

GMVUAC Focus, Tasks, & Questions

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I. BACKGROUND

The Greater Maple Valley Unincorporated Area Council (GMVUAC) is a community council of volunteer citizens who reside in the unincorporated portion (*i.e.*, outside the City of Maple Valley) of Tahoma School District # 409. The GMVUAC represents and advocates with King County, state officials, and other organizations for the interests of the citizens of our unincorporated area. GMVUAC covers an area defined by the Tahoma School District No. 409, excluding any portions, which are or become incorporated.

The purposes of the GMVUAC are:

1. To contribute to the orderly development of greater Maple Valley, while maintaining the historic rural character;
2. To make and publish studies which promote and improve the community; and
3. To act as liaison for the community in providing area representation, comments and recommendations to county, state, and federal agencies.

The GMVUAC's territory is comprised of four (4) local Community Areas with four (4) Council members representing each for a total of sixteen (16) council positions.

The GMVUAC maintains multiple committees including four (4) major subject-matter committees: Economic Development, Environment, Growth Management, and Transportation.

1. The Growth Management Committee coordinates all King County Comprehensive Plan update activities, both internal to the GMVUAC and externally with other King County Unincorporated Area Councils (UACs) and Associations (UAAs).
2. The Transportation Committee founded and leads the Joint Transportation Initiative (JTI), which is comprised of members of multiple King County UACs and UAAs to address "*regional*" transportation issues affecting the entire King County Rural Area.

II. LOCAL AND REGIONAL FOCUS

In addition to its many “*local*” efforts (see *Task Matrix* at end of this section), the GMVUAC has worked to coordinate many of the King County UACs and UAAs to address key “*regional*” issues:

SUMMIT MEETINGS

Transportation Regional Summits

2014 — State Legislators, PSRC, & KCDOT

2016 — PSRC Transportation & Growth Management Directors

Economic Rural Strategies

2017 — PSRC Executive Director Brown

DETAILED COMMENT PREPARATION AND SUBMITTALS

KCCP

2018 — 4- to 8-yr major update cycle process changes

2019 — 2020 Mid-Point Review (started 1/2019 with Executive’s Scoping Statement)

King County

2017 - 2018 — Proposed Adult Beverage Ordinance (6/2017 & 11/2018)

PSRC

2018 — Regional Transportation Plan (successor to Transportation 2040)

2018 - 2019 — VISION 2050 (Scoping 3/2018; SEIS forthcoming in Spring 2019)

JOINT TRANSPORTATION INITIATIVE (JTI)

The GMVUAC founded and leads the Joint Transportation Initiative (JTI), which is comprised of members of multiple King County UACs and UAAs to address “*regional*” transportation issues affecting the entire King County Rural Area. The GMVUAC has long worked to expose and investigate several major areas of concern for the unincorporated/rural areas within King County. In 2014 we recognized the fact that to gain a greater voice within the government of King County, we needed to join forces with other UAC’s and rural associations.

Actions taken by cities sometimes adversely affect the rural quality of life. Traffic constantly shuttles through rural neighborhoods and corridors from city to city, holding rural residents hostage to a disproportionate share of the tax burden. The State’s Growth Management Act (GMA) has a major flaw with how Concurrency is handled.

Institutional silos make it impossible for cities, the County, the State, to work toward a sensible *regional* solution of any kind. This is further magnified by limits placed on traffic studies which often already are outdated before developments are built. Added to this dilemma and frustration is the fact that King County has failed to adequately represent rural residents and has consistently stated they have no authority to change things.

With the creation of the Department of Local Services, we believe we will have a more direct voice of support. In the near future we will send you more specific information and look forward to working together to help resolve these issues.

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GMVUAC—Major Activities Task Matrix

Activity	Economic Development Committee	Environment Committee	Growth Management Committee	Transportation Committee	Multiple UACs (Led by GMVUAC)
KCCP: 2020 Scoping (1 to 2-18)			D.1 #4 Comments (10-18)		Proc Chg (8-18); 2020 Scoping
Adult Beverage			Proposed Ordinance 2018-0241		Letter to KC Council (11-18)
Asphalt Facility		SEPA Comments (12-17, 1/18)	CRSIM Comments (2-18)		
BD Area Stewardship Plan		Comments (6-18)			
Enckson Trench Refilling		SEPA Comments (10-18)			
JH Coal Mine Reopening		DEEB: MEG Permit			
Reserve Slica			"Dumbo Project" on hold (2018 KCCP)		
Solid Waste Plan		Comments (3-18)			
Transp. Corridor Studies				186th Ave SE STP (on going discussions w/KCDDOT)	Isa-Hub Rd Corridor (12-18 Meeting with KC Construction Dept)
Major Summit Meetings	[LEAD]			[LEAD]	Transportation (9-14)
Reg. Economic Strategies	Comments (4-17)			[LEAD]	Transportation (11-16)
Reg. OS Conservation Plan		Comments (3-18)			Economic (11-17)
Reg. Transportation Plan				[LEAD]	
VISION 2050 (Scoping); Draft SEIS due out early 2019	Comments (3-18)	Comments (3-18)	Comments (3-18)	Comments (3-18)	Comments (1-18)
Hirst (Private Wells)		Monitoring WR&E WRIA-9 Comm			
JH Coal Mine Reopening		NPDES Permit (8-18 Mtg)			
Landsburg Mine Cleanup		Multiple Comments; Multiple updates			
Reserve Slica; Wash Plan forthcoming in 2019		A.O. comments (12-18)			

NOTES—All dates given as (Month-Year); Ongoing activities shown in **bold/italic**. LEGEND—Agreed Order; BD—Black Diamond; CRSIM: Cedar River Sites Industrial Moratorium; DOE—Department of Ecology; D.I.: Docket Items; JH: John Henry; KCCP: KC Comprehensive Plan; OS—Open Space; MEG: Mineral Extraction Grading; NPDES: National Pollutant Discharge Elimination System.; PSRC: Puget Sound Regional Council; Reg.: Regional; RI: Remedial Investigation; STP—Situation-Target-Proposal; SEPA—State Environmental Policy Act; SEIS—Supplemental Environmental Impact Statement; WRIA: Water Resource Inventory Area; WR&E: Water Restoration & Enhancement.

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III. QUESTIONS AHEAD OF 2/4/19, MEETING

As director of the *Department of Local Services (DLS)*, your focus will be on:

- Coordinating with council members of the rural areas,
- Delivering streamlined and responsive services to unincorporated areas and communities of King County.
- Building and maintaining open and responsive relationships with unincorporated King County communities through a comprehensive community and customer-focused effort.
- Coordination and collaboration in service delivery to unincorporated King County communities with partnering agencies, including state, county, and local organizations.

GENERAL QUESTIONS

Funding

1. Given the constraints on KC revenues generated by its unincorporated areas (1% cap on property taxes; gas tax spread over vast network where urban users do not pay their fair share; minimal sales tax base), how do you intend to distribute funds to provide key services to unincorporated area residents?

Services

1. How do you view the various functions and services the DLS administers?
 - a. How do you intend to allocate limited resources (staff and funds) to effectively implement your service priorities?
 - b. Are there any services being contemplated to be dropped?

Management Leadership Style

1. Will you delegate to division and/or program Directors/Deputy Directors final decision-making authority regarding permit applications, code enforcement, road/traffic improvements, etc., and stay out of such matters unless specifically requested by staff? **OR**

2. Will you use a more hands-on style that will involve directly making the final decisions on major/significant program actions such as major permit applications and/or major code enforcement cases?

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Code Enforcement

1. Have you reviewed and digested the **Proviso Report: Code Enforcement and Abatement Process Evaluation** in Response to the 2015-16 Budget Proviso in King County Ordinance 17941, Section 85, P1; Prepared by the Department of Permitting and Environmental Review and Performance, Strategy and Budget, September 30, 2015?
2. Given that Rural Area residents continually harbor concern with the dearth of Code Enforcement conducted by KC, especially for the “*big guys*,” do you contemplate any changes to the existing unpopular system that many consider broken and unfair?
3. Why is Code Enforcement only prompted by reported violations instead of using a more proactive approach?
4. Why are code violators called “*customers*” and citizens who report them called “*complainers*”?
5. There are several tools that could be used for code violations:
 - a. Why not use Red Tags to stop activity associated with illegal construction?
 - b. Why do fines stop accruing after 45 days?
 - c. Why does a second violation start the clock over again on all violations of the same property (this could drag out the resolution process for years)?

Area Planning

1. Will the DLS have any involvement (besides Permitting’s new Subarea Planners) with upcoming Subarea Planning within the CSAs?
2. Will you actively seek both direct and early involvement of the various CSA UACs and UAAs in the preparation of such Subarea Plans to help with issue identification and to afford assistance to the County's limited staff resources?

Economic Development

1. What changes do you contemplate for economic development support in the unincorporated areas?
 - a. How will you interact with KC’s new Economic focal?

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- b. What economic analyses are contemplated?
- c. If you decide to do so, how will you engage the UACs/UAs (including the GMVUAC's Economic Development Committee) in such a process?

PROJECT-SPECIFIC QUESTIONS

Proposed Asphalt Facility

(move from the City of Covington—inside the Urban Growth Area—to the Rural Area along the Cedar River)

Although there are many, many concerns related to potential impacts to the environment, noise levels, and traffic/safety (all of which the GMVUAC has provided via multiple detailed comment letters over the past 1 1/2 years), we remain completely perplexed why the KC Council, KC Executive's office, and KC DPER have completely ignored the GMVUAC's detailed dissertation on the Zoning issues involved. An asphalt facility is not allowed under any circumstances as a use in the Rural Area or in any Residential zones. It is, thus, inconceivable that an asphalt facility was ever intended to be an outright permitted use on a completely isolated island of I-zoned property in a surrounding sea of Rural Area zoned lands (the classic definition of "spot" zoning).

Applicable KCCP Policies (our emphases):

R-201

Therefore, King County's land use regulations and development standards shall protect and enhance the following attributes associated with rural character and the Rural Area:

- i. Rural uses that do not include primarily urban-serving facilities.***

R-324

Nonresidential uses in the Rural Area shall be limited to those that:

- a. Provide convenient local products and services for nearby residents;***
- b. Require location in a Rural Area;***
- c. Support natural resource-based industries;***
- d. Provide adaptive reuse of significant historic resources; or***
- e. Provide recreational and tourism opportunities that are compatible with the surrounding Rural Area.***

In looking at Policy **R-324**, a new asphalt facility not located on or within natural resource or mining lands is not required to be "locat[ed] in the Rural Area" (**R-324b.**); does not "support natural resource-based industries" (**R-324c.**); and does not "[p]rovide convenient local products and services for nearby residents" (**R-324a.**). It is important to note that no prior usage of this property mirrors the intended use thereof for an asphalt facility. There is, therefore, no basis in fact for permitting a new asphalt facility as any continuation of a prior or pre-existing land use on this site. Clearly, based on documents reviewed, the proposal is for a type of use that has no nexus to the history of this site.

R-513

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Rural Public Infrastructure Maintenance Facilities, and agriculture and forestry product processing should be allowed in the Rural Area. Other new industrial uses in the Rural Area shall be permitted only in Rural Towns and in the designated industrial area adjacent to the Rural Neighborhood Commercial Center of Preston.

The proposed asphalt facility is a new industrial use on the site and, thus, clearly is subject to Policy **R-513**. The site is *restricted* by **R-513**, which legally is an express limitation on future uses. Clearly, an asphalt facility is both factually and legally a new industrial use of the site.

R-514

Development regulations for new industrial development in the Rural Area shall require the following:

e. Heavier industrial uses, new industrial uses producing substantial waste byproducts or wastewater discharge, or new paper, chemical and allied products manufacturing uses in the urban industrial zone shall be prohibited;...

Policy **R-514** “...applies to all new industrial development in the Rural Area” (see text preceding the Policy prescription). Also stated in the text is: “(T)he intent of this policy is to preclude expansion of the industrial area beyond the identified boundaries and to ensure that new development (not previously constructed or vested) in the industrial area meets rural character standards.” It should be noted that The date the grading permit application was determined to be complete and thus vested under then-existing rules and regulations is August 31, 2017. The proposed asphalt facility is therefore a new industrial use and/or development that must meet and qualify under all applicable provisions of the 2016 Comprehensive Plan and applicable zoning ordinances.

The above-cited KCCP policies all provide sufficient rationale for not allowing the proposed Asphalt Facility move from the City of Covington to the Rural Area along the Cedar River. However, the one, absolutely prohibitive, provision of the KCCP that applies to the proposal is Policy **R-515** that applies to “existing, isolated industrial sites in the Rural Area that are recognized, but are not appropriate for new industrial uses.” (see text preceding the Policy prescription):

R-515

Existing industrial uses in the Rural Area outside of Rural Towns, the industrial area on the King County-designated historic site along State Route 169 or the designated industrial area adjacent to the Rural Neighborhood Commercial Center of Preston shall be zoned rural residential but may continue if they qualify as legal, nonconforming uses.

KCCP Policy **R-515** expressly directs that this specific property “shall be zoned rural residential” and that only pre-existing legal, nonconforming uses are allowed to continue thereafter. This specific property was first added to Policy **R-515** in the 2008 KCCP Update. Also, it should be noted that: “‘Shall’ and ‘will’ in a policy mean that it is mandatory for the county to carry out the policy, even if a timeline is not included. “Shall” and “will” are imperative and nondiscretionary – the county must make decisions based on what the policy says to do.” [KCCP, Glossary].

Accordingly, what King County must proceed promptly with is the rezoning of this site from “Industrial” to an appropriate “Rural Residential” zone, e.g., minimum RA-5, rather than considering the approval thereon of a new industrial use that does not qualify as any continuation of a legal, nonconforming use on this site.

The historical use of this site is fairly explained in the January 26, 2016, Design Review Committee (DRC) Report on the Certificate of Appropriateness (COA) #15.27 to the KC Landmarks Commission. The nearest-in-time use of this site was for landscaping material stockpiling and processing; not in any way or form related to an asphalt facility. Thus, a use closely connected to

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asphalt production did not exist and cannot be the factual and legal basis for any pre-existing use that could become a legal, nonconforming use upon the property's change in zone classification. *"The general rule is that a nonconforming use in existence when a zoning ordinance is enacted cannot be changed into some other kind of a nonconforming use."* [Coleman v. City of Walla Walla, 44 Wn.2d 296, 300, 266 P.2d 1034 (1954)]. Thus, an existing art school could not be the basis for a church qualifying as a legal, nonconforming use, and as an extension, low-income apartments cannot be changed into a legal, nonconforming use as a shelter. [Open Door Baptist Church v. Clark County, 140 Wn.2d 143, 151, 995 P.2d 33 (2000)].

Here, the prior use of the property for landscaping materials stockpiling and processing could continue as a legal, nonconforming use of this site even if rezoned to Rural Residential; however, the location of an asphalt facility on this site would not constitute the continuation of a pre-existing use and, thus, not qualify as a legal, nonconforming use when this property is rezoned to Rural Residential as required by KCCP Policy **R-515**.

All of the above has been completely ignored by KC officials with no explanation for why. We believe KC Council Legislative Analysts clearly provided *erroneous* positions in Staff Reports to Councilmembers, e.g., (original EMPHASIS):

"In 2008, as part of the Comprehensive Plan Update, the Council approved the land use designation and zoning change to Industrial....As part of the land use and zoning change, text was added to the policy regarding where Industrial lands could be located in the rural area. That policy limits where NEW industrial land can go..." — 2/23/18 e-mail

Such language essentially means that the:

- (1) Proposed project is OK because the site is zoned "I" and an asphalt facility is an approved use on that site and
- (2) KCCP policies we cite relate only to rezoning of land, not whether it is a specific allowed use of that land.

However, there is a very significant difference between the land itself and the use thereof. KCCP policies R-513, R-514, and R-515 all expressly relate to, and impose restrictions on, the "use" of land, e.g., for a new asphalt facility. We fail to understand why the KC Prosecuting Attorneys' Office has yet to be consulted on this.

1. We request you help us understand KC's position on the issues addressed above and what rationale it has used to justify them?

2. Will the DLS conduct a complete and independent full review of the Asphalt Facility proposal on its merits, including all environmental matters and comprehensive plan policies; not be influenced by any positions taken or statements made by any King County Council Member or any of its staff, as well as anything in the Cedar River Industrial Sites Moratorium (CRSIM) Report and/or previous comments or letters from DPER staff; and be a full and independent action under your leadership?

Regional Transportation

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As part of Growth Management, State law requires transportation concurrency, to insure Level of Service (LOS) commitments are met within a reasonable time (6 years) to respond to transportation service impacts from development. There are concerns this amount of time is too long to have improvements in place to meet needs. Further, all too often, “financial commitments” are based on not-as-yet-secured Grant monies. Also, possibly most importantly, there appears to be no Concurrency enforcement mechanism.

Several specific issues with applying Concurrency and setting LOS standards are:

- (1) Holistic concepts like Travel Sheds (by which King County recognizes the *interconnected* nature of transportation in a way analogous to watersheds) have limitation in that they stop at jurisdictional boundaries (probably not the “natural” Travel Shed boundary).
- (2) Difficulty to respond to requirement for meaningful coordination with neighboring jurisdictions.
- (3) Integrated regional transportation concurrency is extremely difficult.
- (4) Some jurisdictions define LOS based on an “average” degree of travel comfort, e.g., intersection delay, road speed, capacity, “screenline,” distance traveled, which easily disconnects from user experience, possibly allowing development with little infrastructure investment.
- (5) Jurisdictions *greatly* exceed growth targets and appear to have no obligation to create internal job opportunities equivalent to the population growth permitted within their jurisdiction.
- (6) The Public is usually not engaged when jurisdictions adopt LOS standards and, thus, unique subarea desires are not clearly identified, if at all.

It is desired Concurrency be managed holistically without jurisdictional “seams”. Measurement must recognize “natural” interconnected travel patterns and be used consistently by all jurisdictions. Infrastructure needs should be timely met embracing best-available growth/employment forecasts. Measurement must align to the travel experience (moving people and freight).

Jurisdictional development should not *greatly* exceed growth targets. The highest priority of a jurisdiction should be to *minimize* impacts to other jurisdictions’ infrastructure by creating internal job opportunities at least equal to the growth being permitted. Funding for infrastructure improvements must be highly prioritized in jurisdictional 6-yr Capital Improvement Plans (CIPs) with *guaranteed* revenue sources clearly identified. A regional perspective must be ensured whereby intercity needs and uses are addressed and accommodated by accurately describing impacts to all elements of the transportation network regardless of jurisdiction.

Infrastructure needs should be identified as early and accurately as possible, with implementation of identified improvements truly concurrent, otherwise the development approval must be delayed or denied. Concurrency must be linked to a public dialog. Concurrency must have an enforcement mechanism.

1. Concurrency is broken as practiced with little to no cooperation between government jurisdictions (cities and counties). Do you contemplate working this critical issue, which will require changes at the State level?

Adult Beverage Businesses

We have worked with other UACs and UAAs on finding the right balance between Wineries, Breweries, and Distilleries (WBD) located in KC’s Rural Area. This has included a coordinated

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November 2018 review and comment on the *KC Sammamish Valley Wine and Beverage Study* and proposed KC Council Ordinance 2018-0241.

Keeping all of the Rural Area of King County rural provides many benefits to the citizens and businesses of King County, urban and rural alike. As Ordinance 2018-0241 will apply county-wide, we have concerns we have made clear to the KC Council, which, if not addressed could open the doors to retail and industrial uses across the Rural Area. The result will be increased traffic, parking lots on rural land, pedestrian safety issues, water runoff damaging agricultural areas, lighting and noise pollution, and more.

We also recognize the Sammamish Valley in particular as a unique asset to King County. Not only is its rural ambiance vital to the continued success of the wine-related economy around Woodinville, it is also a crucial front in our efforts to contain urban sprawl. WBDs (including Breweries in Hobart) and related businesses have become important elements of our region's economy and culture. We support continuing to permit small WBDs to be established in the Rural Areas. However, remote Tasting Rooms when combined with so-called Event Centers clearly belong in the Urban Growth Area, where the vast majority already operate legally.

1. How will you address these competing concerns while still maintaining the integrity of KC's Rural Areas?

2. Why was a Settlement Letter offered to ~50 plus wineries/breweries/distillers/tasting rooms?

- Since the settlement letter was contingent upon three items, one of which was no expansion of existing facilities, why were many of these facilities allowed to expand?
- Does DPER have a list of which facilities signed the agreement and have they been checking to see if any of facilities have expanded?
- Does DPER have a baseline of size those facilities that were offered the settlement letter?
- Has anyone been checking for on-site septic violations/issues since most of these facilities use only drain fields permitted for their original property?
- The settlement letter defers further action against code violators until after the study is complete and subsequent King County action, but the study was completed quite a while ago, so how will we know when the subsequent action is completed?

3. If some form of the proposed Ordinance is, in fact, passed, how will DPER handle the nearly 54 facilities that are out of compliance and what will be the timeframe for them to come into compliance?

4. The LCB recently started issuing Liquor Licenses to anyone who applied regardless of zoning, where in the past they use to check and see if the property was zoned for alcohol production or distribution, thus creating a great deal of confusion, so how does DPER handle this situation and is there anything that can be done to return to the former policy?

5. We remain highly suspicious of so-called "*Demonstration Projects*" (e.g., including the "*overlays*" proposed in the ordinance) as they typically are established to *allow* violation of KC Code, when will they be scrapped, as they do not provide any service to the general Public?