**2020 KCCP Mid-Point Update**

**Council Strikers *S1* & *S2* (6/5-6/8), *S3* (7/2), *S4* (7/17), S4.1 (7/20-7/21) to Executive's Recommended Plan (9/30/19)**

# ***KC Rural Area UAC/UAA/Organizations***
# ***S4.1 Response Comments***

The following King County Unincorporated Rural Area organizations—Enumclaw Plateau Community Association (EPCA), Friends of Sammamish Valley (FoSV), Greater Maple Valley Unincorporated Area Council (GMVUAC), Green Valley/Lake Holms Association (GV/LHA), Hollywood Hills Association (HHA), Soos Creek Area Response (SCAR), and Upper Bear Creek Unincorporated Area Council (UBCUAC) request the Council consider comments herein on proposed *S4.1 Amendments* for the **2020 KCCP Mid-Point Update (Update)**.

Please note our past comments (and dates of submittal) on proposed *Amendments: S1* (June 8), *S2* (June 26), *S3* (July 13), and *S4* (July 20).

## S4.1 Line Amendments

Herein we discuss particular *S4.1 Line Amendments* in numerical order.

### #1 — Winery/Brewery/Distillery Regulations
(Sponsors: Balducci / Lambert / McDermott)

This Line Amendment: *"Removes changes to the winery, brewery and distillery regulations."*

We call for this Line Amendment to be rejected and instead the language in *S4.1* to be adopted. *S4.1* removes the Adult Beverage Ordinance language that has been invalidated. More importantly, it reinstates the WBD code that was present prior to adoption of the Adult Beverage Ordinance on December 4, 2019. Without reinstating the old code, WBDs become an unclassified use. As an unclassified use the Department of Local Services—Permitting is responsible for deciding on a case-by-case basis what can be permitted. This means that Permitting, without any rules whatsoever, can decide which WBDs to permit, where, and for what uses. This will lead to piecemeal planning and contribute to ongoing chaos and confusion around WBD permitting, especially and including with Home Occupation where we already know there are issues.

We also note that converting all WBDs to an unclassified use might itself require *SEPA* review. We believe the WBD language in *S4.1* is wise as it creates a very clear position and solid baseline for everyone to move forward together on a new ordinance, and leaves no room for additional confusion or chaos until such ordinance is adopted.

### #5A & 5B — TDR/RDI Program Affordable Housing
(Sponsor: Balducci)

Line Amendment **#5A** would: *"Remove TDR affordable housing pilot project. Instead, add an allowance to the Residential Density Incentive program that would allow a development to achieve*

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*200% of base density when affordable housing is provided at 40% area medium income in unincorporated King County."* While Line Amendment **#5B** *"Removes TDR affordable housing pilot."*

We do not understand what the urgency is and would like to see some analysis or information that decreasing the income level to 40% from 50% will help the program work. Also, we don't know how many developers are able to provide housing at 50%. We believe it is impossible to respond to a complicated proposal with little or no time and information/analyses. It should be brought back at a later time.

## #7 — APD Mitigation

(Sponsor: Lambert)

This Line Amendment: *"Amends mitigation requirements for when land is removed from an agricultural production district. Land is required to be replaced at a 1:1 ratio in the same agricultural production district, at a 1.5:1 ratio in a different agricultural production district, or 2:1 ratio for the financial value of the land if no other land is available."*

We call on the Council to keep the *existing* code language that requires a 1:1 swap in the same APD.

The effect of the language in *S4.1* is that speculators will buy land in close-in APDs near urban centers (such as the Sammamish Valley APD) and try to swap it out for land in APDs that are in farther flung corners of the County. This will destroy the close-in APDs. Even worse, the subsequent line amendment allows for financial consideration. All a speculator has to do is pay off at twice the value in cash and they can sit on farmland.

It might be argued that speculators won't get development rights from permitting, but there is never a guarantee. Further, any sign that the Council is weakening protections for APD farmland means speculators will be more encouraged to buy and hold for a future weakening. Even if a speculator can't get it developed in the near term, just sitting on it—which they can usually afford to do—means it is not leasable to farmers. Farmers require 10-year leases to justify the improvements they must make to the land. Speculators won't do long-term leases to farmers, removing access to APD farmland for farmers, which fundamentally destroys farming.

Speculation is not theory. This situation already exists in the Sammamish Valley APD, where speculators (and WBD violators) are just sitting on APD farmland waiting to see what happens with the WBD code. They ultimately want to commercialize the APD land and are willing to wait out the legal process to see if they will be able to do so, and to what extent. Weakening the swap rules puts yet another "For Sale" sign on farmland and signals to speculators that the tide is turning in their direction.

Also important to consider is that an APD ecosystem need to maintain enough protected acreage and rural buffer areas to remain ecologically viable for farming. Chipping away bit by bit at rural buffer areas and the farmland itself can set in motion a chain reaction that ultimately renders the entire APD unusable for farming.

The language should remain as it is today, where, if you take land out of an APD, it must be replaced 1:1 in the same APD.

**#13 — Pacific Raceways Map Amendment**
(Sponsors" Upthegrove / von Reichbauer)

This Line Amendment: *"Modifies Map Amendment 9 to modify the uses allowed on the site, the reversion of the zoning to RA-5 if the racetrack use is abandoned, the procedural and substantive requirements for a conservation easement, and a process to undo the changes in the Map Amendment if the requirements of the conservation easement aren't met."*

We call on the Council to ensure the language here be consistent with the 2012 language by adding *"which ever is greater."* This is implied, or could be taken to be the intent in the current language, but having it explicitly stated would be clearer and unambiguous. In addition, language should be added that would state alterations/exceptions as taken from the Critical Area Code 21 A 24, are not allowed.

## Process

We also provide comments on the overall process.

The Council has taken a well-researched and written Recommended *Update* submitted by the Executive on September 30, 2019—one on which all our organizations (and many members of the Public) worked on for months through meetings, discussions, and comments. The Council assigned the *Update* to committee, which spent 6 to 7 months before it released *Striker Amendments* to the Executive's Recommended *Update*: *S1, S2, S3, S4, and S4.1*.

Unfortunately, many of these *Amendments* deal with issues that, after careful inspection, are for special interests. In fact, many have direct links to each other, that seemingly have no connection, yet are dependent upon each other for success, i.e., one can't be done without the other. Yet these Amendments were introduced by the individual Councilmembers as completely separate, standalone actions that are needed to solve some perceived problem that really doesn't exist except for individual proponents who would derive the benefit.

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More than half this process has been conducted during a Pandemic with virtual meetings and Oral Testimony by telephone with members of the Public strictly limited to 90 seconds each—even though some of these Council meetings have dragged on for 5, 6, 7 hours. We, along with the general Public, are frustrated and disillusioned with this entire process.

Some direct linkages we see in some of the *Striker Amendments* are:

**#7 — APD Mitigation** and **Woodinville Roundabout**

S2 sought to modify Policy **R-656a** to allow the County to approve alternative mitigation for loss of **APD** land. Long-standing policies for maintaining *existing* acreages in each of our APDs should be retained. These policies require that any land taken out of an APD must be replaced with an equal or greater area of arable land and that is contiguous with the same APD. As discussed above, *S4:1* does nothing to allay these concerns.

On the **Woodinville Roundabout** we agree with this mitigation action. Where possible, future Urban transportation infrastructure should be accommodated *inside* the Urban Growth Area, whenever possible. This project unnecessarily impacted the Sammamish Valley APD due to a combination of the failure of the County to carry out oversight when it ignored the SEPA information provided by the City of Woodinville, which clearly showed this project extending onto the *"protected"* farmland. This mitigation action is, at this point, a reasonable compensation for the loss.

However, it is clear now that these two proposed amendments were linked—the latter dependent upon the former. The City of Woodinville has run into a snag with the replacement property that was to be the mitigation for the Roundabout problem. This seems to have led to proposals to change the 1-to-1 replacement policy. We are very concerned about this. In short, a small problem (the 1/3 acre of APD land taken for the roundabout) is likely being used to justify a *"solution"* that would change the existing replacement policy. The proposals would allow APD land to be removed from our close-in APDs and replaced with land from anywhere else. *S4:1* would allow APD acreage to be taken out of any APD simply by an owner paying twice the value of the land. This would lead to a dramatic shrinkage of our close-in APDs, eventually all of our APDs. We would much rather just see Woodinville pay a fine equivalent to the price of the mitigation effort and just let it go than to see a major policy change which would have ramifications far beyond the 1/3 acre at issue here. And there are plenty of properties around the Sammamish Valley that could be used for mitigation of the roundabout's 1/3 acre, so this action is unnecessary.

The proposed APD change is not necessary to satisfy Woodinville's need to mitigate the roundabout problem. There are plenty of parcels contiguous to the Sammamish Valley APD that could satisfy existing provisions, or even much larger swaps, should the need arise. And for a 1/3-ac problem it would be folly to change county-wide policy that will have such sweeping ramifications.

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## **4:1 Program** and **#8 — Snoqualmie Interchange**

*S2* called for the **4:1 Program** to be changed to accept a *"reduced ratio"* for "*high-conservation properties."* Fortunately, the concerns of our organizations and those of many others were heeded by the Council and it decided to retain the *existing* KCCP language.

In *S2* we also were concerned about what was being proposed with the **Snoqualmie Interchange**, where proposed changes clearly were to solve a parcels' owner's *"problem"* and, in turn, open the door to similar requests from others across the County. In fact, we were concerned for any unanticipated private developments adding new congestion, an outcome that would thwart the original public purpose of new or improved infrastructure. We called for studies here to only consider if and how rezoning of these lands could be accomplished under *existing* County policies and programs like 4:1 or TDR, without altering such policies and programs in any way that opens new loopholes for other Rural lands to seek rezoning. Fortunately, *S4.1* has scaled back the original *S2* proposal and placed such studies in the *Snoqualmie Valley/Northeast King County CSA Subarea Plan* timeline.

## **Non-Resource Industrial Uses in the Rural Area** and **#13 — Pacific Raceways Map Amendment**

**Non-Resource Industrial Uses in the Rural Area** were addressed in *S2*, which sought to *"Modif(y) Policy R-512 to limit new industrial-zoned lands to existing sites or those that have long been used for industrial or comparable purposes with similar impacts."* This was completely inconsistent with existing policy and the *SEPA* review. Changing wording that states there are three sites to citing three named sites simply as *"examples"* and changing policies to allow sites to be zoned Industrial if they have *"long been used"* for *"comparable purposes with similar impacts"* to industrial. Clearly, these were last-minute changes that were not well thought-out, nor vetted, and had no place in the *Update*, as they would have allowed *new* sites to be added during any annual update and allow them to be located anywhere in the Rural Area. Fortunately, the concerns of our organizations and those of many others were heeded by the Council and it decided to retain the *existing* KCCP language, as Industrial-scale facilities simply do not belong in the Rural Area.

Multiple Striker Amendments have sought to change the original ill-conceived **Pacific Raceways Map Amendment**. *S4.1* continues to address the many concerns expressed by our organizations and the general Public. However, there is no doubt that parts of the original Pacific Raceways Map Amendment were completely dependent upon the proposed language changes in the Policies **R-512** through **R-515**. In fact, the *SEPA* review pretty much state so. Fortunately, the Council has backed away from this dependency on those policies being changed, as it has dropped such changes. But, problems remain with the Pacific Raceways Map Amendment, as we detail above.

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## King County Code

We still remain concerned the Council has not even discussed concerns expressed by many regarding the existing standards for *alternative* development for sites with unique characteristics not addressed by the general zoning requirements of County Code. These include *"Property Specific Development Standards"* (-P Suffix) and the designation for *"Special District Overlay"* (-SO Suffix), as described in County Code **Chapter 21A.38, General Provisions- Property Specific Development Standards/Special District Overlays**. The need for such standards, in themselves, is understandable, but they should not be misapplied (as they have been, e.g., Buckley Recycling Center, Pacific Raceways, and various Sand & Gravel and Quarry operations). Further, such standards often are, but should not be, wide open to interpretation when permit applications are reviewed. The County should not provide any special consideration to private developers at the public's expense.