mountain Subarea Master Plan Development (adopted August 1997, amended in March 2001 and October 2004). NC-P01 contains nineteen sections of suffix conditions for properties within the Master Plan Development Overlay District, including eligibility for village development, size and area requirements, land ownership requirements, review process, approved master plan development, development and housing criteria and more.

Docket #1: Norris/Leader at East Cougar Mountain



- **Special District Overlay 070 (SO-070):** Urban Planned Development Purpose and Designation SDO (adopted June 1993). SO-070 allows designation of areas which are appropriate for urban development on a large scale and adoption of urban residential zoning consistent with a subarea plan and the comprehensive plan.

The Docket parcels are shown in black and the other parcels with these development conditions shown in green on the map.

As noted, these conditions are geared towards a large scale development and

creation of a new Urban Planned Development. The minimum size of a new Urban Planned Development is defined at 21A.38.080 and states:

21A.38.080 Special district overlay - UPD implementation. *Implementation of the UPD designation shall comply with the following:*

A. *The minimum site size for an UPD permit application shall be not less than one hundred acres. "Site size" for purposes of this subsection means contiguous land under one ownership or under the control of a single legal entity responsible for submitting an UPD permit application and for carrying out all provisions of the development agreement; and*

B. *The UPD shall comply with the standards and procedures set out in K.C.C. chapter 21A.39. (Ord. 16267 § 73, 2008; Ord. 10870 § 581, 1993).*

Given the size, configuration and ownership of parcels in the East Cougar area, establishment of a new Urban Planned Development would not be feasible. Removing the development conditions would not affect the existing zoning or land use on the parcels (i.e., it would not affect rights such as Base Densities, Minimum Lot Areas, Minimum Lot Widths, Minimum Street and Interior Setbacks, Base Heights, Maximum Impervious Surfaces, etc.), and would simply de-codify these outdated and inapplicable conditions.

These conditions apply to [other areas](#) as well, including some that are fully contained in an incorporated city, meaning the conditions are not applicable. However, they still show up on the County's mapping systems and may create confusion.

Executive Recommendation #2: Given the widespread nature of these conditions, consider removal of these conditions in the next Four Year cycle, during which time more extensive public engagement and notification will occur.

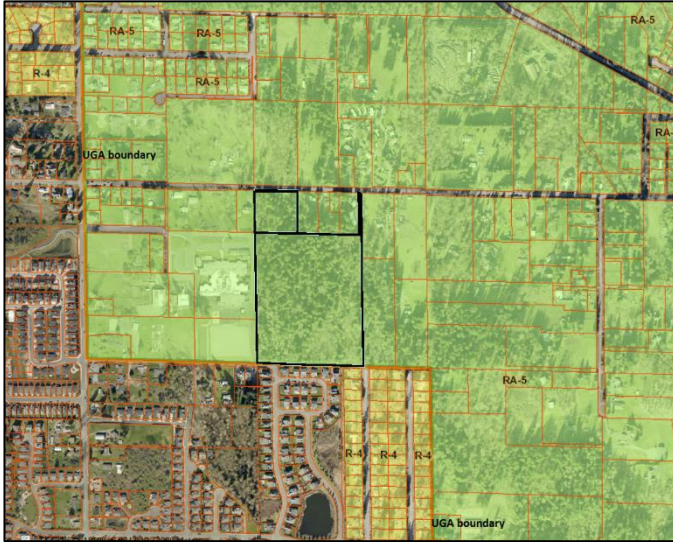
Docket #2: Henry Holdings Four to One near Coalfield

Docket # 2

Applicant Name(s): Henry Holdings

Council District # 9: Councilmember Dunn

Location: Rural area adjacent to the East Renton Plateau Potential Annexation Area, Near Coalfield



Request: Rezone and reclassify the land use on parcels 0638100177 and 0638100170 from Rural Area 5 zoning to Urban Residential 4 zoning (and from Rural Area land use to Urban Residential Medium land use) using the Four-to-One program. The docket request states that there is no significant effect on adjoining parcels, as the adjacent residential area to the south has the same R-4 zoning as is proposed for these two parcels.

Discussion and Analysis: The request does not appear to require any substantive amendments to Comprehensive Plan policies or King County Code. The request

proposes to change a broad Growth Management Act land category, moving two parcels from Rural to Urban. However, because the proposed method is through the use of the County's Four to One Program, which is allowed for consideration during the Annual Cycle, the request is eligible for consideration in the annual amendment cycle.

Comprehensive Plan policy R-203 states that the rural area is to be considered permanent and to be protected, although it does allow expansion of the Urban Growth Area boundary using the Four to One Program. This program is guided by policies and criteria in the Countywide Planning Policies, Comprehensive Plan, and County Code and allows for discretionary land use amendments, including urban growth area changes. As a discretionary program, the County has authority to support or reject based on the totality of the proposal, and the County's evaluation is guided by both eligibility and evaluation criteria, and states in policy U-186 that the highest-quality proposals shall be recommended for adoption.

The Docket parcel meets many of the eligibility criteria in King County Code 20.18.180, as follows:

Criteria	Parcel
Not zoned agriculture	meets criteria
Physically contiguous to 1994 urban growth area	meets criteria
Not in an existing band of contiguous open space	meets criteria
Could be served by sewers and other urban services	meets criteria, but requires agreement from City of Renton to serve (see below)

Docket #2: Henry Holdings Four to One near Coalfield

Could have urban facilities provided directly from the urban area and not cross the open space or rural area	meets criteria, but requires agreement from City of Renton to serve (see below)
Is greater than 20 acres	meets criteria

In addition to the eligibility criteria, requests for redesignation are evaluated to identify those that are the highest quality, based on the following:

Criteria	Parcel
Preservation of fish and wildlife habitat, including wildlife habitat networks, and habitat for endangered and threatened species	parcel does not rate highly on criteria
Provision of regional open space connections	parcel does not have open space connections; creating them in the area would be difficult and expensive and is not a current county priority
Protection of wetlands, stream corridors, ground water and water bodies	parcel does not rate highly on criteria; no significant streams or water bodies
Preservation of unique natural, biological, cultural, historical or archeological resources	parcel does not rate highly on criteria; no significant resources
Size of open space dedication and connection to other open space dedications along the urban growth area boundary	parcel does not rate highly on criteria; this would provide a small isolated open space, lacking economies of scale, for the County to maintain
Ability to provide extensions of urban services to the redesignated urban areas	parcel could rate highly, but requires agreement from City of Renton (see below)

While the Docket parcels are free of environmental constraints and are adjacent to the Urban Growth Area boundary, the habitat is not rated as high quality, does not have unique features and does not connect to other public open spaces. As such, it does not rate highly on the open space criteria.

The criteria for the urban portion are to achieve urban densities, and that it be subject to an agreement between King County and the adjacent city or town that it will be added to the city's Potential Annexation Area. This requirement exists in order to meet a separate goal under the Growth Management Act that unincorporated urban areas be annexed or incorporated into cities.

As such, Four to One proposals seek to ensure that the new urban portion, at a minimum, be affiliated with a city for annexation - if not annexed outright at the time of approval - so that development occurs under city standards and regulations. This is important for the County because incentives for annexation are very limited and, once development has occurred, it becomes less likely that a city will want to annex the area.

One example of this issue is whether the development meets city design standards which are typically more urban in approach than the County. This includes standards related to curb design, requirements for and placement of landscape strips, sizing of parking garage entrance aprons, requirements for pedestrian lighting, and more. This is also important to the County so that urban facilities such as sewer

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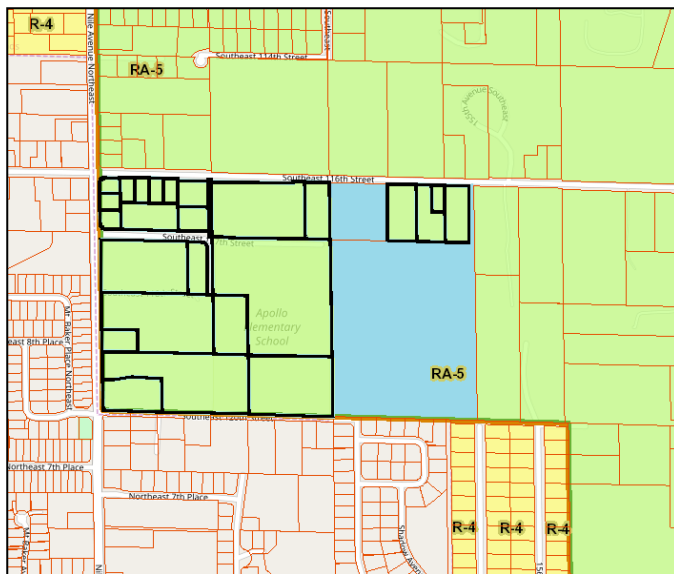
and water can be provided directly from the urban area and do not cross the open space or rural area, and do not create development pressure on rural lands.

The City of Renton is the only proximate city able to serve this development. The City reviewed the proposed site and stated the following:

"... the city is NOT in support of the referenced Urban Growth Boundary (UGB) expansion. The City commends King County for the 4:1 program and is very supportive of the program in general. However, until the City has agreement with King County regarding development standards for new urban development in the City's Potential Annexation Area (PAA) it is premature to consider adding additional land to the UGB."
(see section V: Public Comments)

The City's opposition to this proposed change is important in that the City would be the provider of services such as sewer and/or water, which are necessary for urban development to occur. While the program does not provide sole discretion to the City of Renton to make a final determination on the proposal, the criteria support proposals where a city is able to make a commitment for future annexation.

In addition to the Four to One program criteria, the impacts of a proposal on the surrounding rural area are also important considerations. One concern that this proposal raises is that it would create two new notches in the Rural Area. Shown on the map below, the Docket parcels are blue, and potential notch properties are outlined in black.



Four parcels at the northern edge are surrounded by the Docket parcels, and twenty-two parcels are between the Docket parcels and the urban growth area which runs along this portion of 148th Avenue SE (listed as Nile Avenue Northeast on the map). All of these parcels would be surrounded on three sides by the urban growth area and, if the Docket parcels were annexed by the City of Renton, they would be surrounded on three sides by the City of Renton. This would have the potential to create pressure for these notches to convert

to urban as well, as has happened in other parts of the County.

Executive Recommendation: The proposal meets many of the eligibility criteria, but does not rate highly on the evaluation criteria. Importantly, the adjacent City that would need to provide services to support urban development does not support the proposal. Given the limited benefits of adding the open space portion of the site to the County's open space system, the City of Renton's stated lack of support for adding this property into their potential annexation area, and the concerns that this would

Docket #2: Henry Holdings Four to One near Coalfield

create pressure on other nearby Rural Area parcels to convert to urban, the request to add these parcels into the Urban Growth Area boundary is not recommended.

Docket #3: Reserve Silica near Ravensdale

Docket # 3

Applicant Name(s): Reserve Silica Corporation

Council District # 9: Councilmember Dunn

Location: Near Ravensdale



Request: Rezone and reclassify the land use on 122 acres of the 245 acres currently designated Mineral land use to Rural Area land use, and from Mining zoning to Rural Area 10 zoning. The docket request states that the proposed use of the parcels (3522069018, 3622069065 and 0121069002) would allow 12 rural residential lots averaging 10 acres in size. Three other parcels on this site would retain their existing Mining and Forestry land use and zoning.

The docket request also notes that this property was included in the 2012 Comprehensive Plan as a Demonstration Project; this was repealed in 2016. The Docket request further states that there would be no effect on the adjoining parcels because the proposed large rural residential lots with setbacks and other restrictions would maintain compatibility with adjacent forest uses.

Note: The existing three tax parcels discussed in the Docket Request have been divided into six parcels, under Revised Code of Washington RCW 58.17.040(2) and RCW 58.18.010. These statutes allow large lot segregations as long as the parcels meet minimum lot

sizes under existing zoning (King County Code 19A.08.070.B.2.b (3)). The Docket Request would apply to three of the six tax lots.

Discussion and Analysis: The request proposes to change a Growth Management Act land category (redesignation from Resource to Rural) and does not propose to move the urban growth area boundary, but would require substantive amendments to Comprehensive Plan policies. As such, the request would not be eligible for consideration in the annual Comprehensive Plan amendment cycle in 2018, but could be considered in the next Four-Year cycle update in 2020.

The Docket Request follows a substantive change adopted in the 2016 update of the Comprehensive Plan related to this property. In the 2016 update, the County removed policy language that would have

Docket #3: Reserve Silica near Ravensdale

allowed a "mining site conversion demonstration project" to be submitted and considered in the Annual amendment cycle. Along with concerns regarding the impacts of development on this site on adjacent forest lands, site toxicity, and inverted reclamation and stewardship incentives, the County determined that projects of this scope, scale and precedent were not appropriate for review during Annual update cycle. Classification of the 2017 Docket is therefore consistent with the actions taken in the 2016 Comprehensive Plan update.

The 2017 Docket Request is different from previous iterations, and the scale of the proposal has been reduced, however, numerous substantive classification concerns remain given that the project proposes to:

1. De-designate natural resource lands to rural area
2. Change the zoning in a manner inconsistent with the mineral land development standard provisions in King County Code 21A.22.081.C.2.a.
3. Allow rural development directly adjacent to the Forest Production District in a location where none is currently allowed
4. Create twelve development rights on the site where none are allowed under existing zoning

These items are further discussed below.

1. De-designates Natural Resource Lands

The total site area is 325 acres – approximately 80 acres would remain zoned forestry, 245 acres remain zoned mining, and the Docket requests redesignation of 122 acres from Mineral to Rural Area 10. There are three broad categories of jurisdiction-controlled land under the Growth Management Act – Urban, Rural and Resource. Changing one of these land represents a substantive change to land categories.

2. Changes zoning inconsistent with King County Code

King County Code chapter 21A.22 - *Reclamation* states that final grades are required to be so as to encourage the uses permitted within the primarily surrounding zone or, if applicable, the underlying or potential zone classification. This is a stronger statement than the requirement for compatibility between zones. The three parcels proposed for redesignation to Rural Area would be surrounded on all sides by mineral and forestry land uses. With the cessation of mining, the remaining zone surrounding the parcels would be forestry.

A related policy in the Comprehensive Plan, at R-621, states that "Lands may be removed from the Forest Production District only through a Subarea Study, and only to recognize areas with historical retail commercial uses." The Docket Parcels are fully surrounded by Forest Production District parcels, and removing them would be inconsistent without a subarea study.

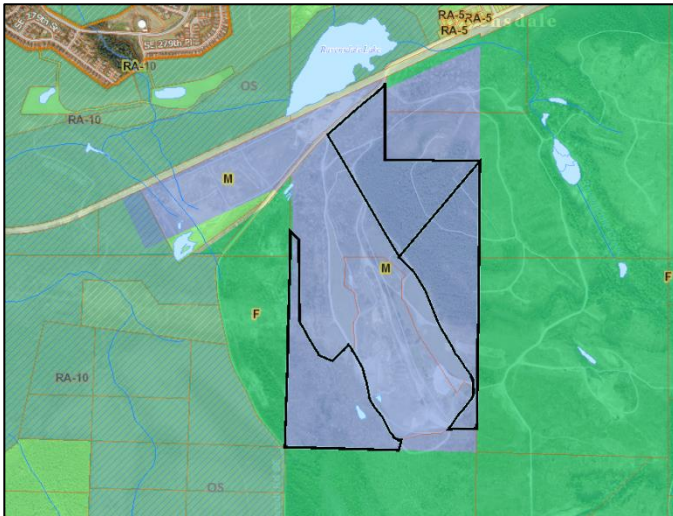
3. Allows potentially incompatible rural development directly adjacent to the Forest Production District

While low-density rural residential development can be compatible with forestry, this site is a geographic peninsula within the Forest Production District; any resulting residential development would be surrounded on multiple sides by the Forest Production District.

Docket #3: Reserve Silica near Ravensdale

In the 2007 Docket process, it was stated that the Comprehensive Plan policies included a preference that the site be redesignated to industrial, open space or forest. In the 2012 Comprehensive Plan's Area Zoning and Land Use Studies, it was recommended that the land use be changed to Forestry and the entire 402 acre site be included with the Forest Production District. Finally, the study stated that "Residential development adjacent to the Forest Production District may also bring pressure to bear on other resource-designated properties for residential development."

These statements were, in part, based on Comprehensive Plan policies, such as R-691, which states that "Reclamation of mining sites in the Forest Production District should return the land to forestry." While the policy number has changed over the years, this concept has been in the Comprehensive Plan since the [1994 Plan](#), wherein it stated "mines in the Forest Production District should be returned to forest use." (see page 112) This approach has been understood in the community for some time. For example, the 1991 Application for Reclamation Permit submitted by Reserve Silica to the Washington State Department of Natural Resources stated that the Subsequent Land Use would be forestry.



This theme continues in the Comprehensive Plan today. To maintain the Forest Production District, policy R-623 commits the County to promote forestry, reduce uses and activities that conflict with resource uses, and recognize forestland values. Further, policy R-684 states that the preferred adjacent land uses to sites designated as Mining on the Land Use Map are mining, industrial, open space, or forestry uses. This policy is relevant because large portions of the site will

remain with a mining designation, with residential development not a preferred land use. Additionally, the text of the Comprehensive Plan at page 3-45, provides context, stating "The purpose of the Forest Production District is to conserve large blocks of commercially valuable forestland for the long term. The designation and zoning is designed to prevent intrusion of incompatible uses, to manage adjacent land uses to minimize land use conflicts, and to prevent or discourage conversion from forestry to other uses." Allowing residential development on parcels surrounded by the Forest Production District would require changes to Comprehensive Plan policies.

4. Creates twelve development rights on the site where none are allowed under existing zoning.

Under King County Code 21A.12.040 Densities and dimensions - resource and commercial/industrial zones, no dwelling units are allowed on mining sites. The Docket request is for 12 development rights. The County has programs (such as the Residential Density Incentive Program, the Four to One Program, or the Transfer of Development Rights Program), that allow property owners to create development rights where none exist today. These programs require that a commensurate public benefit, such as permanent open space or affordable housing units, be

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provided. The Docket request does not provide these benefits; this would be a substantive change from existing county practices and would require changes to the aforementioned programs and the policies and King County Code that guide them.

These issues form the basis for classification of the Docket request as eligible for the Four Year, not the Annual, Comprehensive Plan cycle.

There are other, substantive issues that bear on the Executive recommendation of the proposal. These include issues such as: the appropriateness of allowing the portions of the site with the most potential for commercial forestry to be used for non-forestry uses; the location of residential development directly adjacent to parcels that have known toxins that have not yet been removed; creating incentives for mining sites to be managed for long-term conversion to residential uses rather than to forestry; the lack of site-specific analysis for issues such as roadway access (given that the elevation gain on portions of the site range between 850 and 1000 feet); long-term maintenance of these private roads by only 12 households; and service delivery. These substantive issues add to the aforementioned classification concerns.

Note: King County staff attempted to contact staff from the City of Black Diamond and City of Maple Valley on July 20 and October 3 to understand the city's perspective on this proposal. Neither city responded.

Executive Recommendation:

The requested change includes a number of elements that go beyond the Annual cycle's allowance for primarily technical updates and corrections and amendments that do not require substantive changes. Given the scope and potential precedence of these changes, the action taken in the 2016 plan, and other substantive issues that would bear on the Executive position on whether to support this proposal, the proposal is classified as not eligible for consideration in the Annual cycle.

Reference Materials:

- King County Rural Forest Commission Letter, June 1, 2016
- King County 2016 Comprehensive Plan – Executive Recommended Plan, Public Participation Report, March 1, 2016
- Department of Ecology – Site Hazard Assessment Ranking Notification Letters and Assessment Worksheet, January 2016 and February 2016
- King County Rural Forest Commission Letter, October 17, 2012
- King County 2012 Comprehensive Plan – Executive Recommended Plan, Map Amendment for Reserve Silica, March 1, 2012
- King County 2012 Comprehensive Plan – Public Review Draft, Area Zoning Studies, October 7, 2011
- Reserve Silica 1991 Application for Reclamation Permit submitted to the Washington State Department of Natural Resources

IV. For More Information

For questions regarding this report, please contact Ivan Miller, Comprehensive Planning Manager, at 206-263-8297 or ivan.miller@kingcounty.gov.

V. Public Comments on 2017 Docket Submittals

The following public comments were submitted on the Docket Requests following the release of the 2017 Summary of Docket Submittals Report.

Name: Tom Carpenter, Communications Secretary & acting Treasurer, Four Creeks Unincorporated Area Council; Gwendolyn High, President, CARE; Edie Jorgensen, Member, CARE, and Vice President, Four Creeks UAC; Peter Eberle, President, Four Creeks UAC; and Byron Murgatroyd, Commissioner, King County Water District #90

Date: October 31, 2017

Comment:

We collectively are active in the local community, including active participation in CARE, Four Creeks Unincorporated Area Council, and as a Commissioner at King County Water District #90. To be clear, our comments are personal, not organizational.

The parcels lie directly east of Apollo Elementary School. The UGB runs along the south side of Parcel 063810-0170 (a roughly square parcel of 18.44 acres), but turns south slightly to the east of the eastern parcel boundary on the the southern property line. (Parcel 063810-0177 lies to the north on the western side of the northern boundary of Parcel 0170, and is about 2.37 acres.) To the west, the UGB runs past several parcels near, and south of, Apollo Elementary to Nile Avenue. The surrounding properties within the UGB mostly lie within the City of Renton and are zoned R-4. All the surrounding parcels outside the UGB are zoned RA-5. Importantly, all parcels to the east of parcels 0170 and 0177 are zoned RA-5.

We oppose the proposal for the following reasons:

1. The proposal, if granted, would create a “nub” in the Urban Growth Boundary (UGB), which only invites further efforts to then “in-fill” surrounding areas that are also currently zoned RA-5. There are no other 20+ acre parcels surrounding the relevant parcels, but there are sufficient parcels that a developer would be motivated to purchase to accumulate 20+ acres to attempt to additional Four to One projects.
2. Because the surrounding parcels that lie outside the UGB are all zoned RA-5, there is no basis for some transition to farm or other rural uses other than to RA-5 parcels. Thus, this Four to One proposal fails to meet a basic criterion.
3. Traffic in the area already overburdens the road infrastructure. There is no significant public transport, and adding 15-16 homes will not induce additional public transport but will have significant effects on the overburdened road infrastructure. Other residents on the social media site Nextdoor are expressing concern about the traffic impacts. Due to the

short timeframe we've had to prepare these comments, we were unable to coordinate our response with these neighbors.

4. The Water District's planning for providing water is frustrated. The District, and Renton, are precluded by law from planning on higher densities in the rural area. While adding 16 homes rather than 5 homes is immaterial, if this approach is enabled, and a significant amount of other areas are turned into Four to One projects, the planning for the area is frustrated, and potentially the sizing of pipes, vaults, valves, tanks and fireflow infrastructure are made deficient. The area has some hills and hydrologic challenges. Providing proper water flow is a significant cost, and charging developers fair fees is impossible if ad hoc additions are made to the UGB.
5. When researching these properties it was found that the parcels to the south, which are part of the Maureen Highlands development have a Sensitive area designation attached to their titles. How this would impact the subject parcels needs to be researched.

For these reasons, we oppose Docket Request #2.

Name: Christopher Wierzbicki, PE, Executive Director, Futurewise; Bryce Yadon; Tim Trohimovich

Date: October 31, 2017

Comment:

Subject: Do not recommend including Docket Request # 3, Reserve Silica, for either the Annual Plan Update Cycle or Four-Year Update Cycle

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable and opportunity-rich communities, and that protect our most valuable farmlands, forests & water resources. We have members throughout Washington State including many in King County.

Thank you for the opportunity to comment on the 2017 Docket. Futurewise recommends that Docket Request # 3, Reserve Silica, not be included in either the Annual Plan Update Cycle or Four-Year Update Cycle. The current designation was adopted in the last comprehensive plan update. There is no change in circumstances justify a change.

Futurewise advised the rejection of a similar residential proposal at the Reserve Silica site in 2013, and our reasoning for objecting to this recent proposal remain consistent today:

- Preventing residential development of this site is basic consumer protection. The Washington State Department of Ecology has given this site its most severe hazard ranking. In addition to silica residue, the site has been used as an industrial disposal site for cement kiln dust, coal tailings, and acidic and caustic leachate, all of which are significant public safety hazards. This is not a suitable environment for housing.

- This residential proposal will be difficult and costly for King County and special purpose districts to serve with the public facilities and services needed to adequately support housing. These include services and infrastructure such as road maintenance, fire and emergency services, and school transportation. Providing these services will add to the county's existing burden of maintaining the public facilities and services that the residents of unincorporated King County depend upon and deserve.
- This land is in a remote location in the Forest Production District. Building housing in this area will create pressure to convert the nearby forest land to residential development, which is contrary to county policy and VISION 2040, the growth strategy for central Puget Sound adopted by King, Kitsap, Pierce, Snohomish counties and the cities in those counties, to conserve these areas. This impact is already apparent, as adjacent property owners have requested that their parcels be added to the proposal to change the comprehensive plan designation and zoning to RA 10 during the last update.
- The property is a logical addition to the surrounding Forest Production District, resulting in a more regular boundary.
- Approval of the Reserve Silica proposal could establish a precedent incentivizing inadequate mining reclamation and then dumping the site on unsuspecting homeowners.

Thank you for the opportunity to provide our comments on this important land-use and public health issue. We urge the county to reject the residential proposal for the Reserve Silica property.

Name: Jason Nonis

Date: October 30, 2017

Comment: We prefer the land in question being developed under a 4 to 1 proposal rather than full development. If the 4 to 1 proposal is approved, we hope the developer and King County will respect the rural designation of most neighboring plats as much as is feasible, by positioning the developed urban lands near the city of Renton boundary or Apollo Elementary School as much as possible. We look forward to hearing more about the development plans and will remain respectfully engaged throughout the approval process, weighing in when public feedback is requested.

Name: Ken Konigsmark

Date: October 23, 2017

Comment: As a long time conservationist and rural lands and growth management activist, I am always concerned about the "wish list" proposals that inevitably appear in these Docket requests. This year seems to be no exception.

Docket request #1 seeks R-1 zoning: Is there water and sewer service to serve these new lots given that it is inadvisable to drill wells or install septic drainfields on 1 acre lots. What will be the impacts on Cougar Mountain Regional Wildland Park? Wouldn't these parcels be better used as open space additions to the park rather than sites for new mega-mansions on the edge of the park? Until these questions are analyzed and answered this proposal should not be approved.

Docket request #2 seeks upzoning to R4 on rural zoned lands supposedly under the 4:1 program. Yet, it appears that while there may be R4 zoning only to the south of these two parcels it is surrounded on the other 3 sides by rural zoned/rural use lands. Will 80% of the land truly be donated as public open space and if so to which public agency (King County Parks?)? Does that agency even desire this land and can it be managed for the public effectively? If R4 density is allowed will the homes, in fact, be located adjacent to the existing R4 homesites to the south? Until these questions are analyzed and answered this proposal should not be approved.

Docket request #3 seeks upzoning from Mineral/Mining to R10 for 122 acres of land that has been heavily impacted by mining and toxic materials. This should not be allowed at all given the health risks to anyone who would live on these parcels, particularly when considering that all homes would utilize wells drilled into the heavily contaminated soils. Further, R10 zoning represents a significant and valuable upzoning from what current use would allow. Why should the applicant not be required to purchase density credits from King County's TDR bank? No free upzoning should be given to anyone when there are density credits readily available for purchase from King County! The Reserve Silica site is not suitable for residential use. This request should be denied.

Name: Michael and Donna Brathovde

Date: October 4, 2017

Comment: Attached are our public comments on Reserve Silica's proposed Docket Request #3 to change Land Use and Zoning on 122 acres of their Ravensdale property.

Note that we do NOT believe it is appropriate for this request to be considered as part of the 2017 KCCP, and we strongly disagree with the request to change the designated Land Use/Zoning on these Resource lands to a Rural Area/RA-10 zoning.

Thank you for including these considerations in the Executive's deliberations on this proposal.

Docket Request #3:

Reserve Silica's Docket Request #3 asks for a "site specific land use map amendment and companion rezone" for three parcels of land, totaling ~122 acres. The parcels currently have a Mineral land use designation, and are zoned Mining. The request is to change land use on these parcels to a Rural Area land use, with a RA-10 zoning.

Brathovde position:

First, we strongly recommend that this Docket proposal NOT be considered as part of the annual, 2017 KCCP. And secondly, if the Executive and Council should agree to consider this proposal within the 2017 KCCP, we strongly recommend that the proposal be soundly rejected.

Rationale for why this proposal should not be considered in 2017 KCCP:

The proposed Docket change is a major decision, reflecting significant changes to the Comp Plan; violates numerous County policies; and, if approved, will set a precedent that will likely have a major impact on the County's ability to retain critical Resource Lands in southeast King County. As such, this request should be addressed as part of the four-year, major Comp Plan update cycle, rather than in the 2017 annual update.

Furthermore, the entire Reserve property, including these three parcels, is currently designated by the Washington Department of Ecology (DOE) as a Class I (highest priority) MTCA Toxic Waste Clean-up site, due to known hazardous wastes that have contaminated surface and ground water, of which contamination has already migrated off-site. This contaminated water has been determined to represent an extremely high risk to human health and the environment. While consultants for Reserve have done a preliminary, internal Remedial Investigation to try to assess the extent of this, and other unknown contaminants on the property, this internal, Reserve-sponsored study (performed last April) has still not been released for public review/comment, and has not yet been submitted to DOE for their review and critique. Based on a very high level summary of the study presented by Reserve's consultant in June, we have serious concerns regarding major shortcomings of this study. Until the public and DOE has had an opportunity to carefully assess this study and Reserve's internal conclusions, one must hold with the DOE conclusion that the entire property, including these three parcels, may contain contaminants potentially hazardous to human health. Changing the land use and zoning of these three parcels to reflect a Residential land use is premature until such time as DOE has concluded that these parcels are safe for human habitation. And such a decision by DOE prior to the scheduled County adoption of the 2017 KCCP seems highly unlikely.

Note that Docket Request #3 is not the first time Reserve has proposed a similar land use change and upzoning for these lands. Similar Minerals/Mining -to-Rural /RA10 change were promoted by Reserve in the 2012 KCCP, and in the 2016 KCCP. In both cases, after detailed reviews and careful consideration, the Council ultimately decided to reject these earlier requests. To try to run the current Docket proposal through the abbreviated, annual Comp Plan update seems totally inappropriate, given the sensitivities and uncertainties surrounding this property.

Rationale for why the proposed land use/zoning change should NOT be approved:

The three parcels proposed for land use/zoning change are all currently forested, with timber ranging from 25 – 50 years of age (mostly 35-40). All of these lands were actively managed for commercial timber production by Plum Creek and its predecessors, up until purchase by Reserve Silica in 1997. All these lands were zoned Forestry, and included within the Forest Production District (FPD), prior to acquisition by Reserve. With the change to Minerals/Mining to reflect the active and prospective sand mining on a portion of the property by Reserve, County policy at the time indicated the land would revert back to its underlying Forestry zoning at the conclusion of mining and reclamation activities. Past mining activity on the three subject parcels proposed for upzone has been very limited, and mostly ended over 100-years ago. These three parcels reflect the most-suitable areas of the entire 382-acre Reserve Ravensdale ownership for the long-term practice of commercial forestry. And the proposal being promoted by Reserve and their forestry consultant (American Forest Management) through the

2016 KCCP confirmed that these parcels are entirely suitable for long-term forest management. The King County Rural Forest Commission also concurred with this conclusion.

Besides being ideally suited for long-term forestry use, a Rural Residential use of these parcels, as requested in Docket Request #3, would be entirely inconsistent, and incompatible, with surrounding land uses. Contrary to the Docket assertion that “*there would be no affect on the adjoining parcels regarding maintaining compatibility with adjacent forest uses*”, the Rural Forest Commission concluded that a similar assertion by Reserve in their 2016 KCCP promotion was not supported by past experience. And this entire property is totally surrounded by lands that will never have any residential use (see land use map). The lands to the east and south of this property are zoned Forestry, included within the FPD, and are under Conservation Easement owned by Forterra that allows no permanent structures to be constructed on these lands into perpetuity. The two small parcels on the western border of Reserve’s ownership are zoned Forestry and within the FPD; and due to their small size and contamination issues originating from Reserve’s property, will never have a residential use. And all the remaining lands to the west and north are under County ownership and part of the Black Diamond Open Space lands, which does not allow any residential development despite their being zoned RA-10. So to upzone these 122 acres to RA-10 when totally surrounded by permanently protected and/or FPD lands, thus creating a residential land use “island”, 1 ½ miles outside the urban growth boundary, within a 3,500-acre sea of lands that will never have any residential use, makes no sense whatsoever. It only serves to create an isolated residential zone, inconsistent with the surrounding land uses, strictly for the benefit of a single land owner.

This entire property is currently designated Resource lands – either Minerals or Forest. To change land use on 122-acres would represent an unnecessary loss of Resource lands – in conflict with County strategic goals. Furthermore, the requested land use/zoning change on these parcels would set a terrible precedent for upzoning Resource lands upon the completion of mining or other resource extraction activities. We are aware of six different mining operations in Southeast King County that would likely apply for similar residential upzoning should the Docket #3 precedent be set. And there are thousands of acres of forestlands within the FPD in southeast King County that were segregated into mostly 20-acre parcels by Plum Creek, Weyerhaeuser and Palmer Coking Coal, prior to sale to various private investor groups, that would also likely try to tag along on Reserve’s coattails to upzone their properties to a residential use should the Reserve precedent be set.

Extensive details behind the arguments presented above, can be found in the document provided to Council as part of the 2016 KCCP Council deliberations, titled “Assessment of Reserve Silica’s Proposed Mining Site Conversion Demonstration Project”, dated August 2016. An electronic copy of this document will gladly be provided to any interested party upon request.

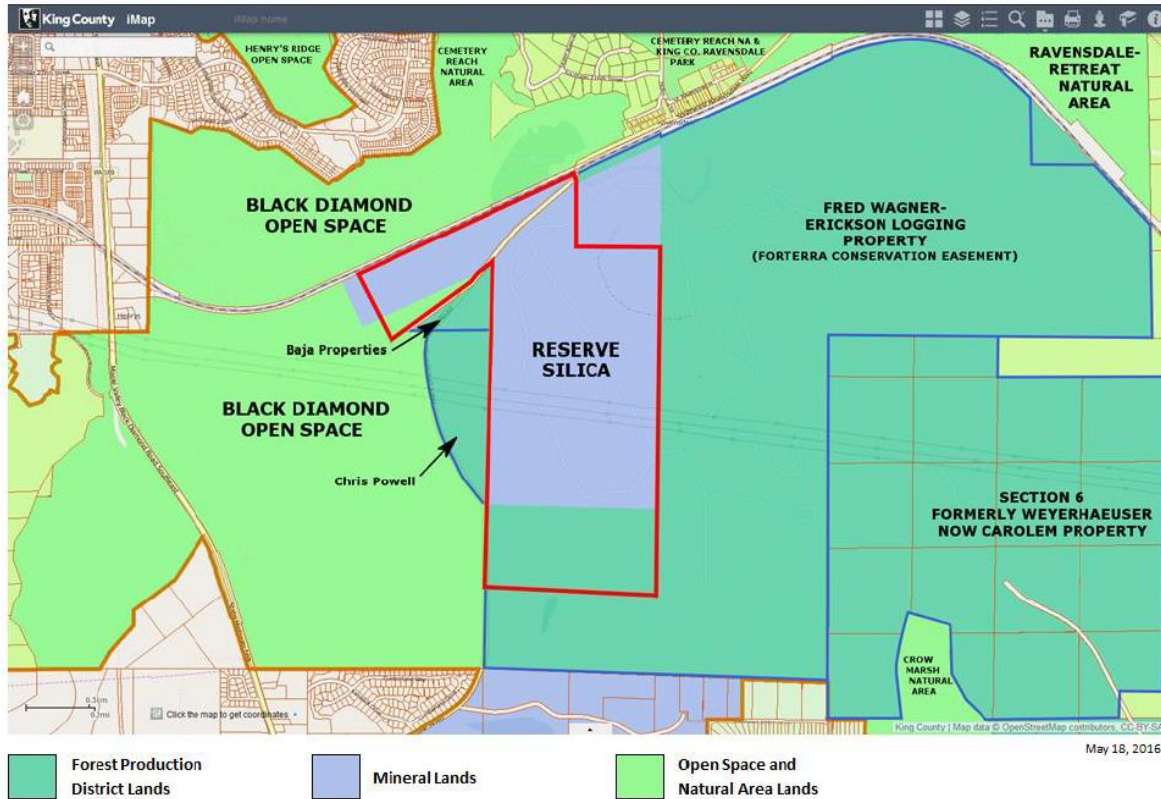
Conclusion & Recommendation

Given the significance of the Docket Request #3, and the huge uncertainties surrounding this particular property at this point in time, this Docket item should only be considered as part of the 2020 major Comp Plan update cycle, rather than as part of the 2017 annual update. And at whatever time this request is eventually considered by Council, this request should be soundly rejected, and these three parcels in particular, should revert to their pre-mining Forest land use and Forestry zoning, and be included within the Forest Production District. Any residential use of these three parcels would violate numerous County policies and goals, be totally inconsistent and incompatible with surrounding land

uses, and set a terrible precedent which would pose serious challenges to the County's efforts to retain Resource lands within Southeast King County.

Current Land Use Map for lands surrounding Reserve Silica Ravensdale property

Reserve Silica property is entirely surrounded by Forest Production District Lands and King County Open Space lands.



Name: Mayor Fred Butler, City of Issaquah;
Autumn Monahan, Darcey Strand, City of Issaquah

Date: October 3, 2017

Comment: (letter starts on next page)



CITY OF
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WASHINGTON

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Sept. 28, 2017

Lauren Smith
Director of Regional Planning
Office of Performance Strategy and Budget
401 Fifth Avenue, Suite 810
Seattle, WA 98104

Re: Issaquah's recommendation to deny request on 2017 King County Docket to increase zoning potential on two parcels within East Cougar Mountain Potential Annexation Area (PAA)

Thank you for providing the information that you have received regarding a request on the 2017 King County Docket to increase the zoning potential on two parcels within East Cougar Mountain PAA. The purpose of this letter is to notify you that we are against any increase in zoning in this area. As you recall, in 2015 Issaquah petitioned King County to remove the East Cougar Mountain area from Issaquah's PAA for several reasons: the area is not suitable for urban growth due to environmental constraints; difficulty in the provision of urban services; the area is no longer necessary to accommodate Issaquah's urban growth targets; and the area is not characterized by urban development or served by public sewers. For these reasons, our community has no intention of annexing this area.

East Cougar Mountain PAA is now approximately 588 acres and is adjacent to the Cougar Mountain Wildland Park outside of the Urban Growth Area. The two parcels requesting increased zoning potential are both adjacent to the Cougar Mountain Wildland Park and both have environmental constraints (see attached).

Issaquah maintains that no increased zoning should be approved and continues to recommend that the PAA should be redesignated to Rural land since it meets all the criteria of the King County Countywide Policy DP-18:


DP-18 Allow redesignation of Urban land currently within the Urban Growth Area to Rural land outside of the Urban Growth Area if the land is not needed to accommodate projected urban growth, is not served by public sewers, is contiguous with the Rural Area, and:

- a) Is not characterized by urban development;
- b) Is currently developed with a low density lot pattern that cannot be realistically redeveloped at an urban density; or
- c) Is characterized by environmentally sensitive areas making it inappropriate for higher density development.

5

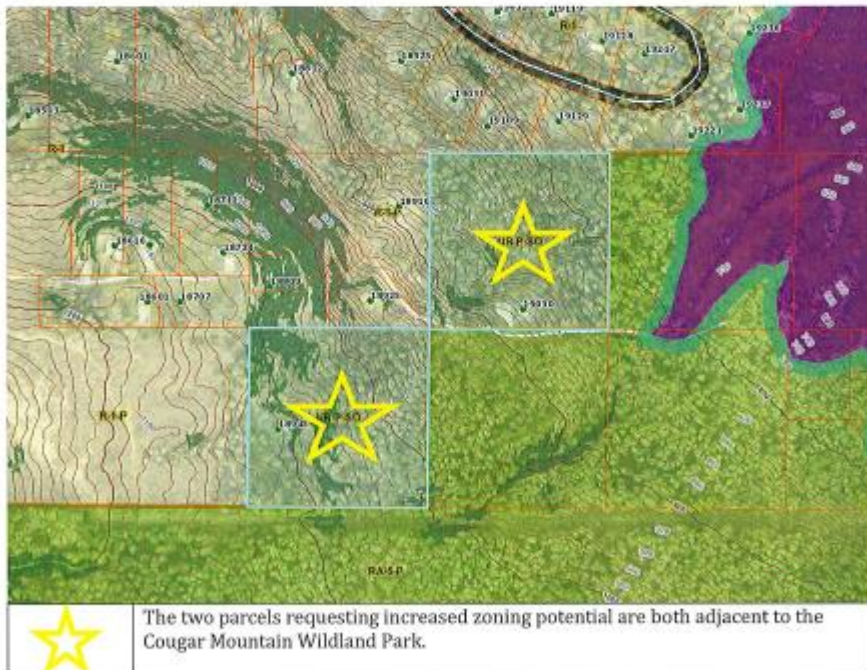
I am looking forward to working with you on this important issue.

Sincerely,


Mayor Fred Butler
City of Issaquah

Attachment

Cc Ivan Miller, King County Comprehensive Planning Manager
Issaquah City Council



Name: C.E. "Chip " Vincent, Administrator, City of Renton Department of Community & Economic Development

Date: August 17, 2017

Comment: As a follow up to our phone conversation this afternoon, I wanted to confirm in writing that the city is NOT in support of the referenced Urban Growth Boundary (UGB) expansion. The City commends King County for the 4:1 program and is very supportive of the program in general. However, until the City has agreement with King County regarding development standards for new urban development in the City's Potential Annexation Area (PAA) it is premature to consider adding additional land to the UGB.

Name: Michael Brathovde

Date: July 12, 2017

Comment: The following [was sent] to Randy Sandin, as part of an email covering several other topics.

Finally, on the topic of Reserve Silica's Large Lot Segregation proposal, I believe you indicated in the GMVUAC meeting Monday that DPER was close to completing their review of this proposal, and was anticipating approving it. I also reviewed the Docket proposal that Reserve submitted to upzone Lots 1, 2 and 4 to RA-10 as part of the 2018 Comp Plan update. I have a couple of major concerns relating to the proposed Large Lot Segmentation under your review.

First, as I'm sure you are aware, there is an active MTCA clean-up assessment in process on this property. At this point, until a Remedial Investigation (RI) is accepted by DOE, thus defining that portion of the property that is contaminated with toxic wastes and requiring clean-up, it seems premature to even be considering a lot segregation. While Reserve has completed an internally directed RI, this study has not yet even been submitted to DOE. Until such time as DOE has received, reviewed and accepted an RI, Reserve's internal conclusions as to what areas of the property are contaminated is strictly their own opinion.

Secondly, it seems there is a very substantial probability that the Council will reject the RA-10 upzone proposal in the 2018 Comp Plan, just as they rejected the residential upzone proposal in both the 2012 and 2016 Comp Plan updates. The driving factors behind such a rejection would include (1) the contamination issues on the property; (2) the fact that all the surrounding lands will never have any residential development built upon them (they are all either in County-owned Open Space/Natural Area, or under perpetual Conservation Easement disallowing any development - despite the misleading perception given by the Land Use map that these lands are residential); and (3) several other reasons as well that surfaced during the review of Reserve's 2016 Comp Plan upzone request.

Thus, it would seem to make sense to consider the Large Lot Segmentation issue in concert with the 2018 Docket upzone proposal, and contingent upon Council approval of the RA-10 upzone request. To unilaterally approve the Large Lot Segregation prior to action by the County Council on the Docket upzone request would constrain the Council's options to redesignate the property as Forest, since the property would now have substandard lots (40 - 68 acres, as opposed to the 80-acre minimum Forestry lot size). This situation would make the property less attractive for addition to the FPD, thus fueling arguments that it should, indeed, be upzoned for residential use - in spite of all the reasons residential may not make sense.

Note also, I did finally find the prior Large Lot Segregation* that Greg had mentioned, which DPER approved in June. In that segregation, Reserve split their ~126 acre, single-parcel block located by Black Diamond (purchased to serve as a TDR sending site for their Demonstration Project proposal), into three separate parcels. It is interesting to note that in their 2016 Comp Plan Demonstration Project effort, they had proposed retaining 3 development credits on this property, and transferring the remaining 25 credits to their Ravensdale property, to be part of their proposed 72-unit housing development. The fact that they've now split this RA-5 zoned Black Diamond property into three large parcels, would tend to imply to me that they still have an objective of transferring ~25 development credits to somewhere, or selling them to the TDR bank. I specifically asked Keith Dearborn (Reserve's attorney) in the GMVUAC meeting whether their Ravensdale property would qualify as a TDR receiving site if they were granted the RA-10 upzone they have requested in their 2018 Docket submission. Keith unequivocally indicated that it would NOT be a TDR receiving candidate. If you believe him, still leaves the question as to what they plan to do with these 25 development rights.

Another concern I have, is that if they succeed in the current segregation and upzone request, and are granted the 12 - 14 houses, there is nothing to prevent them from requesting an upzone of the 52-acre Inert Waste Lot (Lot 5) in 2019 (once they have finished reclamation and shown it not to be contaminated - note they didn't even evaluate this area in their Remedial Investigation study). And there's nothing to keep them from requesting an upzone of the 58-acre, lake-side Plant Site in 2019 or 2020. So it's not a matter of accepting the 12 - 14 houses, and we're done with this. This may continue for years. Discouraging.

Michael & Donna Brathovde

* this has been referred to as a "Large Lot Subdivision", a "Large Lot Segmentation", and a "Large Lot Segregation". I believe that technically, this is not a "subdivision". I had understood (from my prior life) that this was a "segregation". But Reserve's submission to DPER labeled it as a "segregation". So not sure what correct legal terminology is.

Name: Michael Brathovde

Date: July 11, 2017

Comment: Reserve Silica presented their Large Lot Subdivision and Rezone proposal for their Ravensdale property to the Greater Maple Valley Unincorporated Area Council at their Monday, July 10 meeting. And Peter Rimbos forwarded the link to the KC docket you provided. In reviewing Reserve's Docket submittal (Request #3), I find the Land Use map to be extremely misleading. Most specifically, the area to the north and west of Reserve's property is shown as an RA (rural residential) Land Use. And I believe this is consistent with County maps. However, these neighboring properties are NOT in any kind of residential land use, and never will be. The properties to the north are all part of King County's Black Diamond Natural Area, and will never have any residential use. And the properties to the west (beyond the two adjacent Forestry-zoned parcels) are all part of King County's Black Diamond Open Space lands - which again will never have any residential use. And the properties to the east and south are all Forestry-zoned, and have a perpetual Conservation Easement on them owned by Forterra, which disallows construction of any permanent structure on these lands. So essentially all the properties surrounding these Reserve lands will never have any kind of residential development of any kind on them. So to imply visually through the Land Use map that approximately half of the surrounding properties are in a rural residential land use seems very misleading.

Relatedly, the adjacent parcel to the northeast, shown as Minerals land use, is also misleading. This parcel, owned by Fred Wagner/Kurt Erickson, is managed solely for Forestry, and has not had ANY mining activity of any kind for over 60 years. This parcel is also covered by the Forterra Conservation Easement, which does not allow any residential unit to be constructed on this parcel.

This Reserve property was originally zoned Forestry, with a Forest Land Use; and was actively managed for commercial forestry by Plum Creek and their predecessor organizations for over 100 years. The property's zoning and land use was switched to Mining and Minerals at a time when a portion of this property was leased out for silica sand mining. At that time, County code indicated these lands would revert back to their original Forestry zoning and land use, once mining and reclamation work was completed. But Randy Sandin (DPER) indicated Monday that the concept of an "underlying zoning" (i.e., a Forestry zoning, underlying the temporary Mining zoning) was eliminated in the 1994 Comp Plan. And with the elimination of the "underlying zoning" concept, the requirement to revert back to a Forestry zoning following reclamation is not longer in place. Instead, Randy indicates under current code, properties will retain the Mining zoning, even after reclamation, until such time as someone files for a re-zone. And then it is up to the County to decide whether they accept or reject the proposed rezone.

So with this Docket submittal, Reserve is filing to rezone 122 acres of this property to RA-10. And apparently, the Council will consider this proposal as part of their 2018 annual Comp Plan update process.

To reiterate our position of many years now, we strongly oppose this rezone, and establishing a rural residential use essentially within the boundaries of the Forest Production District. We also strongly believe that no residential use should be allowed on this property until such time as a thorough MTCA

Remedial Investigation (RI) of the contamination on this property has been performed, and accepted by DOE. The internal RI performed under Reserve Silica's direction, and presented to the GMVUAC on June 5, has still not even been submitted to DOE for their review. In our view, until DOE has endorsed the RI, and DOE clearly defines the MTCA cleanup "site", the conclusions drawn by Reserve Silica regarding contamination of the site, or lack thereof, carry no weight whatsoever.

Reserve also indicated (and Randy Sandin confirmed) that they have applied to DPER for a Large Lot Subdivision of this property, essentially breaking the current three parcels up into seven parcels. Randy indicated Monday that DPER is close to having completed their review of this Subdivision proposal, and is anticipating approving it in the very near future. It is this subdivision that will enable Reserve to request a rezone on the 122 acres in the Docket submission. Randy indicated that under a Mining zoning, a Large Lot Subdivision proposal must have a minimum parcel size of 30 acres. And all seven parcels in the subdivision proposal meet this minimum size requirement. Our concern is that, should the Council ultimately decide to reject the Docket proposal to upzone the 122 acres to RA-10, and instead decide that this property should revert back to a Forestry zoning and land use, and be included again as part of the Forest Production District, then five of these seven new parcels will be substandard for Forestry, being less than the 80-acre Forestry minimum.

If this concern is shared by the County Exec, it would seem that there is a real urgency to make sure DPER is aware of this, as it sounds like they are very close to approving Reserve's proposed Large Lot Subdivision (DPER already approved a Large Lot Subdivision for Reserve's Black Diamond property; recorded last month). And I would expect that once a subdivision is approved, it would be nearly impossible to unwind that.

Name: Michael Brathovde

Date: June 22, 2017

Comment: We now understand from DPER that what Reserve Silica had applied for is not a BLA on their property, but a Large Lot Segregation instead. And that Segregation proposal has already been approved by DPER (with no public review/comment). Unfortunately, we do not yet know any of the specifics of the approved Segregation, as it has not yet been posted on King County's website (iMap). Do you have anymore details on this?

Obviously, Reserve is still pushing for some kind of housing development on some portion of their Ravensdale property - presumably something similar to what they were proposing in their Demonstration Project proposal in the 2016 Comp Plan. And it would seem highly unlikely that they are willing to wait until the 2020 Comp Plan update to gain approval for such a development.

In trying to understand what strategy they may be pursuing, and ensuring that the public has the opportunity to review and provide comment on any such proposal prior to its being approved and adopted, there are a couple of questions that come to mind that you may be able to address.

First, my understanding of a Large Lot Segregation, is that the newly-created parcels still have to comply with the underlying zoning. So, for example, if I owned a 400 acre parcel of Forestry zoned

property (80 acre minimum lot size), then I could segregate this property into 5 separate parcels, each 80 acres in size. Is this understanding correct? In Reserve's case, they have approximately 80 acres that are zoned Forestry. At a minimum lot size of 80 acres, they presumably cannot "segregate" this into anything but a single parcel. That leaves them with about 297 acres that are currently zoned Mining. Code would indicate these lands should revert to a Forestry zoning, as they were so zoned prior to the mining activity. And under an 80 acre minimum Forestry lot size, this would imply they could only segregate this 297 acres into three parcels. Is this understanding correct? Or given that the 297 acres are currently zoned Mining, is there something that would allow these acres to be "segregated" into something smaller than the 80-acre Forestry minimum?

Second, while the "mining site conversion demonstration project" provision of policy I-203 was killed in the 2016 Comp Plan, there is still a "Four-to-One" demonstration project provision in I-203. With a Large Lot Segregation, could they be positioning themselves to request a 4:1 in the annual 2017 Comp Plan update? Something like, 'we'll designate 323 acres of our 377 as "open space" lands, in exchange for upzoning 54 acres to Rural Residential to put in our proposed 72-unit housing development'. Could they make such a 4:1 proposal in an off-year Comp Plan update cycle? And if so, can they also request an upzone from Mining to Rural Residential under a 4:1 (or some other special provision) in an off-year? And, under a 4:1, or if upzoned Rural Residential, could they qualify for a TDR, moving 25 development rights from their 140-acre Black Diamond property over to their Ravensdale property?

Finally, is there some other kind of approach you may be aware of, that they may be pursuing through this Large Lot Segregation, to get permitted for a housing development on their Ravensdale property?

Again, our biggest concern is that Reserve will seek a means and push for approval of a housing development on this property, at greater density than allowed under current zoning, without any opportunity for public review or comment.

The following comments were received after October 31 deadline. Note that the Greater Maple Valley Unincorporated Area Council and the King County Rural Forest Commission emailed County staff prior to the deadline to let them know that they would be submitting comments, but that the October 31 deadline preceded the meeting at which their comments would be finalized.

Name: Greater Maple Valley Unincorporated Area Council
Peter Rimbo; Rhys Sterling; Steve Heister

Date: November 7, 2017

Comment: *(letter starts on next page)*



P.O. Box 111
Maple Valley, WA 98038

November 7, 2017

To: Ivan Miller, Comprehensive Planning Manager, KCEO-PSB: ivan.miller@kingcounty.gov
Subject: KCCP Update Docket Item #3—“Zoning, Land Use and Parcel Configuration Amendments”

Mr. Miller,

Please accept the comments herein from the Greater Maple Valley Unincorporated Area Council (GMVUAC). Our Growth Management Committee and Environment Committee have conducted extensive research into the subject request.

The GMVUAC has convened multiple meetings to discuss the details of the subject request. These meetings included discussions with the State Department of Ecology, King County Executive's Office and DPER, and Seattle-King County Public Health, as well as the requestor and its consultants.

The detailed comments provided reflect our extensive research efforts into the facts and data presented, as well as applicable State WACs and RCWs, King County Code, and King County Comprehensive Plan Policies.

Please consider our comments in helping to inform any recommendation the Executive provides to the King County Council. Thank you.

Peter Rimbo (primbos@comcast.net)
Chair, Growth Management Committee
GMVUAC

Rhys Sterling (rhysobart@hotmail.com)
Chair, Environment Committee
GMVUAC

Steve Hiestler (gmvac_chair@hotmail.com)
Chair
GMVUAC

cc: King County Council: council@kingcounty.gov
Alan Painter, Manager, King County Community Service Areas: alan.painter@kingcounty.gov
Lauren Smith, Director, Regional Planning, KCEO-PSB: lauren.smith@kingcounty.gov
Peter Eberle, Chair, Four Creeks UAC (FCUAC): mtcphe@msn.com
Nancy Stafford, Chair, Upper Bear Creek UAC (UBCUAC): nancy@gq2email.net
Gwyn Vukich, Chair, Green Valley/Lake Holms Association (GV/LHA): gvukich@msn.com

2017 King County Comprehensive Plan Update

***Docket Item #3 —
Reserve Silica Rezone***

November 7, 2017

Public Comment by

***Greater Maple Valley Unincorporated Area
Council***

Presented to

King County Executive's Office

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Executive Summary

The Greater Maple Valley Unincorporated Area Council (GMVUAC) has provided a voice for Rural Area residents in the greater Maple Valley area for 40 years. Currently, there are ~16,000 residents whom we help connect with King County government, their “local” government. The GMVUAC takes seriously this charge, as it endeavors to execute its mission to “Keep the Rural Area Rural.”

The GMVUAC conducts thorough reviews of King County Comprehensive Plan Updates—both minor (annual) and major (quadrennial)—and provides King County officials detailed comments on same.

The GMVUAC has followed the activities at the Reserve Silica site in Ravensdale for decades. The GMVUAC has convened multiple meetings on Reserve Silica’s past attempts at securing an upzone and a Demonstration Project, respectively, through the 2012 and 2016 KCCPs. The GMVUAC has met with all key WA State and King County Agencies, as well as the requestor, and has conducted extensive research into Reserve Silica’s 2017 KCCP Docket Item #3 request (the subject of the comments herein).

The GMVUAC opposes the Docket Item #3 request for the following reasons with details and supporting rationale p[resented herein:

1. **State's Growth Management Act (GMA)**

It does not in any way conform to the GMA to repair a "deficiency" in the King County Comprehensive Plan (KCCP).

RCW 36.70A GROWTH MANAGEMENT—PLANNING BY SELECTED COUNTIES AND CITIES codifies main elements of the State's Growth Management Act. It provides jurisdictions specific guidance on comprehensive planning including amendments thereof in **RCW 36.70A.130 Comprehensive plans—Review procedures and schedules—Amendments.**

The Annual cycle of amending comprehensive plans is meant to handle "minor" technical revisions.

2. **State Appellate Court Decisions**

By not *bifurcating* the consideration of the Comprehensive Plan and what is a *separate* zone change subject to independent public hearings conducted by the Hearing Examiner, the site specific proposal made by Reserve Silica and the combination of concurrent legislative and quasi-judicial functions constitutes illegal spot zoning clearly in contravention of numerous State appellate court decisions.

3. **King County Code**

It would violate, at a minimum, the following King County Code titles:

TITLE 19A. LAND SEGREGATION

19A.04 DEFINITIONS

19A.04.205 Large lot segregation.

TITLE 20. PLANNING

20.18 PROCEDURES FOR AMENDMENT OF COMPREHENSIVE PLAN OR OF DEVELOPMENT REGULATIONS-PUBLIC PARTICIPATION

20.18.030 General procedures. B.

20.18.050 Site-specific land use map and shoreline master program map amendments initiation. I. and

J.

20.18.055 Site-specific land use map amendment review standards and transmittal procedures.

20.18.140 Provision for receipt, review of and response to the docket.

TITLE 21A ZONING

21A.12 DEVELOPMENT STANDARDS - DENSITY AND DIMENSIONS

21A.12.040 Densities and dimensions - resource and commercial/industrial zones.

**21A.22 DEVELOPMENT STANDARDS - MINERAL
EXTRACTION**

21A.22.081 Reclamation B.

4. King County Comprehensive Plan (KCCP)

It would violate, at a minimum, the following KCCP policies:

Chapter 3—Rural Areas and Natural Resource Lands

R-208 [Rural Forest Focus Areas]

R-304 [individual zone reclassifications are discouraged and should not be allowed in the Rural Area]

R-305 [residential density of one home per 20 ac on Rural Area lands managed for forestry]

R-691 [reclamation of mining sites in the Forest Production District should return the land to forestry...zoning classification should be compatible with the surrounding properties]

Chapter 12—Implementation, Amendments, and Evaluation

I-203 [annual cycle shall not consider proposed substantive changes]

5. Forest Production District (FPD)

It essentially would establish residential use *within* the boundaries of the FPD. The overarching goal of the FPD—and the Rural Forest Focus Areas (RFFAs)—is to retain large, contiguous blocks of forest land. This overarching goal would clearly not be achieved by upzoning the 122 ac to a RA-10 land use/zoning. As recently confirmed by King County's Department of Permitting & Environmental Review (DPER) staff, reforestation of all this land and retaining the underlying zone as Forestry are also consistent with the King County Code requirements applicable to the surface mining permit reclamation plan and program for the entire Reserve Silica site.

King County goals would best be achieved by *returning* this property to its underlying Forestry land use/zoning. [Note: even if the land use is changed to rural residential, these parcels should clearly be included *within* the RFFA, to achieve the goals of that program, and, if included within the RFFA, then the minimum lot size is 20 ac, not 10 ac.]

6. Upzoning “Domino” Effect

It could cause a “*domino*” effect in the FPD. If these 122 ac go to a rural residential land use, then the two Forestry-zoned, FPD parcels to the west will be forever isolated from the FPD block. So, why not upzone them also, as Reserve Silica tried to do in 2012? Then why not upzone the 52-ac Inert Waste Lot #5 next? Then why not upzone the 58-ac "Plant Site/Settling Ponds" tract? Should the precedent be set with these 122 ac, a classic *domino effect* of continuing upzones likely could follow. In fact, if the FPD boundary were pushed to the east of Reserve Silica's site, the 80-ac Lot 3,

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currently zoned Forestry, could be upzoned as Reserve Silica tried to do in 2016.

It should be noted there are six or seven other mining sites in the area that, with a precedent set, could fully expect to petition for a rural residential upzone.

Finally, there are thousands of acres in the area, that are zoned Forestry and within the FPD, that Plum Creek, Weyerhaeuser, and Palmer Coking Coal segmented to substandard-sized lots before selling them to private investors, whose clear goal is to develop these lots for residential use once they can get out from under the Forestry zoning. Being substandard lots (mostly 20 ac, against an 80-ac minimum Forestry lot size), one can easily imagine these lot owners could try to tag along on Reserve Silica's coattails to upzone their substandard lots, which they likely would argue are *'too small to practice commercial forestry on.'*

Consequently, upzoning of Reserve Silica's 122 ac would create a precedent for upzoning other depleted mining/industrial sites and a *loop-hole* for upzoning other substandard sized lots in the FPD. Such a very dangerous *domino effect* should be avoided at all costs!

7. State Department of Ecology (DOE)

It is *premature* to even contemplate any change in use until a Model Toxics Control Act (MTCA) Remedial Investigation/Feasibility Study (RI/FS) has been completed and accepted by the State DOE. Until DOE accepts a final RI/FS and clearly defines the MTCA cleanup *"site"* contours (i.e., parts or all of the site), Reserve Silica cannot state or prove unequivocally that contamination is contained to any portion of the site, thus rendering any consideration for future residential zoning moot.

8. Administrative

Finally, the King County Council has taken two previous actions during the major four-year KCCP Update related to the Reserve Silica site in 2012 and 2016. Both decisions wisely rejected Reserve Silica's *previous* requests to change its land use and zoning from Mineral/Mining to Rural Residential/RA-10. In addition, the 2016 decision *removed* the option from being pursued during the annual KCCP Update cycles.

Consequently, the GMVUAC requests the Executive recommend to the King County Council denial of the Docket Item #3 request to rezone 122 ac of isolated land outside of Ravensdale currently zoned Mining to Rural Area land use (RA-10).

Upon State Department of Ecology approval of the successful completion of any mine reclamation plans and upon approval of the successful completion of any Remedial Investigation/Feasibility Studies, the subject lands should revert back their original land use of forestry and underlying zoning of Forestry.

Further, the subject lands should then be re-incorporated in the Forest Production District.

1. KCCP Docket Item #3 Request

Docket Item Request

Reserve Silica seeks zoning, land use and parcel configuration Amendments:

“Change 122 ac of the 245 ac currently designated mineral and zoned mining to Rural Area land use (RA-10). The proposed use of the parcels would allow 12 rural residential lots averaging 10 ac in size. The existing tax parcels are being divided into 6 (six) 40-80 acre Tax Lots. The site specific land use map amendment and the companion rezone will apply to 3 (three) of the Tax Lots. The amendment and rezone will be filed before November 1, 2017.” [Parcel Identification Numbers - 3522069018, 3622069065 and 0121069002] See — http://www.kingcounty.gov/~media/depts/executive/performance-strategy-budget/regional-planning/2016CompPlanUpdate/Summary_2017Docket_Submittals.ashx?la=en

Per the Docket Item #3 request:

“This property was included in the 2012 Comprehensive Plan as an adopted Demonstration Project Option; this option was repealed in 2016. Total area 325 ac - 80 ac zoned forestry and 245 ac zoned mining. This docket request affects 122 ac currently designated Mineral. The docket states that there would be no affect on the adjoining parcels, with the proposed large rural residential lots with setback and restrictions regarding maintaining compatibility with adjacent forest uses.”

Inaccuracies in the Request

There are inaccuracies in the Docket Item #3 request. The 2012 KCCP provided for a mining site conversion demonstration project, and laid out very specific conditions for a property to qualify for such a demonstration project. Reserve Silica assumed at the time its property would likely qualify, but there was no assurance of this in the 2012 KCCP; and the property was not “*adopted*” as a Demonstration Project at any point in the process. Further, the statement regarding “*compatibility with adjacent forest uses*” is an assertion, which was disputed by the Rural Forest Commission in 2016 (this is explored in more detail herein).

Site Map

The *Proposed Map* from the Docket Item #3 request is provided as *Figure 1-1* in the Appendix.

2. Reserve Silica Site

History

The Reserve Silica site consists of ~382 ac immediately southwest of Ravensdale in southeast King County. Originally, the property was acquired in pieces by the Northern Pacific Railway, as part of its 1870 Land Grant, and in 1903 from the Seattle and San Francisco Railway and Navigation Company. Northern Pacific Railway and its subsidiaries and successors (Burlington Northern, Plum Creek, and Glacier Park) owned and managed the property until 1997. Reserve Silica has owned and managed the property from 1997 until present.

For 100 years *prior to* the 1997 sale to Reserve Silica, the vast majority of the property was managed for commercial forestry operations (a small portion was actively mined). When King County delineated the FPD in the 1990's, the entire property (excepting the Plant Site/Settling Ponds) was zoned Forestry and included *within* the FPD. Eighty ac still retain a Forestry zoning, while the remaining ~300 ac carry the later-instituted "*Minerals*" zoning (i.e., "*Mining*" land-use designation). King County policies, in place at that time, required the land would revert back to its "*underlying zoning*" (i.e., Forestry) upon completion of approved mine reclamation plans. Recently, per discussion with King County's Department of Permitting & Environmental Review (DPER), Product Line Manager for Resources, Randy Sandin, stated: "*adjoining land use in the area is forestry so DPER's expectation is that the property will be reclaimed in a manner to allow/support that use*" (ref.: 10/9/17 e-mail).

From 1924 to 1947 coal mining was conducted on the property by Dale Coal Company. Then from 1948 to 1967 no mining activity occurred on the property. In 1967, a portion of the property was leased for mining silica sand. In 1972 Industrial Mineral Products acquired the lease and continued sand mining operations until 1986, when Reserve Industries took over and continued sand mining until December 2007.

Industrial and Solid Waste Fill Operations

Industrial Mineral Products, also an industrial waste processing firm, accepted ASARCO slag and Cement Kiln Dust to be dumped on the property. In 2016 the State Department of Ecology (DOE) designated the property as a Class I Model Toxics Control Act (MTCA) toxic waste clean-up site.

In addition to the known toxins dumped on the property, pit-filling permits (issued by King County DPER) allowed all manner of solid waste dumping since 1971. In the 1980s Seattle-King County Public health (S-KCPH) issued permits for landfill operations. Both the State DOE and Reserve Silica's environmental consultants, Aspect Engineering, have concluded that it is unknown what other waste materials may have been dumped at the site *prior to* 2012 when an Inert Waste Disposal Permit was issued.

The site has been managed for forestry for nearly the entire 20th century.

3. Site Reclamation

History

All sand mining on the property ended in 2007 with ~ 35% of the land impacted by sand or coal mining. Reclamation efforts began in 2008 with no timeline for completion agreed to by the State DOE. Applicable governing state laws are codified in **WAC 173-350-410: Inert waste landfills** and **WAC 173-340: MTCA—CLEANUP**.

1988 Reclamation Plan

This 1988 plan was quite general and not particularly specific, as mining was very active and expected to continue for “10+ years.” It states “*the overall reclamation plan is only outlined in general terms.*” As such, it is not particularly useful to the discussion herein.

Revised Surface Mining Permit

In 1991 the State Department of Natural Resources (DNR) issued a letter to Reserve Silica which discusses future site reclamation (ref.: “*Revised Surface Mining Permit No. 70-010346*”).

In a subsequent “*Application for Reclamation Permit*” (undated, but sometime after 2001), it states in multiple places the mined areas will be “*reclaimed for forestry*” and under “*Subsequent Land Use*” it states: “*The subsequent land use for this site is forestry.*”

Hydrogeologic Studies

The City of Kent, as part of its Wellhead Protection Program, has conducted hydrogeologic studies of all the areas in the vicinity of its watershed located west of Ravensdale and the Reserve Silica site. It has identified concerns with groundwater, soils, and surface water and ranked the site as a “*high priority*” for its Kent Springs site and a “*medium priority*” for both its Clark Springs and Armstrong Springs sites.

These analyses and rankings were detailed in the *City of Kent Wellhead Protection Program Clark, Kent, and Armstrong Springs* report (No. J-3508-01) issued on April 2, 1996. Consequently, this report does not capture any additional contamination risks incurred over the last 21 years. However, the report clearly shows both the Kent and Covington wellfields to be downgradient just a short distance from the known Reserve Silica groundwater contamination, with very high hydrologic conductivity soils in between. The City of Kent’s concerns remain.

Transfer of Reclamation Responsibilities

In a March 31, 2010, DPER (Fred White) memo to the DNR (Rian Skov)—subject: “*Reserve Silica: Transfer of Reclamation Responsibilities to King County*”—it was stated: “*a final reclamation in exceedence of that required and approved under the State Reclamation Permit*” would occur, and the site would be “*totally revegetated in accordance with the zoning and applicable standards.*”

“Interim Reclamation Plan”

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In an "*Interim Reclamation Plan for the Ravensdale Quarry*" dated May of 2014 (Reserve Silica had this prepared to support its May 2016 "*Rural Mining Site Conversion Project*" document it planned to present to the County as part of its 2016 KCCP Demonstration Project proposal). This *Interim Reclamation Plan* was approved by DPER contingent upon the following required revisions:

1. Struck Reserve Silica's assertion the site was unsuitable for forestry (p. 7) and
2. Added the condition the final reclamation and revegetation plan for the site would be developed once future zoning was determined, and could include reforestation (p. 17).

Of particular note is that the *Interim Reclamation Plan* states less than 17% of the property is suitable for forestry. In fact, the majority of this property is suitable for commercial forestry, and does satisfy King County FPD criteria to determine forest land with long term commercial significance:

1. Predominant parcel size \geq 80 ac;
2. Site characteristics make it possible to sustain timber growth and harvest over time;
3. Adjacent residential development is scarce, and siting of future dwelling likely to limit any adverse impacts to forestry; and
4. Predominant land use of the property is forestry. It should be noted the vast majority of the property has been managed for forestry from the 1890's until the mid 1980's.

Consequently, it appears, reclamation of the majority of this property for long-term forest use, as dictated by King County policy, would be prudent and should be required.

Site Hazard Assessment

The State DOE performed a Site Hazard Assessment of the property in January 2016 to confirm the presence of hazardous substances, as well as to determine the risks posed to human health and the environment. Based on this assessment, the Reserve Silica site is ranked as a Class 1 (i.e., most dangerous) toxic waste clean-up site.

Following the DOE's Class 1 ranking of a site, a Site Hazard Assessment was conducted in February 2016 to confirm the presence of hazardous substances, as well as to determine the risks posed to human health and the environment.

Remedial Investigation/Feasibility Study

The next step in the DOE process is to perform a Remedial Investigation/Feasibility Study (RI/FS) to define the extent (and amount) of site contamination. The clean-up site boundaries should be determined during the RI phase of the work, while it is the FS that should provide the proposed options for cleaning up the site.

Clearly, It will be important to know what is being proposed for cleanup for the site as well, such as, what will be done with the ASARCO slag "*gravel*" remaining along the roadways? Potential impacts on human health and the environment and potential cleanup processes are evaluated as part of the RI/FS.

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Reserve Silica's consultant, Aspect Engineering, conducted a preliminary investigation in early 2017, but a draft RI/FS has yet to be submitted to the State Department of Ecology. Until that study is submitted, reviewed, modified, finalized, publicly available, and approved, no decisions on site rezoning or future use should be undertaken.

There are a myriad of concerns with placing future residences—especially on public water and with on-site septic systems—on a site through which as number of toxic contaminants have penetrated and immediately above the already identified Cement Kiln Dust pits, to which approval of Docket Item #3 would eventually lead. This will only serve to compound the problems over the past couple of decades in attempting to control such contamination, as well as further increasing risks to downstream Kent and Covington water supplies.

4. Large Area Subdivision

Request

To facilitate Reserve Silica's request to change land-use designation and upzone 122 ac of its property as proposed in Docket Item #3, it filed a Large-Lot Subdivision request with King County DPER to split two existing parcels into six separate lots. Three of the resulting lots, totaling 122 ac, are what is being requested for *upzone* in Docket Item #3.

Procedure

This presents a procedural issue with no real means to resolve same. Our understanding is that DPER has approved the Large-Lot Subdivision request, in spite of knowing five of the six resulting lots would be *substandard size* (i.e., less than the 80-ac Forestry minimum lot size). So, should the King County Executive (and subsequently the King County Council) reject the Docket Item #3 request and require the property revert back to its underlying Forestry land use and zoning following reclamation (as King County policy would dictate), the Large-Lot Subdivision request would need to be revisited.

Concerns

The Rural Forest Commission strongly recommended the property revert back to its Forestry zoning during both the 2012 and 2016 major 4-yr KCCP updates. The King County Council previously *rejected* Reserve Silica's requests for a Rural Residential land use and upzone in both those same updates.

The King County DPER approval of Reserve Silica's Large-Lot Subdivision request was made in error and should be rescinded.

5. State Growth Management Act on Planning

The State Growth Management Act (GMA), as codified in **RCW 36.70A GROWTH MANAGEMENT—PLANNING BY SELECTED COUNTIES AND CITIES**, is clear on what is required by jurisdictions when preparing and amending their comprehensive plans. King County has developed its Code in conformance to **RCW 36.70A**. The following subsections under **TITLE 20 PLANNING** specifically delineate the KCCP amendment process.

Planning

20.18 PROCEDURES FOR AMENDMENT OF COMPREHENSIVE PLAN OR OF DEVELOPMENT REGULATIONS-PUBLIC PARTICIPATION

20.18.030 General procedures. B. *Every year the Comprehensive Plan may be amended to address technical updates and corrections, and to consider amendments that do not require substantive changes to policy language, changes to the priority areas map, or changes to the urban growth area boundary, except as permitted in subsection B.9. and 11. of this section. This review may be referred to as the annual cycle. The Comprehensive Plan, including subarea plans, may be amended in the annual cycle only to consider the following:*

1. *Technical amendments to policy, text, maps or shoreline designations;*
2. *The annual capital improvement plan;*
3. *The transportation needs report;*
4. *School capital facility plans;*
5. *Changes required by existing Comprehensive Plan policies;*
6. *Changes to the technical appendices and any amendments required thereby;*
7. *Comprehensive updates of subarea plans initiated by motion;*
8. *Changes required by amendments to the countywide planning policies or state law;*
9. *Redesignation proposals under the four-to-one program as provided for in this chapter;*
10. *Amendments necessary for the conservation of threatened and endangered species;*
11. *Site-specific land use map amendments that do not require substantive change to comprehensive plan policy language and that do not alter the urban growth area boundary, except to correct mapping errors;*
12. *Amendments resulting from subarea studies required by comprehensive plan policy that do not require substantive change to comprehensive plan policy language and that do not alter the urban growth area boundary, except to correct mapping errors; and*
13. *Changes required to implement a study regarding the provision of wastewater services to a Rural Town. The amendments shall be limited to policy*

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amendments and adjustment to the boundaries of the Rural Town as needed to implement the preferred option identified in the study.

Item 11. above (underlined) could be construed to *possibly* fit Reserve Silica's Docket Item #3 request; however, because of the "spot-zoning" contemplated for RA-10 zoning completely surrounded by nonresidential uses, this does constitute a "substantive change to comprehensive plan policy." Also, KCCP Policy **I-203** states much of the same in that: "... the annual cycle shall not consider proposed amendments to the King County Comprehensive Plan that require substantive changes to Comprehensive Plan policies and development regulations...."

Reserve Silica is requesting the creation of 12 new development rights on its 3 large lots (122 ac with RA-10 zoning conferred). The following Code section on "site-specific land-use map amendments" (as listed in item 11. underlined above under **20.18.030 General procedures. B.**) outlines the specifics of the process:

20.18.050 Site-specific land use map and shoreline master program map amendments initiation.

I. A property-owner-initiated docket request for a site-specific land use map or shoreline master program map amendment may be accompanied by an application for a zone reclassification to implement the proposed amendment, in which case administrative review of the two applications shall be consolidated to the extent practical consistent with this chapter and K.C.C. chapter 20.20. The council's consideration of a site-specific land use map or shoreline master program map amendment is a legislative decision that should be determined before and separate from its consideration of a zone reclassification, which is a quasi-judicial decision. If a zone reclassification is not proposed in conjunction with an application for a site-specific land use map or shoreline master program map amendment and the amendment is adopted, the property shall be given potential zoning. A zone reclassification in accordance with K.C.C. 20.20.020 is required in order to implement the potential zoning.

A "site-specific land use map ... amendment" is a "legislative decision" that is generally determined before a "zone reclassification, which is a "quasi-judicial decision" (underlined above). These cannot be combined into one legislative decision by the King County Council. In fact, such decisions should be subject to SEPA under **WAC 197-11 SEPA RULES** and King County Code **Title 20.44 COUNTY ENVIRONMENTAL PROCEDURES**.

Also,

20.18.050 Site-specific land use map and shoreline master program map amendments initiation.

J. Site-specific land use map or shoreline master program map amendments for which a completed recommendation by the hearing examiner

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has been submitted to the council by January 15 will be considered concurrently with the annual amendment to the Comprehensive Plan. Site-specific land use map or shoreline master program map amendments for which a recommendation has not been issued by the hearing examiner by January 15 shall be included in the next appropriate review cycle following issuance of the examiner's recommendation.

We are not aware of any Hearing Examiner decision on a “*Site-specific land use map amendment*” (see underlined above). Consequently, the Docket Item #3 request cannot be brought forth this year before any issuance of recommendations by the County’s Hearing Examiner. **TITLE 20.18.055 Site-specific land use map amendment review standards and transmittal procedures** discussed below also addresses this issue.

There are certain review standards which must be following as delineated in the following:

20.18.055 Site-specific land use map amendment review standards and transmittal procedures.

A. All site-specific land use map amendments, whether initiated by property owner application, by council motion, or by executive proposal, shall be reviewed based upon the requirements of Comprehensive Plan policy RP-307, and must meet the following additional review standards:

1. Consistency with the policies, objectives and goals of the Comprehensive Plan, (including any applicable subarea plans), the countywide planning policies and the state Growth Management Act;

2. Compatibility with adjacent and nearby existing and permitted land uses;
and

3. Compatibility with the surrounding development pattern.

B. Site-specific land use map amendments for which recommendations have been issued by the hearing examiner by January 15 shall be submitted to the executive and the council by the hearing examiner by January 15. The department will provide for a cumulative analysis of these recommendations and such analysis will be included in the annual March transmittal. All such amendments will be considered concurrently by the council committee charged with the review of the comprehensive plan. Following this review, site-specific land use map amendments which are recommended by this committee will be incorporated as an attachment to the adopting ordinance transmitted by the executive for consideration by the full council. Final action by the council on these amendments will occur concurrently with the annual amendment to the comprehensive plan. (Ord. 14047 § 4, 2001).

The Docket Item #3 amendment request does not conform to any of the provisions (i.e., ,1., 2. and 3.) of **20.18.055. A.** above (see underlined).

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The provisions below delineate the purpose of Docket Item process as codified in **RCW 36-070A.470**:

20.18.140 Provision for receipt, review of and response to the docket.

A. In accordance with RCW 36.70A.470, a docket containing written comments on suggested plan or development regulation amendments shall be coordinated by the department. The docket is the means either to suggest a change or to identify a deficiency, or both, in the Comprehensive Plan or development regulation. For the purposes of this section, "deficiency" refers to the absence of required or potentially desirable contents of the Comprehensive Plan or development regulation and does not refer to whether a development regulation addressed a project's probable specific adverse environmental impacts that could be mitigated in the project review process. Any interested party, including applicants, citizens and government agencies, may submit items to the docket.

The Docket Item #3 amendment request does not "identify a deficiency," nor does it attempt to rectify any "deficiency" in the KCCP.

Additional Planning Issues to Consider

In light of the State's GMA and King County Code to implement same—some of which were identified above, there are a plethora of problems associated with the Docket Item #3 request to amend the KCCP during its "minor" annual amendment cycle, when only "technical updates and corrections" (see **TITLE 20.18.030 General procedures. B.** discussed above) are to be addressed.

"Spot Zoning"

An annual amendment to the KCCP should be supported by changed circumstances or some palpable land-use change in the neighborhood that supports such a change in the KCCP -- especially where such a change is related to and stems from a site-specific request for a spot of land in a sea of other uses and that occurs so soon after the last major update of the KCCP. The 2016 KCCP designates the Reserve Silica property itself as "Mining."

This is a classic case of, and constitutes, what is commonly called "spot zoning," which consistently has been "defined to be zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from and inconsistent with the classification of surrounding land, and not in accordance with the comprehensive plan." However, "(n)ot all spot zones are illegal; the main inquiry being the relationship of the rezone to the 'general welfare of the affected community.'" [Ref.: KC Hearing Examiner Report and Recommendation re: Maple Valley Rezone; July 31, 2015; KC Council file no. 2015-0170; Proposed ordinance no.: 2015-0170]. When it comes to the "welfare" test, clearly the requested rezone fails, as there is no clear Public benefit.

The following characterizes the properties surrounding the site:

To the north properties are all part of King County's Black Diamond Open Space. These will never have any residential use. Although the land northerly

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of the property is designated Rural Area 2.5-10 du/ac, it has been irrevocably placed in trust or reserve as "Open Space" — King County's Black Diamond Natural Area — such that an actual use should not be able to constitute valid support to spot zone the requested Reserve Silica property to residential RA-10.

To the east properties are all Forestry-zoned, and have a perpetual Conservation Easement on them owned by Forterra, which disallows construction of any permanent structure on these lands in perpetuity.

To the south properties are all Forestry-zoned, and have a perpetual Conservation Easement on them owned by Forterra, which disallows construction of any permanent structure on these lands in perpetuity.

To the west (beyond the two adjacent Forestry-zoned parcels) properties are all part of King County's Black Diamond Open Space. These will never have any residential use.

Consequently, all the properties surrounding the Reserve Silica lands will never have any kind of residential development of any kind on them. [See *Figure A-2: King County iMap* and *Figure A-3: Aerial View* in the Appendix.]

Finally, KCCP Docket Item requests are supposed to be simple mid-term corrections of deficiencies in the currently adopted plan; otherwise, such proposals should be part of the major update of the plan every four years (the last KCCP major update was just adopted less than a year ago in December 2016. According to the King County Office of Performance, Strategy and Budget's March 2017 Comprehensive Plan Information Bulletin: "*While Annual Amendments and Docket Requests are allowed during these [interim] years, the issues are typically folded into the Four Year Cycle.*" [See KCC 20.18.140; RCW 36.70A.470(2); RCW 36.70A.130(1)(d) ("*Any amendment of or revision to a comprehensive land use plan shall conform to this chapter.*")].

The Docket process is a means for citizens to petition the County on an annual basis (interim to major update cycles) to address existing "*deficiencies*" in the adopted plan. "*[A] deficiency in a comprehensive plan or development regulation refers to the absence of required or potentially desirable contents of a comprehensive plan.*" [See RCW 36.70A.470(3)].

Further, one of the intended purposes of comprehensive plans and planning is to conserve mineral resource lands [See RCW 36.70A.180] -- such as the Reserve Silica site is currently designated in the 2016 KCCP. Clearly, the Reserve Silica Docket Item #3 request does not address correction of any *deficiency* in the currently adopted KCCP, nor does it *conserve* resource lands.

6. State Appellate Court Decisions

The State appellate courts have addressed the legal problems stemming from a concurrent private party-sponsored amendment to a comprehensive plan and request for zone change. The resultant illegal spot zoning stemming from this intertwining of legislative and quasi-judicial functions should give pause as the County considers the Docket Item #3 amendment request.

Spot Zoning

When specific parties request a zone classification change for a specific tract, the County's action constitutes rezoning. *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wn.2d 201, 212, 634 P.2d 853 (1981). Legally, the Docket Item #3 request constitutes "a site-specific rezone [because it] is a change in the zone designation of a 'specific tract' at the request of 'specific parties.'" *Spokane County v. Eastern Washington Growth Management Hearings Board*, 176 Wn. App. 555, 570, 309 P.3d 673 (2013) (internal quotation marks omitted) (quoting *Woods v. Kittitas County*, 162 Wn.2d 597, 611 n.7, 174 P.3d 25 (2007)), review denied, 179 Wn.2d 1015 (2014).

Whereas the amendment of an existing comprehensive plan is a *legislative* function, it is clear that a private party-sponsored zone change request is a separate *quasi-judicial* junction. *Coffey v. City of Walla Walla*, 145 Wn. App. 435, 441, 187 P.3d 272 (2008); *Barrie v. Kitsap Cy.*, 93 Wn. 2d 843, 852, 613 P.2d 1148 (1980); *Parkridge v. Seattle*, 89 Wn. 2d 454, 460, 573 P.2d 359 (1978).

As there is no presumption of validity favoring a rezone, the proponents of the rezone have the burden of proving that conditions have substantially changed since the original zoning or the most recent plan amendment. *Parkridge*, 89 Wn.2d at 462. A change in a comprehensive plan does not constitute sufficient legal support for the concurrent zone change of affected parcels – especially where the proposed zoning for such parcels is sponsored by a private party and is not consistent with that of adjoining surrounding parcels. *Woodcrest Investments Corp. v. Skagit County*, 39 Wn. App. 622, 627-29, 694 P.2d 705 (1985). Such a zone change constitutes illegal spot zoning. Spot zoning is "zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from and inconsistent with the classification of surrounding land". *Smith v. Skagit County*, 75 Wn.2d 715, 743, 453 P.2d 832 (1969); *Lutz v. City of Longview*, 83 Wn.2d 566, 573-74, 520 P.2d 1374 (1974).

Where the site specific rezone (*i.e.*, spot zone) grants a discriminatory benefit to one or a group of owners to the detriment of their neighbors or the community at large without adequate public advantage or justification, a county's rezone is illegal and will be overturned. *Anderson v. Island County*, 81 Wn.2d 312, 325, 501 P.2d 594 (1972);

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Save A Neighborhood Environment [SANE] v. Seattle, 101 Wn.2d 280, 286, 676 P.2d 1006 (1984).

Concurrent Comprehensive Plan Amendment

Docket Item #3 is a private party-sponsored request to concurrently amend the comprehensive plan and rezone specific parcels of land totally inconsistent with that of surrounding parcels. This is a site specific proposal that improperly conjoins legislative and quasi-judicial functions, and in so doing attempts to bypass the normal procedures attendant with comprehensive plan amendments and applications for a rezone.

This proposal also bypasses the normal procedure for Hearing Examiner and public review of rezone applications, including the SEPA process.

Moreover, such a proposal is not a mere mid-term correction to a deficiency in the very recently adopted 2016 Comprehensive Plan and zoning approved thereunder. In accordance with the rule of law applicable to such requests, the GMVUAC recommends the County Council deny Reserve Silica's proposal, bifurcate the requests, and consider them separately, if at all, as part of the normal major 4-year cycle of update and amendments to the Comprehensive Plan.

In accordance with the rule of law applicable to such requests, the County should deny Reserve Silica's proposal, bifurcate the requests, and consider them separately, if at all, as part of the normal major 4-year cycle of update and amendments to the Comprehensive Plan.

7. King County Code

In addition to King Code sections/subsections cited earlier in section 5 regarding the State GMA, there are others that must be considered as King County contemplates the Docket Item #3 request.

TITLE 19A. LAND SEGREGATION

19A.04.205 Large lot segregation. *"Large lot segregation" means the division of land into lots or tracts each one of which is one-sixteenth of a section of land or larger, or forty acres or larger if the land is not capable of description as a fraction of a section of land. However, for purposes of computing the size of a lot that borders on a street or road, the lot size shall be expanded to include that area that would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line. Also, within the resource zones, each lot or tract shall be of a size that meets the minimum lot size requirements of K.C.C. 21A.12.040.A. for the respective zone. (Ord. 17841 § 1, 2014).*

Since the underlying zoning for the Reserve Silica site is Forestry (and to which it must revert back to after exhausting its mineral rights) and the highlighted (underlined) KC Code section (**21A.12.040 Densities and dimensions - resource and commercial/industrial zones.**) calls for a minimum of 80 ac for “*minimum lot area,*” the Large Lot Segregation to a minimum of 40-ac lots, sought by Reserve Silica, clearly should have been rejected outright by DPER.

TITLE 20. PLANNING

20.18.050 Site-specific land use map and shoreline master program map amendments initiation.

I. A property-owner-initiated docket request for a site-specific land use map or shoreline master program map amendment may be accompanied by an application for a zone reclassification to implement the proposed amendment, in which case administrative review of the two applications shall be consolidated to the extent practical consistent with this chapter and K.C.C. chapter 20.20. The council’s consideration of a site-specific land use map or shoreline master program map amendment is a legislative decision that should be determined before and separate from its consideration of a zone reclassification, which is a quasi-judicial decision. If a zone reclassification is not proposed in conjunction with an application for a site-specific land use map or shoreline master program map amendment and the amendment is adopted, the property shall be given potential zoning. A zone reclassification in accordance with K.C.C. 20.20.020 is required in order to implement the potential zoning.

Our underlining above highlights that “a site-specific land use map ... amendment” be addressed “before and separate” from “a zone reclassification.” Yet, Reserve Silica’s Docket Item #3 request states: “The site specific land use map amendment and the companion rezone....”

J. Site-specific land use map or shoreline master program map amendments for which a completed recommendation by the hearing examiner has been submitted to the council by January 15 will be considered concurrently with the annual amendment to the Comprehensive Plan. Site-specific land use map or shoreline master program map amendments for which a recommendation has not been issued by the hearing examiner by January 15 shall be included in the next appropriate review cycle following issuance of the examiner’s recommendation.

Our underlining above highlights the examiner’s recommendation. We are unaware the Hearing Examiner has reviewed and provided recommendations on the Reserve Silica’s proposed “site-specific land use map amendment.”

TITLE 21A. ZONING

Regarding mining site reclamation and underlying zoning, the following Code section applies:

21A.22.081 Reclamation B. *A reclamation plan approved in accordance with chapter 78.44 RCW shall be submitted before the effective date of a zone reclassification in Mineral-zoned properties or the acceptance of any development proposal for a subsequent use in Forest-zoned properties. The zone reclassification shall grant potential zoning that is only to be actualized, under K.C.C. chapter 20.22, upon demonstration of successful completion of all requirements of the reclamation plan. Development proposals in the Forest zone for uses subsequent to mineral extraction operations shall not be approved until demonstration of successful completion of all requirements of the reclamation plan except that forestry activities may be permitted on portions of the site already fully reclaimed.*

There is no reclamation plan that has been accepted or completed.

The regulations governing reclamation of the Reserve Silica site are found, in part, in KCC 21A.22.081.

21A.22.081 RECLAMATION C.2. *Mineral extraction operations that are not required to have an approved reclamation plan under chapter 78.44 RCW shall meet the following requirements:*

2. Final grades shall:

- a. be such so as to encourage the uses permitted within the primarily surrounding zone or, if applicable, the underlying or potential zone classification; and....*

As mentioned earlier, per discussion with KC DPER's Randy Sandin (10/9/17 e-mail), the "adjoining land use in the area is forestry so DPER's expectation is that the property will be reclaimed in a manner to allow/support that use." In fact, Reserve Silica on its "Application for Reclamation Permit" form (undated, but sometime after 2001) stated: "The subsequent land use for this site is forestry."

Further, as mentioned earlier, in a March 31, 2010, KC DPER (White) memo to the WA DNR (Skov)—subject: Reserve Silica: Transfer of Reclamation Responsibilities to King County—it was stated: "a final reclamation in exceedence of that required and approved under the State Reclamation Permit" would occur, and that the site would be "totally revegetated in accordance with the zoning and applicable standards."

Greater Maple Valley UAC Comment Letter

Finally, it is critical that any approved reclamation plan include how the parties will effectively deal with contamination resulting from the mining/reclamation activities. The Public, nor the Department of Ecology and the County, would consider a site “reclaimed”, and reclamation complete, if there is still highly contaminated areas on the site which pose extreme risk to the environment and/or human health.

King County Code is very clear on land segregation, planning, and zoning related to the Docket Item #3 request.

8. King County Comprehensive Plan

Chapter 3—Rural Areas and Natural Resource Lands

Per **KCCP—Chapter 3—Rural Areas and Natural Resource Lands** (pp. 3-12; 3-17 to 3-18; 3-75)

R-208 The Rural Forest Focus Areas should be maintained in parcels of 20 acres or more in order to retain large, contiguous blocks of rural forest. Regulations and/or incentives should seek to achieve a maximum density of one home per 20 acres.

The highlighted (underlined) portion above of **KCCP Policy R-208** seek to maintain large contiguous blocks of forest in Rural Forest Focus Areas (RFFAs) consisting of parcels of 20 ac or greater, which would not be achieved should the requested KCCP Docket Item #3 be approved. It is no clear if the Reserve Silica site lies within the Cedar River/Ravensdale RFFA or the FPD according to the 2016 KCCP Update’s “*Agriculture and Forest Lands 2016.*”

Some history is required here: This property was originally classified as Forestry and included within the FPD (clearly obvious from the *'island'* nature of this property, as designation of the FPD was set up to delineate large contiguous blocks of forest production land). The Rural Forest Commission confirms this property was originally zoned Forestry and included within the FPD. After King County placed the Minerals/Mining overlay zoning on the property (to reflect the active and potential mining on this site), it stopped showing the property as being *within* the FPD. What is unclear is whether it *explicitly excluded* it from the FPD, given that it now had a Mining/Minerals overlay zoning; or if it just *informally stopped* showing the property as FPD on their maps because of the Mining zoning.

It should be noted that removing this property from the designated FPD would have violated State GMA, because there are specific criteria to be satisfied in order to remove lands from the FPD, plus such a removal also created two small, substandard parcels (to the west), that no longer satisfied FPD requirements. Since these two parcels *remained* in the FPD, it appears King County simply *informally stopped* showing the property as FPD on its maps strictly due to the Mining zoning overlay.

Greater Maple Valley UAC Comment Letter

The view at the time was that the Minerals/Mining was a *temporary* land use/zoning and the zoning/land use would *revert back* to it's underlying Forestry zoning upon completion of mining and reclamation activity. Presumably, the property would also again be formally included and shown as being within the FPD, thus restoring the integrity of the contiguous, large-block character of the FPD.

R-304 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.

The highlighted (underlined) portion above of KCCP Policy R-304 seek to not allow such "*individual zone reclassifications*" as requested in KCCP Docket Item #3.

R-305 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.

The highlighted (underlined) portions above of KCCP Policy R-305 seek to not allow such zoning changes as requested in KCCP Docket Item #3, when it is considered that reclaimed natural resource lands revert back to their original underlying zoning, in this case Forestry.

R-691 King County should work with the Washington State Department of Natural Resources to ensure that mining areas are reclaimed in a timely and appropriate manner. Reclamation of mining sites in the Forest Production District should return the land to forestry. Where mining is completed in phases, reclamation also should be completed in phases as the resource is depleted. When reclamation of mining sites located outside of the Forest Production District is completed, the site should be considered for redesignation to a land use designation and zoning classification compatible with the surrounding properties.

The highlighted (underlined) portion above of KCCP Policy R-691 seek any *redesignation* compatible with surrounding land. As detailed herein, that is not the case with the KCCP Docket Item #3 request.

Chapter 12—Implementation, Amendments, and Evaluation

Per KCCP—Chapter 12—Implementation, Amendments, and Evaluation (p. 12-5)

- I-203** Except as otherwise provided in this policy, the annual cycle shall not consider proposed amendments to the King County Comprehensive Plan that require substantive changes to Comprehensive Plan policies and development regulations or that alter the Urban Growth Area Boundary. Substantive amendments and changes to the Urban Growth Area Boundary may be considered in the annual amendment cycle only if the proposed amendments are necessary for the protection and recovery of threatened and endangered species, or to implement:
- a. A proposal for a Four-to-One project; or
 - b. An amendment regarding the provision of wastewater services to a Rural Town. Such amendments shall be limited to policy amendments and adjustments to the boundaries of the Rural Town as needed to implement a preferred option identified in a Rural Town wastewater treatment study.

The highlighted (underlined) portion above of KCCP **Policy I-203** clearly states that the KCCP annual review cycle shall not include “*substantive changes.*”

King County Comprehensive Plan policies are very clear on rural forest focus areas, forestry, zoning, residential densities, sites reclamation, and plan amendments related to the Docket Item #3 request.

9. State Department of Ecology

Scope

As briefly mentioned earlier, the entire Reserve Silica site has been the subject of DOE investigation of contaminants and their movement within and without. DOE’s Water Quality Program, Solid Waste Program, and Toxic Cleanup Program have all had some level of connection to the site.

Remedial Action

Remedial action on the site has been deferred and the owners have been out of compliance with State water quality standards for decades. Contaminants include: Cement Kiln Dust (CKD), high-pH leachate seepage, and Arsenic. DOE conducted a Site Hazard Assessment in January 2016 and rated it as a Class 1 (highest priority)

Greater Maple Valley UAC Comment Letter

Model Toxics Control Act (MTCA) toxic waste clean-up site. Reserve Silica has chosen to do a Remedial Investigation (RI), since DOE does not have the manpower to do it. Aspect Engineering, Reserve Silica's consultant, presented the results of its DRAFT RI at our June GMVUAC meeting, but it has yet to be submitted to DOE for review.

Closure Plan ?

An acceptable closure plan has yet to be developed and agreed upon so as not to allow the site to remain out of compliance into the unforeseen future. Such a closure plan must ensure requirements of environmental laws are met or that measures to implement and assure compliance are underway with enforceable milestones.

Landfill Operations

In addition, the site is being used as solid waste landfill under continuing Solid Waste permits from Department of Public Health—Seattle-King County. This in itself entails another closure plan per the requirements of WAC 173-350-410(6).

DOE has formally concluded that Holcim (originally responsible for the CKD) and Reserve Silica are both "*Liabe Parties*" in the CKD contamination, and have warned the neighboring property owner (Baja Properties) that contamination has spread to its property.

It is far too premature for the County to even consider such a rezone proposal as presented in Docket Item #3.

10. Water Banking Proposal

Although Reserve Silica's proposed water banking proposal is *not directly tied* to its Docket Item #3 rezone request, it must be ensured it does not in any way affect the Executive's recommendations, nor the King County Council's decisions.

Below we provide some background:

History

On June 2, 1967 a Water-Use Permit (Book No 38 of Permits, on Page 15096, Under Application No. 20279) was issued to Northern Pacific Railway Company. On April 28, 1970 a Surface Water Right Certificate (# 11039) was issued to Burlington Northern, Inc., successor to NP Railway Co. (NP/BN) to withdraw up to 744 ac-ft per yr of surface water from Ravensdale Lake for "*processing mineral products*" on the 'plant site' south of the BN right-of-way. On December 18, 1967 a Report of Examination by the Water Resources Inspector for the Division of Water Management, clarified that: "... *use of the water appropriated under this application will be largely non-consumptive and all or a portion of the diverted quantity will be returned to this source of supply or other public waters.*" Also "*All of the utilized waters, less normal evaporation, will be returned to the water course*" [i.e., the "*outlet stream*" of Ravensdale Lake].

Discussions with DOE

On September 5, 2017, we met with Buck Smith & Ria Berns of the State Department of Ecology's (DOE's) Water Resources Program (Hydrogeology/Ground Water Supply - Quantity) at its offices at Eastgate in Bellevue. The purpose of the meeting was To better understand the current status of Reserve Silica proposal to create an Osprey Water Exchange, LLC Water Bank.

DOE has not approved Reserve Silica proposed *Water Bank*. DOE has told Reserve Silica it cannot apply for any *Water Right* conversion or *Transfer of Right to Trust* status until it has ceased using the water (Reserve Silica told DOE this could be in ~12 – 18 mo). DOE has told Reserve Silica it must have a clearly "*defined project*" before DOE will consider its *Water Right* conversion proposal.

DOE stated that once Reserve Silica's current use of the *Water Right* is concluded, Reserve Silica can put it into the State *Water Trust*, indefinitely, to hold it, which freezes the 5-yr time clock on past use.

Reserve Silica does not have an existing Water Bank, nor will it have one during the KC Council's deliberations regarding the Docket Item #3 request. It is important the Executive and the Council not consider any approval of Reserve Silica's Water Bank proposal as "*pending*," as it could be more than a year from now before Reserve Silica can even apply to DOE for any *Water Right* conversion or *Transfer of Right to Trust* status.

11. Recommendations

For the reasons and supporting rationale detailed herein, the GMVUAC opposes the Docket Item #3 request.

The GMVUAC requests the Executive recommend to the King County Council denial of the Docket Item #3 request to rezone 122 ac of isolated land outside of Ravensdale currently zoned Mining to Rural Area land use (RA-10).

Upon State DOE approval of the successful completion of any mine reclamation plans and upon approval of the successful completion of any Remedial Investigation/Feasibility Studies, the subject lands should *revert back* their original land use of forestry and underlying zoning of Forestry. Further, the subject lands should then be *re-incorporated* in the Forest Production District.

Appendix—Maps

Figure A-1 — Proposed Map (from Docket item #3 Request)

Figure A-2 — Map of the Reserve Silica Site and Surrounding Open Space and FPD Lands

Figure A-3 — Aerial View of Reserve Silica Site and Surrounding Forest Lands

Greater Maple Valley UAC Comment Letter

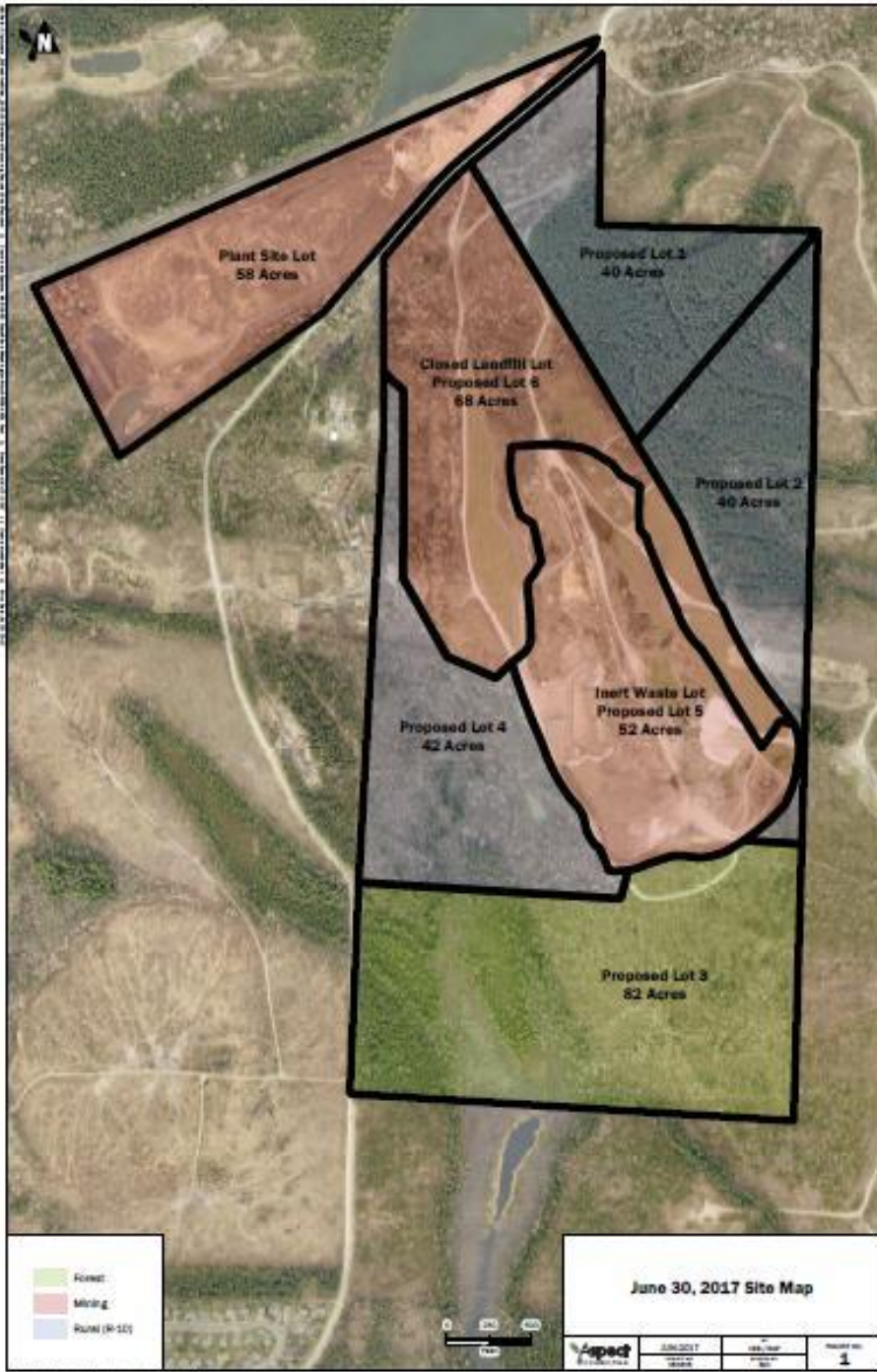


Figure A-1: Proposed Map (from Docket item #3 Request)

Greater Maple Valley UAC Comment Letter

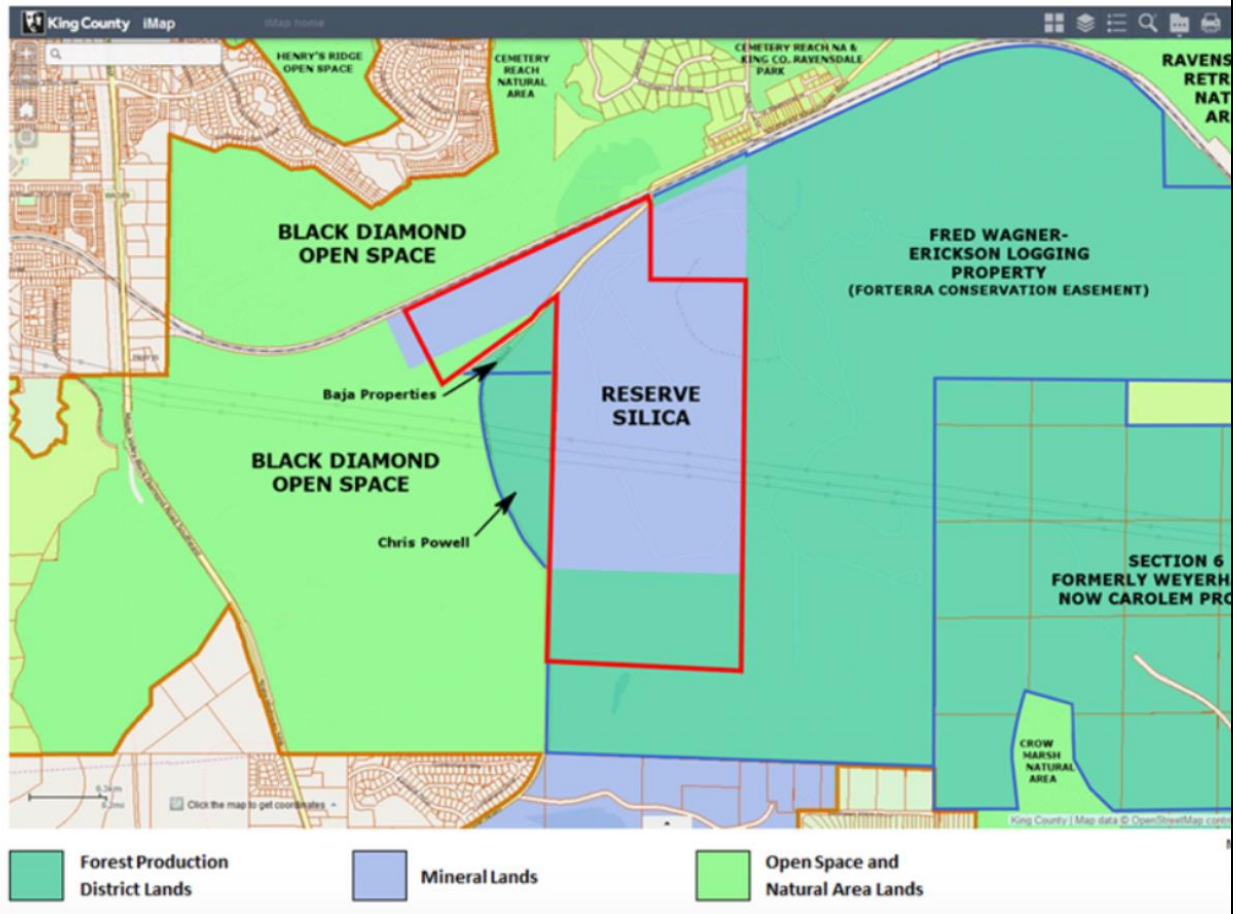


Figure A-2: Map of the Reserve Silica Site and Surrounding Open Space and FPD Lands



Figure A-3: Aerial View of Reserve Silica Site and Surrounding Forest Lands

Name: Peter Eberle

Date: November 7, 2017

Comment:

I have reviewed the Greater Maple Valley UAC's submitted comments on KCCP Docket Item #3 and agree with their findings. This request should be denied, and in the future, the county should work towards returning these properties to the forest production zoning.

Please consider this email as my submitted comments for Docket item #3

Name: King County Rural Forest Commission

Date: November 7, 2017

Comment: *(letter starts on next page)*



King County
Rural Forest Commission
201 South Jackson Street, Suite 600
Seattle, WA 98104-3855
206-296-8042 206-296-0192 Fax

Nate Veranek
Chair
Forest Landowner

November 7, 2017

Rex Thompson
Cascadia Pacific Group
Vice Chair

The Honorable Dow Constantine
King County Executive
Chinook Building
401 Fifth Avenue, Suite 800
Seattle, WA 98104

Laurie Benson
Washington Department
of Natural Resources

Andy Chiniok
Forest Landowner

Dear Executive Constantine:

Wendy Davis
Forest Landowner

Daryl Harper
Forest Landowner

LiWay Hsi
Forest Landowner

Amy LaBarge
Forest Ecologist

Bernie McKinney
Green River Coalition

Steven Mullen-Moses
Snoqualmie Indian Tribe

Monica Paulson Pribe
Green River College

Brandy Reed
King Conservation District

Dick Ryan
Forester

Grady Steere
Campbell Global

I write on behalf of the King County Rural Forest Commission (Commission) to comment on a 2017 Comprehensive Plan Docket submittal for the zoning and land use reclassification of the Reserve Silica mining site (Proposal). The Commission includes representatives from a variety of constituencies involved with forestland in King County, including private forest landowners, professional foresters, environmental organizations, the timber industry, affected Indian tribes, and governmental agencies.

The Commission views the proposed changes as requiring a sober and thorough analysis by the County before a decision is made. Although the Proposal is more modest than previous proposals for the subject property, in no event should it be taken lightly. As you know, the Proposal would convert 122 wooded acres of resource lands to residential land use. This change could clear the way for the balance of the property to be similarly converted in the future. As discussed below, we recommend that the Council consider the Proposal under the four-year planning cycle process to ensure that all of the short- and long-term environmental impacts and policy implications of the Proposal are clearly understood.

Please also consider the following:

1. The Proposal could require substantive changes to Comprehensive Plan policy language.

Under existing policy, because of its proximity to the Forest Production District and its history as designated Resource land, the Reserve Silica site should revert to Forest zoning and land use. King County policy is clear that when zoning changes are being considered for mining sites the new land use and zoning should be compatible with the surrounding properties. The Reserve Silica mine is bordered on three sides by Forest-zoned properties and on the north and west by the County's

The Honorable Dow Constantine
November 7, 2017
Page 2

Black Diamond Open Space, which although zoned RA-10 will remain in forest use. Therefore, the Proposal is tantamount to a redrawing of the Forest Production District boundary.

2. There are health risks associated with the Reserve Silica property.

There have been numerous reports of contamination from mine operations. Most recently, the State Department of Ecology confirmed to Reserve Silica that the company is responsible for cleaning up the significant contamination on the site. In another example, G. Bradley's report for Reserve Silica in 2012 pointed to "significant liabilities" present on the site: open mines, buried coal and cement tailings and test mine pits throughout the forested part of the property.

In consideration of the fact that the ultimate purpose of the proposed rezone is to allow for large lot residential development, it is clear the County must allocate sufficient time and resources to ensure that there is no possibility of risk to local ecology, including water quality, or future residents from prior land uses. Among the risks, is that a rezone that results in residential uses could preclude complete remediation/restoration of the site. Without complete remediation, the aquatic ecosystem, both on- and off-site, is at risk, as well as human health.

Our comments here are consistent with our previous comments regarding the Reserve Silica property:

Letter to Council Chair Larry Gossett, dated October 17, 2012
Letter to TrEE Committee Chair Rod Dembowski, dated June 1, 2016

Conclusion

On its face, the current proposal would convert resource lands to residential lands. That is a substantive land use policy change. In addition, even if such a change were acceptable, and we are not convinced that it is under these circumstances, it will take careful study to determine the nature and extent of the public health risks presented by siting residential housing on this contaminated property. Perhaps most importantly, allowing for the review of this plan outside of the four-year cycle risks setting an unacceptable precedent that would almost certainly erode the forest resources of King County over time. In light of these considerations, the Commission believes that the four-year review cycle is required to give the County (and State Agencies) appropriate time to assess risks.

The Honorable Dow Constantine
November 7, 2017
Page 3

Thank you for considering the recommendations of the Rural Forest Commission. Please do not hesitate to contact us if we can be of additional assistance.

Sincerely,



Nate Veranth
Chair, King County Rural Forest Commission

cc: King County Councilmembers
ATTN: Grant Lahmann, Chief of Staff to Chair McDermott
Jeff Muhm, Director of Council Initiatives
Melani Pedroza, Clerk of the Council
King County Rural Forest Commission members
Christie True, Director, King County Department of Natural Resources and Parks
(DNRP)
Bob Burns, Deputy Director, DNRP
Josh Baldi, Division Director, Water and Land Resources Division (WLRD), DNRP
John Taylor, Assistant Division Director, WLRD, DNRP

-End of Report-



Summary of 2017 King County Comprehensive Plan Docket Submittals

July 2017

I. BACKGROUND

The King County docket was established in 1998 in accordance with K.C.C. 20.18.140 to provide an opportunity for residents of the county to register comments on the *King County Comprehensive Plan* and associated development regulations. The county responds to each item registered on the docket, providing a feedback loop, as required by RCW 36.70A.470. Docket forms are available on the King County Website and at several county departments. The docket is open continuously and, each June 30, the items registered in the previous twelve months are compiled into the docket report for release on December 1 to the King County Council.

The information in the Summary of Submittals Report includes the **complete set of materials** submitted by Docket proponents. Providing the Summary of Submittals Report to the public, early in the process and even before substantive analysis has occurred, allows for more transparent communication to the public regarding the issues the County is being asked to consider.¹

II. SUBMITTAL

King County received **three** items for the Docket period that closed on June 30, 2017.

Docket Request # 1

Name of Requestor(s): Paul Norris and Bruce Leader
Council District: 3
Summary Category: Zoning and Land Use Amendments

Submitted Request

Rezone and reclassify parcels 3024069021 and 3024069022 from Urban Reserve zoning (Urban Planned Development land use) to Residential-1 zoning (Urban Residential Low land use) as they are the only Urban Reserve zoned parcels remaining in the Urban Growth Area Boundary in this area. All adjoining parcels are zoned Residential-1, as a result of the recent Comprehensive Plan Map amendment # 6 East Cougar Mountain Potential Annexation Area.

Address

18945 SE 64th Way, King County WA (Norris) and 19030 SE 66th St , King County WA (Leader)
Parcel Identification Numbers 3024069022 (Norris) and 3024069021 (Leader)

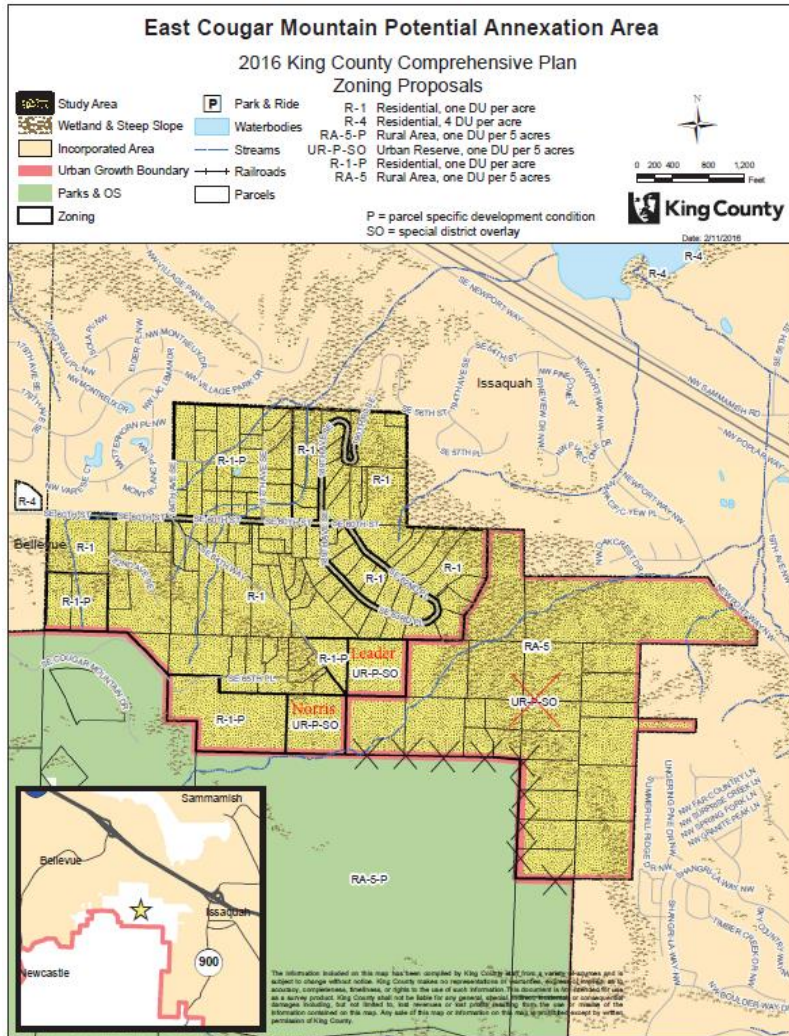
Submitted Background Information

Docket states that there is no impact as all adjoining parcels within the Urban Growth Area are zoned Residential-1.

¹ Text added in October 2017 to clarify the role and purpose of the Summary of Submittals Report in the Docket Process.

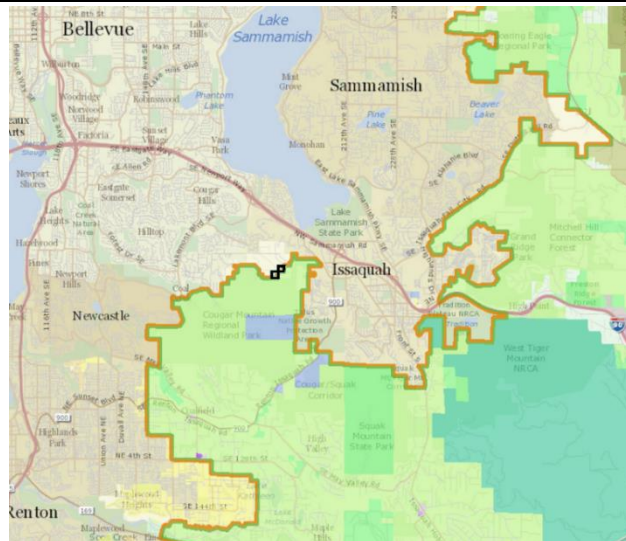
Docket Request # 1

Proposed Map

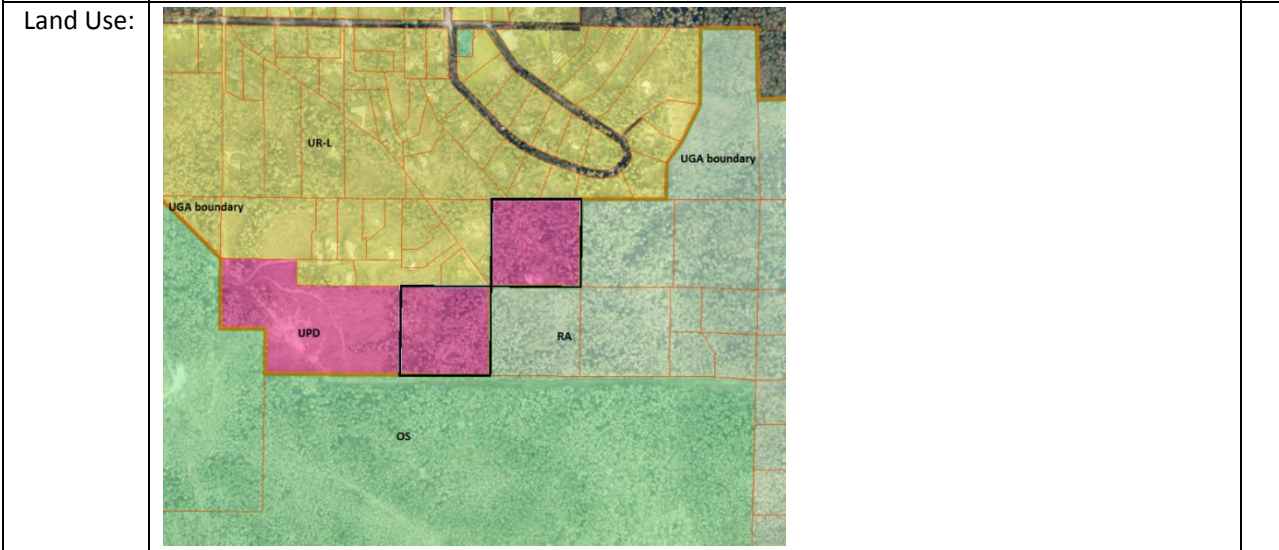
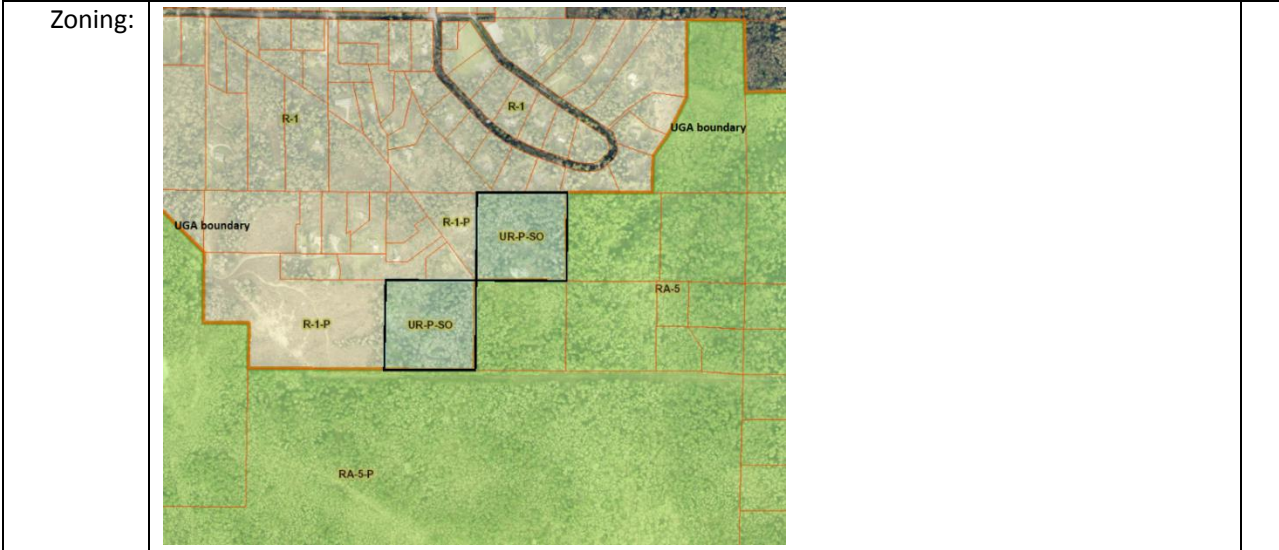


Maps of Docket Area (parcels outlined in black)

Vicinity:



Docket Request # 1



Docket Request # 2

Name of Requestor(s): Dmitriy Mayzlin (ACH Homes LLC) as agent for Henry Holdings LLC
Council District: 9
Summary Category: Four to One Proposal (Zoning, Land Use and Urban Growth Area Boundary Amendments)

Submitted Request
 Rezone and reclassify 20.810 acres of Rural Area 5 zoning (Rural Area land use) into Residential 4 zoning (Urban Residential Medium land use) using the four-to-one program.

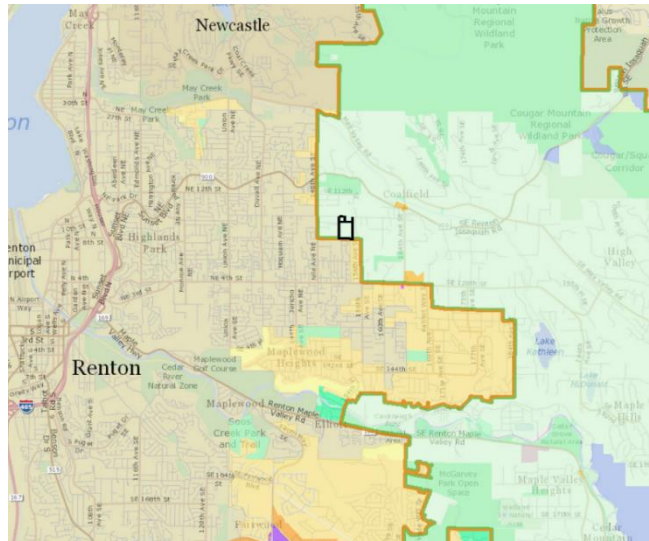
Address
 15411 and 15209 SE 116th St., King County, WA 98059.
 Parcel Identification Numbers 0638100177 and 0638100170

Submitted Background Information
 Docket states that there is no significant effect on adjoining parcels, as the adjacent residential area to the south has the same R-4 zoning as proposed for these two parcels.

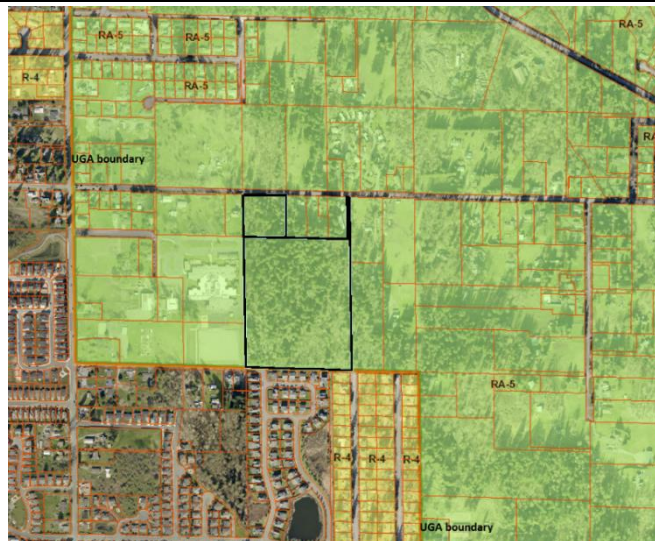
Docket Request # 2

Maps of Docket Area (parcels outlined in black)

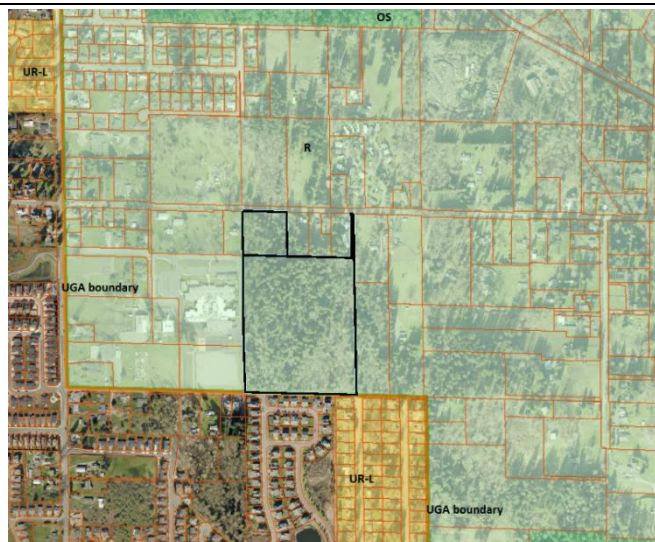
Vicinity:



Zoning:



Land Use:



Docket Request # 3

Name of Requestor(s): Reserve Silica Corporation

Council District: 9

Summary Category: Zoning, Land Use and Parcel Configuration Amendments

Submitted Request

Change 122 acres of the 245 acres currently designated mineral and zoned mining to Rural Area land use (Rural Area 10 zoning). The proposed use of the parcels would allow 12 rural residential lots averaging 10 acres in size. The existing tax parcels are being divided into 6 (six) 40-80 acre Tax Lots. The site specific land use map amendment and the companion rezone will apply to 3 (three) of the Tax Lots. The amendment and rezone will be filed before November 1, 2017.

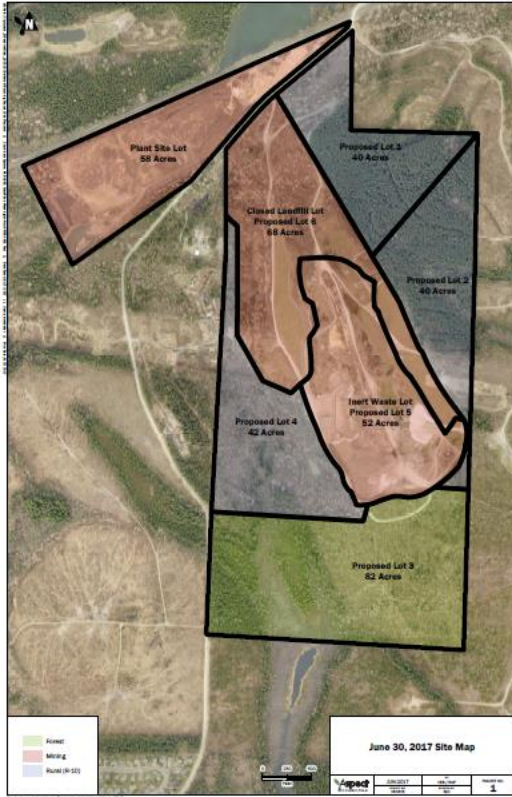
Address

Parcel Identification Numbers - 3522069018, 3622069065 and 0121069002

Submitted Background Information

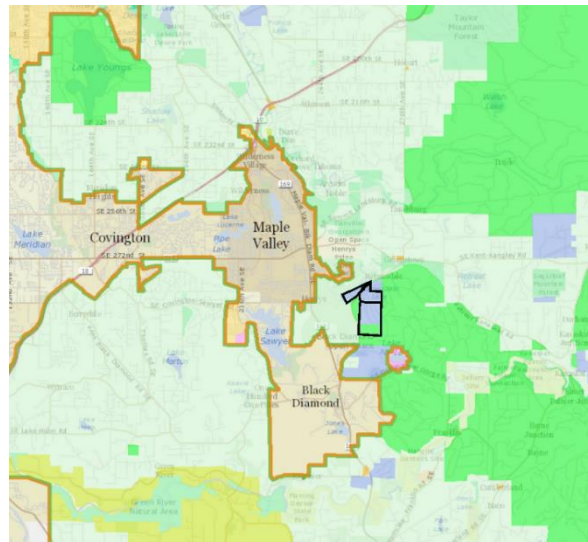
This property was included in the 2012 Comprehensive Plan as an adopted Demonstration Project Option; this option was repealed in 2016. Total area 325 acres - 80 acres zoned forestry and 245 acres zoned mining. This docket request affects 122 acres currently designated Mineral. The docket states that there would be no affect on the adjoining parcels, with the proposed large rural residential lots with setback and restrictions regarding maintaining compatibility with adjacent forest uses.

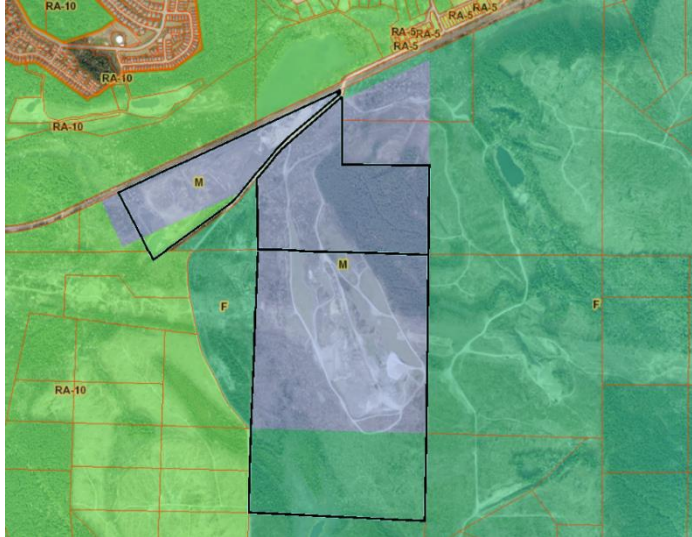
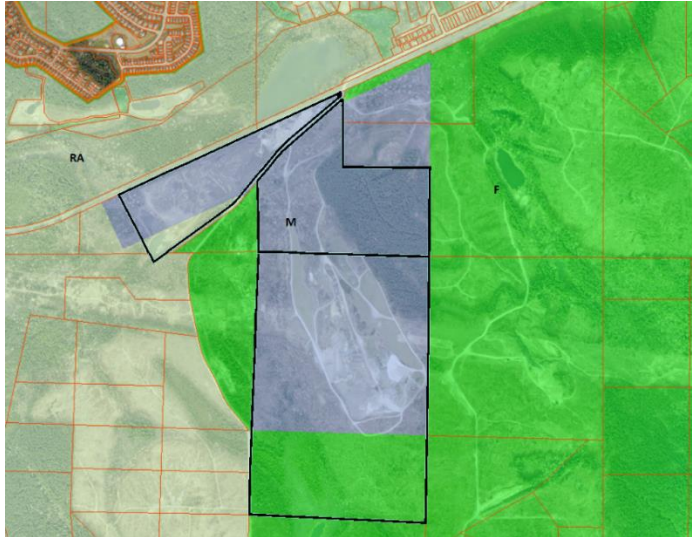
Proposed Map



Maps of Docket Area (parcels outlined in black)

Vicinity:



<p>Zoning:</p>		
<p>Land Use:</p>		

III. FOR MORE INFORMATION

The purpose of the Summary of Submittals Report is to provide notification regarding the proposals that have submitted. The Summary of Submittals is posted shortly after the Docket deadline of June 30, and is therefore released prior to conducting an analysis of the request(s).

Contact Ivan Miller, Comprehensive Plan Manager, 206-263-8297 or ivan.miller@kingcounty.gov.