



Notice of Hearing Examiner Recommendation

10/01/2021

To: Interested Parties and Parties of Record

RE: Project Name: ROYAL VALLEY FARM REZONE
Applicant: LILLIAN NADEAN ROSS
10373 ROYAL VALLEY RD NE
POULSBO, WA 98370
Application: REZONE
Permit Number: 20-05577

The Kitsap County Hearing Examiner has recommended **APPROVAL** of the land use application for **20-05577: Royal Valley Farm - Rezone, subject to the conditions outlined in this Notice and included Decision.**

A public hearing will be scheduled with the Kitsap Board of County Commissioners for final decision on this application at a later date.

The complete case file is available for review at the Department of Community Development, Monday through Friday 9AM to 12PM, except holidays. If you wish to view the case file or have other questions, please contact Help@Kitsap1.com or (360) 337-5777.

CC: Owner/Applicant: LILLIAN NADEAN ROSS, 10373 ROYAL VALLEY RD NE
POULSBO, WA 98370
Project Representative: Royal Valley LLC, ellrosscardoso@gmail.com
Authorized Agent: Trish Walton with NL Olson & Associates Inc, twalton@nlolson.com
Engineer: Norm Olson with NL Olson & Associates Inc, nlolson2@nlolson.com
Project Representative: Berni Kenworthy with Axis Land Consulting,
berni.kenworthy@axislandconsulting.com
Project Manager: Steve Yester, syester@therushcompanies.com
Kitsap County Prosecutor's Office: Lisa Nickel, LNickel@co.kitsap.wa.us; Laura Zippel,
lzipfel@co.kitsap.wa.us
Kitsap County Assessor: Assessor@co.kitsap.wa.us
Kitsap County Department of Community Development: Jeff Rimack, Director,
jrimack@co.kitsap.wa.us; Angie Silva, Assistant Director, asilva@co.kitsap.wa.us; Scott Diener, Development Services & Engineering Manager, sdiener@co.kitsap.wa.us; Colin Poff, Project Lead, cpoff@co.kitsap.wa.us
Kitsap Sun: sunnews@kitsapsun.com
Interested Parties: Davide Dahlke, dahl@telebyte.com; Kenneth & Susan Olcott –
Trustee, olcottken65@gmail.com; Wilber Dahlke, cdahlke@msn.com; Karen Smith,
kjsmith360@outlook.com; Linda Buchanan, verdeconfluenceconsulting@gmail.com;
Sunny Rocheleau, silverdale@detentemgmt.com; Marian Wiggins,
mwiggins7@msn.com; Rosalie Macway, rmacway@wavecable.com; Randy Pratt,

rt.pratt@comcast.net; Pat Yeik, yeik@sitestar.net; Ashley Grimes,
ashleygrimes56@hotmail.com; Charion Walker, PO Box 3079 Silverdale, WA 98383



Notice of Hearing Examiner Recommendation

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Kitsap Sun: sunnews@kitsapsun.com
Interested Parties: Davide Dahlke, dahl@telebyte.com; Kenneth & Susan Olcott – Trustee, olcottken65@gmail.com; Wilber Dahlke, cdahlke@msn.com; Karen Smith, kjsmith360@outlook.com; Linda Buchanan, verdeconfluenceconsulting@gmail.com; Sunny Rocheleau, silverdale@detentemgmt.com; Marian Wiggins, mwiggins7@msn.com; Rosalie Macway, rmacway@wavecable.com; Randy Pratt, rt.pratt@comcast.net; Pat Yeik, yeik@sitestar.net; Ashley Grimes, ashleygrimes56@hotmail.com; Charion Walker, PO Box 3079 Silverdale, WA 98383

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 20-05577
)	
Lillian Ross)	Royal Valley Farm Rezone
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Rezone</u>)	AND RECOMMENDATION

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the Kitsap County Board of County Commissioners **APPROVE**, with a condition, the request to rezone 14 contiguous parcels totaling approximately 37.2 acres, located to the south of NE Paulson Road and approximately 0.6 miles east of the intersection at NE Paulson Road and Central Valley Road NE, from the “Urban Cluster Residential” zoning designation to the “Urban Restricted” zoning designation.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on September 9, 2021, using remote access technology. The record was left open until September 16, 2021, to allow any member of the public having difficulty connecting to the remote hearing to submit written comments in lieu of live testimony.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Colin Poff, County Planner
Berni Kenworthy, Applicant Representative
Kathy Gormanous

Exhibits:

The following exhibits were admitted into the record:

1. Required Permit Questionnaire – Rezone Request, received December 14, 2020
2. Owner Authorization Form, dated July 31, 2020
3. Owner Authorization Form, dated August 3, 2020
4. Project Narrative, dated November 25, 2020
5. SEPA Environmental Checklist, dated November 25, 2020
6. Notice of Application, dated January 29, 2021
7. Letter from Gary Lindsey to Central Valley Neighbors, dated August 5, 2020
8. Rezone Parcels Maps (3 documents), undated

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9. Adjacent Parcels Map, undated
10. Memorandum from Gary Lindsey, dated August 23, 2021
11. Public Comments:
 - a. Comment from Renee Raymond, dated February 9, 2021, with County Response, dated February 9, 2021
 - b. Comment from Ken Olcott, dated February 8, 2021, with Applicant Response, dated February 9, 2021
12. Notice of Public Hearing, published August 26, 2021
13. Certification of Public Notice, dated January 29 and August 11 and 25, 2021
14. Staff Report, dated September 1, 2021
15. Staff Presentation, dated September 9, 2021
16. Hearing Sign-in Sheet
17. Additional Public Comments:
 - a. Comment from Marsha Masters, undated
 - b. Comment from Ken Olcott, dated September 3, 2021, with County Response, dated September 8, 2021
 - c. Comment from Ken Olcott, dated September 4, 2021, with County Response, dated September 8, 2021
 - d. Comment from Marian Wiggins, dated September 4, 2021
18. Additional Comments submitted following Hearing:
 - a. Comments from Charmion Walker, dated September 9, 2021
 - b. Comment from Washington State Department of Archaeology and Historic Preservation, dated September 9, 2021, with Applicant Responses, dated September 13 and 16, 2021
 - c. Comment from Marsha Masters, dated September 13, 2021
 - d. Comment from Brent and Patty Yeik, dated September 14, 2021, with Applicant Response, dated September 16, 2021

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Lillian Ross (Applicant) requests a rezone of 14 contiguous parcels totaling approximately 37.2 acres from the “Urban Cluster Residential” (UCR) designation, which has a required density of five to nine dwelling units per acre, to the “Urban Restricted” (UR) designation, which has a required density of one to five dwelling units per acre. *Kitsap County Code (KCC) 17.420.052*. The properties are located to the south of NE Paulson Road, approximately 0.6 miles east of the intersection at NE Paulson Road

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and Central Valley Road NE.¹ *Exhibit 1; Exhibit 4; Exhibit 8; Exhibit 9; Exhibit 14, Staff Report, pages 1 and 2.*

2. Kitsap County (County) determined that the application was complete on December 14, 2020. On January 29, 2021, the County provided notice of the application consistent with the requirements of KCC 21.04.210 by publishing notice in the County’s publishing newspaper of record and by mailing notice to property owners within 800 feet of the site and to reviewing departments and agencies. The County’s notice materials stated that written comments on the proposal should be submitted at least seven days before the scheduled hearing. On August 11, 2021, the County published notice of the associated open record hearing in the County’s publishing newspaper of record. On August 25, 2021, the County posted notice of the hearing on-site and mailed notice to property owners within 800 feet of the site and to interested parties. *Exhibit 6; Exhibit 12; Exhibit 13; Exhibit 14, Staff Report, pages 1, 7, and 8.*
3. The County did not receive any comments on the proposed rezone from reviewing agencies in response to its notice materials. The County received the following comments on the proposal from members of the public:
 - Renee Raymond requested information about how the proposed rezone would affect her ability to potentially subdivide her five-acre property in the future. The County provided a response, which noted that the “Rural Residential” (RR) zoning designation for Ms. Raymond’s five-acre property would not be affected by the proposal. The County also noted that Ms. Raymond would not be allowed to subdivide her property under its current zoning designation because the RR zone requires a maximum density of one dwelling unit per five acres.
 - Ken Olcott submitted a comment noting that the project proponent has asserted that the existing farm on the property would be donated to a non-profit organization that would continue to operate the farm and that the existing lots within the rezone area would not be subdivided for 15 to 20 years after rezone approval. Mr. Olcott requested that the County impose a condition requiring a deed restriction on the land that would incorporate these assertions.*Exhibit 11; Exhibit 14, Staff Report, page 8.*

State Environmental Policy Act

4. The County determined that the proposal is categorically exempt from review under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington

¹ The subject parcels are identified by Kitsap County Assessor’s Tax Account Nos. 142501-3-031-2007, 142501-4-040-2004, 142501-4-041-2003, 142501-4-042-2002, 142501-4-043-2001, 142501-3-032-2006, 142501-3-033-2005, 142501-4-044-2000, 142501-4-045-2009, 142501-4-046-2008, 142501-4-047-2007, 142501-4-048-2006, 142501-4-049-2005, and 142501-4-005-2007. *Exhibit 14, Staff Report, page 1.* Legal descriptions of the parcels are included with the Applicant’s project narrative. *Exhibit 4.*

(RCW), in accord with Washington Administrative Code (WAC) 197-11-800(6)(c). WAC 197-11-800(6)(c) provides that a rezone land use decision is exempt from SEPA environmental review if the project is in an Urban Growth Area (UGA) of a city or county, the proposed rezone is consistent with and would not require an amendment to the jurisdiction's comprehensive plan, and the applicable comprehensive plan was previously subjected to environmental review and analysis through an Environmental Impact Statement (EIS) that adequately addressed the environmental impacts of the rezone. *Exhibit 14, Staff Report, page 2; Testimony of Colin Poff.*

Comprehensive Plan and Zoning

5. The property is designated "Urban Low-Density Residential" by the County Comprehensive Plan. The Comprehensive Plan's Urban Low-Density Residential designation is implemented by both the UCR and UR zoning designations. *See KCC 17.120.010.* Accordingly, the proposed rezone of the parcels from UCR to UR would not require a Comprehensive Plan amendment. County staff identified the following Comprehensive Plan goals and policy as relevant to the proposal:

- Focus current and future planning on infill and redevelopment of existing Urban Growth Areas. [Land Use Goal 1]
- Promote food security, food systems, local food production, and public health by encouraging locally based food production, distribution, and choice through urban agriculture, community gardens, farmers markets, and food access initiatives. [Land Use Goal 9]
- Protect Kitsap County's unique rural character. [Land Use Goal 13]
- Foster rural businesses and business opportunities on designated commercial and industrial lands in the rural area, while balancing protection or rural character. [Land Use Goal 14]
- Develop and maintain adequate rural and urban facilities and services that support local agriculture. [Land Use Goal 17]
- Through application of Growth Management Act goals, increase density in urban areas and limit sprawl in rural lands. [Land Use Policy 29]
- Support the local food economy. [Economic Development Goal 5]
- Formally treat natural environments, including forest lands, shorelines, freshwater systems, intact ecosystems, and other critical areas, as an essential asset that is planned for, managed, and invested in to meet the needs of current and future generations. [Environmental Goal 10]
- Provide regional parks and open space to meet active and passive regional recreational needs, as well as the needs of wildlife. [Parks Goal 1]

Exhibit 14, Staff Report, pages 3 through 7.

6. The property is currently zoned UCR, which has a required density of five to nine dwelling units per acre. *KCC 17.420.052*. The purpose of the UCR zone is as follows:

The urban cluster residential zone is intended to apply to areas that are characterized by large contiguous ownership parcels capable of development as a single, unified project. Clustering of appropriate residential densities in areas most suitable for such development, while simultaneously providing a high level of protection for wetlands, streams, critical aquifer recharge areas and wildlife habitat areas, is encouraged. Flexibility related to site planning and affordable housing through innovative design is also encouraged, as the exact locations of uses should be based on the location of critical areas, transportation corridors, community needs and market conditions.

At the same time, the UCR zone should foster a development pattern that results in the design and construction of an interconnected system of pedestrian and bicycle trails and facilities linking residential neighborhoods with open spaces, recreational areas, transportation corridors and retail and employment opportunities, both within and outside the zone.

KCC 17.210.010. Exhibit 14, Staff Report, pages 3 through 5.

7. As noted above, the Applicant requests a rezone of the property from UCR to UR, which has a lower required density of one to five dwelling units per acre. *KCC 17.420.052*.

The purpose of the UR zone is as follows:

The urban restricted zone is applied to areas within urban growth areas that have been identified with a significant concentration of critical areas regulated pursuant to Title 19 [KCC], or are planned as greenbelts, and are therefore appropriate for lower-density development. These areas may include significant salmon spawning streams, wetlands and/or steep slopes. Actual densities allowed will be determined at the time of land use approval, following a site-specific analysis and review of potential impacts on the on-site or adjacent critical areas.

KCC 17.180.010. Exhibit 14, Staff Report, pages 4 and 5.

Existing Site and Surrounding Property

8. The subject site was first considered to be included in the urban growth area (UGA) as part of a 2006 County Comprehensive Plan update in which a draft EIS had considered the property for the Urban Restricted and Urban Reserve zoning designations. The property was not added to the UGA at that time but was later added to the UGA and included in the Comprehensive Plan during a 2012 Comprehensive Plan remand. When first added to the UGA, the property was given the zoning designation of “Senior Living Homestead,” which focused on serving communities 55 and older, allowed five to nine dwelling units per acre, and encouraged a mix of residential housing types, open space,

and trails, as well as small scale commercial uses intended to serve the neighborhood. In 2016, the zoning for the subject site was changed to UCR as part of a Comprehensive Plan update. During that time, the subject site was included in consideration of land use alternatives and included non-project environmental analysis, with associated public outreach, notice, and opportunity to comment. *Exhibit 14, Staff Report, page 8.*

9. The subject site is currently comprised of 14 parcels totaling approximately 37.2 acres. The largest parcel measures approximately 21.87 acres, fronts NE Paulson Road to the north, and extends south along the western and southern border of the proposed rezone area. This 21.87-acre parcel operates as a farm and is developed with a farmhouse built in 1912, a barn, and various outbuildings. Two other parcels within the proposed rezone area front NE Paulson Road to the north and are located to the east of the 21.87-acre parcel, with one parcel developed with a farm-hand residence and the other, further to the east, developed with a hay barn. The remaining 11 parcels are largely vacant, with some parcels containing structures for agricultural uses. The proposed rezone area is surrounded by fish-bearing streams and associated wetlands, with Crouch Creek and its associated wetland system located along the western and southern boundary and Nadean Creek and its associated wetland system located along the eastern boundary. A majority of these critical areas and their associated protective buffers are located on the large, 21.87-acre parcel, with a small portion of the Nadean Creek and associated wetlands buffers extending onto the southwest corner of the parcel fronting NE Paulson Road and containing a farm-hand residence. The current configuration of the subject parcels was created through a boundary-line adjustment on December 27, 2019, which was intended to remove several of the parcels outside of protected critical areas and their associated buffers. Access to the site is provided from NE Paulson Road. There is currently no vehicular access to the site from the south due to the location of Crouch Creek. Pedestrian access to the site from the south, however, is provided from a pedestrian bridge over Crouch Creek that is not suitable for vehicular travel. *Exhibit 1; Exhibit 4; Exhibit 8; Exhibit 14, Staff Report, pages 2, 3, and 6; Testimony of Berni Kenworthy.*
10. Properties to the north of the subject site, across NE Paulson Road, are zoned RR and are developed with single-family residences. Properties to the east are zoned UCR and RR and consist of undeveloped wooded areas and various rural residential development. Properties to the east are zoned UCR and consist of critical areas and areas being considered for single-family residential development. Properties immediately to the south are zoned UCR and consist of critical areas and undeveloped open field areas, with properties further to the south, across SR 303/NE Waaga Way, zoned UR and consisting of residential development. *Exhibit 14, Staff Report, pages 5 and 6; Exhibit 15.*

Proposed Rezone

11. KCC 21.04.230.A provides that a zoning designation may be amended by application for a rezone, which may be proposed by a property owner or authorized agent “only where the rezone request is consistent with the Comprehensive Plan and does not require a Comprehensive Plan amendment.” KCC 21.04.230.B provides that the Hearing Examiner may recommend approval of a rezone application by the Kitsap County Board of Commissioners if the Hearing Examiner finds that the proposed rezone would be consistent with the Comprehensive Plan; would not adversely affect the surrounding community; bears a substantial relationship to the public health, safety, or welfare of the community; and responds to a substantial change in conditions applicable to the subject area, better implements applicable Comprehensive Plan policies, or corrects an obvious mapping error. The Applicant provided a project narrative addressing the requirements for approval of a rezone, which notes:

- The proposed rezone area is surrounded by critical areas that include three fish-bearing streams and associated wetland systems. A downzone of the properties to UR would be consistent with the purpose of the UR zone, which is applied to areas within the UGA that have been identified with a significant concentration of critical areas and are appropriate for lower-density development.
- The existing farmhouse and agricultural use on the large, 21.87-acre lot fronting NE Paulson Road is compatible with similar uses along NE Paulson Road. The downzone would prohibit future subdivision of this lot at the UCR density and would maintain the existing rural and agricultural aesthetic of properties along NE Paulson Road.
- The rezone boundary also includes two other lots fronting NE Paulson Road. The downzone would prohibit future subdivision of these lots at the UCR density and would allow for continued compatibility along the road corridor.
- The configuration of the remaining lots was established through a boundary-line adjustment that removed the lots outside of critical areas and associated buffers. In addition, the boundary-line adjustment was aimed to obstruct these lots from being visible from lots along NE Paulson Road. The downzone would prohibit any future subdivision of these lots and would therefore limit future impacts to the NE Paulson Road corridor.
- The proposed rezone area would be compatible with the intent of the UR zone and would be consistent with Comprehensive Plan land use goals by preserving agricultural uses along NE Paulson Road and protecting critical areas.
- The proposal would positively impact the neighboring community along NE Paulson Road by protecting critical areas and by maintaining current agricultural uses on the large farm lot.

- The rezone would protect the agricultural aesthetic of NE Paulson Road and would result in reduced potential future traffic, which would further preserve the rural nature of the surrounding community.

Exhibit 4; Exhibit 14, Staff Report, pages 8 through 10.

12. County staff analyzed the proposal and determined that, with a condition, it would meet the specific criteria for a rezone under KCC 21.04.230.B, noting:

- The Kitsap County Comprehensive Plan designates the subject property as Urban Low-Density Residential. Both the UCR and UR zones are within this Comprehensive Plan land use designation, and the proposed rezone would be consistent with several land use, economic, and critical areas goals and policies of the Comprehensive Plan. The proposal would also be consistent with the purpose of the UR zoning designation due to the high concentration of critical areas in the vicinity of the subject parcels.
- An intended result of the rezone is to preserve the natural environmental features and existing character along NE Paulson Road, which transitions to the north to parcels zoned rural. The downzone would remove some existing development pressure in the area because the existing UCR zoning would require a minimum of five dwelling units per acre to develop. Another intended result of the downzone is to protect multiple critical areas adjacent to the project area.
- This rezone request is being reviewed concurrently with a large preliminary plat that is proposed on properties directly to the west, which are under the same ownership. The plat is not within the project boundaries of this rezone. Early outreach indicated that the neighboring community preferred that the parcels in this rezone request maintain the existing character along NE Paulson Road, most notably the existing on the large, 21.87-acre parcel. The rezone would also have a relationship to public health, safety, and welfare because the UR zone is the most protective of critical areas of all urban zoning classifications.
- The UR zoning would better suit the land because it is heavily impacted by topography and critical areas. The lower density provided under the UR zoning designation would also be more compatible with properties designated rural to the north and east of the properties.

Exhibit 14, Staff Report, pages 8 through 10.

Testimony

13. County Planner Colin Poff testified generally about the proposal and how it would be consistent with the Comprehensive Plan and would meet the requirements for a rezone. He noted that the proposal is to downzone 14 contiguous parcels totaling approximately 37.2 acres from the Urban Cluster Residential (UCR) designation to the Urban Restricted (UR) designation. Mr. Poff explained that a rezone to UR would permit the property to be developed at a lower density than the current UCR zoning designation. He stated that

both the UR and UCR zones are included within the Comprehensive Plan's Urban Low-Density Residential land use designation and that, therefore, the proposed rezone would not require an amendment to the Comprehensive Plan. Mr. Poff explained that rezone proposals not requiring a Comprehensive Plan amendment are categorically exempt from SEPA environmental review. He described the history of the property, noting that it consists of a portion of the 154-acre Royal Valley Farm that has been owned by the Ross family for over 50 years; was added to the Urban Growth Area in 2012; was originally zoned "Senior Living Homestead," which allowed five to nine dwelling units per acre for communities 55 and older; and was redesignated as UCR in 2016. Mr. Ross noted that the developable area of the property is limited by the presence of on-site streams, wetlands, and associated buffers, and he stressed that the lower-density UR zoning designation would be more appropriate for the subject property due to the presence of these critical areas. He also explained that the proposed rezone would help to preserve the rural character and aesthetic along NE Paulson Road, which borders the property to the north. *Testimony of Mr. Poff.*

14. Applicant Representative Berni Kenworthy testified that she concurs with the analysis of the proposed rezone as provided by Mr. Poff in his testimony. She provided a history of the subject property, noting that existing farm buildings were constructed on the property in 1912 when it began operating as the Royal Valley Farm, which the Ross family purchased in 1967. Ms. Kenworthy stated that a boundary-line adjustment was recently completed to reconfigure the current lots on the property in a manner that removed vacant lots outside of critical areas and associated buffers. She noted that the vacant lots are located behind the existing farm lot abutting NE Paulson Road and that, therefore, any future development of the vacant lots would preserve the rural character along the road. *Testimony of Ms. Kenworthy.*
15. Kathy Gormanous testified that she owns Deer Haven Farms, which is located to the east of the subject property. She inquired about Royal Valley Road NE, which she stated is depicted as providing access through the subject property from NE Paulson Road to SR 303/NE Waaga Way. *Testimony of Ms. Gormanous.*
16. In response to Ms. Gormanous's testimony, Ms. Kenworthy explained that Royal Valley Road NE would provide access to the property from NE Paulson Road to the north but would provide only pedestrian access to the south via a pedestrian bridge that is not suitable for vehicular travel. Mr. Poff explained that the proposed rezone does not include any plans for developing the property, including plans related to vehicular access along Royal Valley Road NE, and that any future development of the parcels would be subject to a separate permitting process. *Testimony of Ms. Kenworthy; Testimony of Mr. Poff.*

Additional Materials

17. The Hearing Examiner left the record open until September 16, 2021, to allow members of the public to provide additional comments on the proposal. The County received comments from Marsha Masters opposing the requested rezone. Her comments, however, raised concerns about the potential traffic and stormwater impacts of a proposed preliminary plat on adjacent property to the west, which was reviewed concurrently with the rezone application but is not within the area requested to be rezoned to UR. The County also received several comments from members of the public about the adjacent preliminary plat proposal, which did not raise any specific concerns about the proposed rezone. *Exhibit 18.*

Staff Recommendation

18. County staff recommends approval of the rezone request, with a condition. *Exhibit 14, Staff Report, page 10.*

CONCLUSIONS

Jurisdiction

The Kitsap County Hearing Examiner is authorized to hear and make recommendations to the Board of County Commissioners for approval of a rezone. *KCC 2.10.070; KCC 21.04.100; KCC 21.04.230.*

Criteria for Review

An application for a rezone may be recommended for approval by the Hearing Examiner, and may be approved by the Board of County Commissioners, if all the following criteria are met:

1. The proposed rezone is consistent with the purpose and intent of the Comprehensive Plan, respective community or sub-area plan or other applicable regulations;
2. The proposed rezone will not adversely affect the surrounding community;
3. The rezone bears a substantial relationship to the public health, safety, or welfare of the community; and
4. The proposed rezone:
 - a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
 - b. Better implements applicable Comprehensive Plan policies than the current map designation; or
 - c. Corrects an obvious mapping error.

KCC 21.04.230.B

The criteria for review adopted by the Kitsap County Board of Commissioners are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In

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particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusion Based on Findings

With a condition, the proposed rezone would meet the criteria for a rezone under KCC 21.04.230.B. The County provided reasonable notice and opportunity to comment on the proposal. The County received several comments on the proposed rezone from members of the public, requesting additional information on how the rezone would affect nearby property, requesting deed restrictions on the land implementing the purported intent of the project proponent on the future uses of the property, and raising concerns about a nearby preliminary plat proposal. The proposed rezone would not change the zoning classification for properties outside of the subject site. The proposed rezone does not include any current development proposals, and, if the request to rezone the property from “Urban Cluster Residential” (UCR) to “Urban Restricted” (UR) is ultimately approved, any future use or development of the properties would be subject to the UR zoning standards in effect at the time that an application for any such proposal is deemed complete. The County determined that the proposal is categorically exempt from SEPA environmental review.

The Comprehensive Plan designates the subject site as “Urban Low-Density Residential.” This Comprehensive Plan designation is implemented by both the UCR and UR zoning designations, and, therefore, the proposed rezone would not require any amendment to the Comprehensive Plan. The proposed rezone would be consistent with several Comprehensive Plan goals and policies that seek to support local agriculture, maintain Kitsap County’s unique rural character, and protect natural environments. A rezone of the property to UR would benefit the surrounding community and help to preserve the natural environmental features and existing rural character along NE Paulson Road by allowing the subject parcels to be developed at a lower density, one to five dwelling units per acre, than would be allowed under the current UCR zoning designation, which requires five to nine dwelling units per acre. The UR zoning designation is intended to apply to areas within UGAs that have a significant concentration of critical areas and are therefore appropriate for lower-density development. The proposed UR zoning designation is more appropriate for the subject site due the presence of regulated fish-bearing streams and associated wetlands that surround the subject site. The rezone would benefit the public health, safety, and welfare by implementing development standards applicable to the UR zone, which are the most protective of critical areas of all the County’s urban zoning designations. As detailed below, a condition is necessary to ensure that approval of the rezone request would not result in vesting the property to current development regulations. *Findings 1 – 18.*

RECOMMENDATION

Based upon the preceding findings and conclusions, the Hearing Examiner recommends that the Kitsap County Board of County Commissioners **APPROVE** the request to rezone 14 contiguous

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parcels totaling approximately 37.2 acres, located to the south of NE Paulson Road, approximately 0.6 miles east of the intersection at NE Paulson Road and Central Valley Road NE, from the Urban Cluster Residential designation to the Urban Restricted designation, subject to following condition:

1. The approval of the rezone application does not vest the property to current development regulations. Future land use applications will vest to applicable development regulations in effect at the time the County issues a notice of complete application for such applications.

RECOMMENDED this 30th day of September 2021.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center