

# DEPARTMENT OF LOCAL SERVICES - PERMITTING DIVISION KING COUNTY, WASHINGTON

# PRELIMINARY REPORT TO THE HEARING EXAMINER April 25, 2023 - PUBLIC HEARING AT 9:00 AM

\*\*\*\*\* Due to COVID-19, this Public Hearing will be conducted via ZOOM Video Conferencing. Please contact the Hearing Examiner's office at 206-477-0860 or <a href="mailto:hearingexaminer@kingcounty.gov">hearingexaminer@kingcounty.gov</a> to obtain information/instructions regarding the hearing, including meeting ID and password.

# **Ravens Corner Rezone** FILE NO: LUT420-0002 PROPOSED REZONE ORDINANCE NO: 2023-0118

## A. SUMMARY OF PROPOSED ACTION:

The applicant is requesting to rezone a vacant 21-acre parcel from RA-10 to RA-5 creating the possibility to subdivide into 4 lots for construction of a single-family residence on each lot in the future with approval of this rezone request. This increases the site residential base density from 1 dwelling unit per 10 acres to 1 dwelling unit per 5 acres. The underlaying Rural Area (RA) designation will remain. See Exhibit 2 for a copy of the proposed plat map.

## B. **GENERAL INFORMATION**:

File Number: LUT420-0002 **Filed Date:** June 4, 2020 **Location:** NE Corner of SE Kent-Kangley Road and Landsburg Road SE, Section/Township/Range: SW 30-22-07 3022079009 Parcel: **Request:** Rezone RA-10 **Current Zoning:** RA-5 **Requested Zoning:** 21 acres Acreage: **Proponent:** Ravens Corner, LLC

Attn: David Schaafsma

PO Box 863 Auburn, WA 98001

davids@rbsholdinga.net

(253) 735-1200

SEPA: Determination of Nonsignificance (DNS)

Issued on March 24, 2023

**County Staff:** Tracy Cui, AICP, Principal Planner

tracy.cui@kingcounty.gov

(206) 263-8720

**Comprehensive Plan Designation:** ra (rural area)

Community Planning Area: Tahoma/Raven Heights

# C. HISTORY/BACKGROUND:

A pre-application meeting under KC File PREA19-0162 was held with the applicant, the applicant's consultant, and King County permitting staff on September 6, 2019 (Exhibit 3).

The rezone application was received on June 4, 2020 (Exhibit 4). The application was deemed complete on June 16, 2020. The Notice of Application (Exhibit 5) was issued on July 15, 2020, by 1) mailed notice to property owners within 500 feet of the subject property; 2) one sign posted on the subject property; and 3) publication in the Seattle Times and Auburn Reporter in accordance with KCC 20.20.060. The Notice of Application was also emailed to the agencies listed in Section E below.

## D. THRESHOLD DETERMINATION OF ENVIRONMENTAL NONSIGNIFICANCE:

Pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW), the responsible official issued a DNS for the proposed development on March 24, 2023 (Exhibit 6) utilizing the Optional SEPA DNS Process pursuant to WAC 197-11-355. This determination was based on the review of the environmental checklist (Exhibit 7) and other pertinent documents, resulting in the conclusion that the requirements for environmental mitigation have been adequately addressed in the development regulations and comprehensive plans adopted under Chapter 36.70A RCW and in other applicable local, state, or federal laws or rules, as provided by RCW 42.21C.240 and WAC 197-11-158. The County's Comprehensive Plan and Municipal Code include provisions designed to avoid and minimize environmental impacts through design. When impacts are unavoidable, specific mitigation is prescribed by applicable codes and designed to offset impacts.

Agencies, Native American Tribes and the public were offered the opportunity to comment on or appeal the determination for 24 days. During the project reviewing process, DLS-Permitting Division (Permitting) received and evaluated the public comments in opposition to the proposal. These public comments (Exhibit 8) concluded that the proposed rezone has not met the conditions laid out in the applicable King County Comprehensive Plan Policies R-302, R-303, R-304, R-306, and R-308, nor key King County Code titles 20 and 21A stipulations. Consequently, the commenters recommended the rezone application to be denied. All public comments received were shared with the applicant and involved reviewing staff to ensure the impacts of the proposed development were thoroughly evaluated within the context of existing regulations and standards. Applicant provided written responses to these public comments (Exhibit 9).

## E. AGENCIES CONTACTED:

- 1. King County Department of Natural Resources and Parks: No response.
- 2. King County Fire Marshal: No response.
- 3. Seattle King County Department of Public Health: No response.
- 4. King County METRO: No response.
- 5. Tahoma School District #409: No response.
- 6. Covington Water District: See Section I.
- 7. Washington State Department of Ecology: No response.
- 8. Washington State Department of Fish and Wildlife: No response.
- 9. Washington State Department of Transportation: No response.
- 10. Washington Department of Archaeology and Historic Preservation: No response.
- 11. Snoqualmie Tribe: No response.
- 12. Tulalip Tribe: No response.
- 13. Suquamish Tribe: No response.
- 14. Puyallup Tribe: No response.
- 15. Muckleshoot Tribe: No response.

### F. <u>NATURAL ENVIRONMENT</u>:

<u>Topography</u>: The total site area is 21 acres (916,502 square feet) according to the King County Assessor's records (**Exhibit 10**). The site has a gentle rolling terrain with small pockets of steep slopes (40%) in the upper northeast corner. The eastern 1/3 of the site slopes down toward the south while the rest of the site gently slopes down (less than 10%) toward the northwest corner.

Critical Areas: The two small pockets of steep slopes mentioned above are also mapped as potential Steep Slope Hazard Areas. A small portion of the site, approximately 20,000 square feet on the southwest corner, is designated as Coal Mine Hazards Area. A wetland and aquatic area report was prepared by J.S. Jones Associates Inc. dated October 21, 2019, and subsequently updated on September 11, 2020 (Exhibit 11). The report did not find any wetland or stream on or within the maximum buffer distance of the project site. Permitting ecologist reviewed the report and conducted a field visit of the site and has concurred with the findings and conclusions of the report. One commentor indicated that there was an area of standing water and stream on the subject property. The applicant's environmental consultant, Mr. Jones, evaluated the concern and concluded that the standing water was most likely due to a period of heavy precipitation and lasted for a duration of about three

days. The soils across the entire parcel are compacted gravelly sandy loam which lack hydric soil characteristics. There are no hydrophytic plant communities on the site (Exhibit 12).

 $\underline{\text{Vegetation}}$ : The site is forested and dominated by species with Facultative Upland Plants (FACU) indicator statuses.

Wildlife: The site is not part of a designated wildlife corridor. However, it is located north of the King County Nature Retreat parcels (Ravensdale Retreat Natural Area (RRNA)) across SE Kent-Kangley Road. Some wildlife may frequent RRNA site.

<u>Surface Water</u>: A Technical Information Report (TIR) dated December 2020 was prepared by the Eastside Consultants, Inc. identifying the site's drainage basins and evaluating both upstream and downstream drainage paths (**Exhibit 13**). The report identified two drainage basins and a closed depression on the site. A TIR prepared for the site indicates the presence of a small, closed depression on the site which may be required to be surveyed and delineated if the rezone to be approved. Runoff from the majority of the site (14.6 acres) sheet flows in a northwestern direction and enters a culvert under Landsburg Rd. SE. Runoff from the 2<sup>nd</sup> basin (6.37 acres) collects in a low point (closed depression) north of SE Kent-Kangley Road and enters in an 18-inch concrete culvert under the SE Kent-Kangley Road. Other than a partially closed culvert, the TIR did not identify any drainage problems downstream of either basin flow paths.

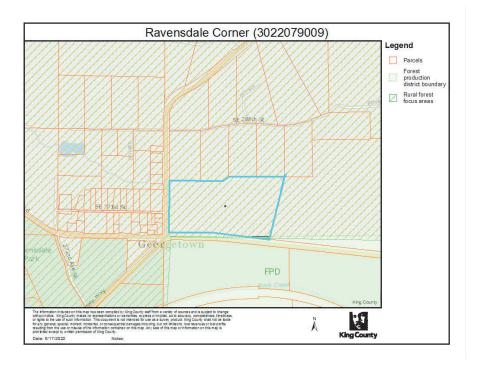
# G. SITE & NEIGHBORHOOD CHARACTERISTICS:

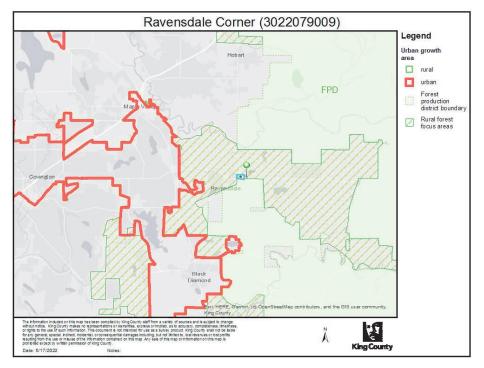
#### Zoning Designation:

The site is located on the northeast corner of intersection of SE Kent-Kangley Road and Landsburg Road SE. The site and its immediate neighboring parcels to the north and east are zoned Rural Area (RA-10). Properties to the west and northwest and across Landsburg Road SE are zoned Neighborhood Business (NB) and RA-5. The NB zone extends south of SE Kent-Kangley Road and kitty-corner from the site. Properties south of the site and across Kent-Kangley Road SE are zoned Forestry (F). See Exhibit 14.

The Forestry zoned parcels south of the subject site are located within the designated Forest Production District (FPD). The FPD boundary extends north of the road covering a small sliver of the site (approx. 5,429 square feet or less than 1% of the site) and the properties to the east of it. Staff did research and confirmed this is not a mapping error and accurately reflects what was adopted in Ordinance 12927. Please see Exhibit 15 which contains the email correspondences between DLS-Permitting former staff Fereshteh Dehkordi and GIS Specialist Paul McCombs that references this ordinance. As part of its management of the site, the County has conducted commercial timber harvests in the past and has others planned in the future. Per the Stewardship Plan for the Black Diamond Open Space, Henry's Ridge Open Space, Ravensdale Retreat Natural Area and Cemetery Reach Natural Area (August 2018), thinning and harvesting in the coming decades. Allowing additional development near these sites could affect the ability to harvest and manage the areas (Exhibit 16).

The site and its surrounding areas to the east, north, northwest, west and southwest are within the Rural Forest Focus Areas (RFFA). See maps below:





# <u>Development Patterns:</u>

The 21-acre site is undeveloped and is located within the SW ¼ section of 30-22-07. This ¼ section is entirely zoned RA-10 and consists of 25 lots, mostly developed with residential single-family residences, with the exception of the subject site and its neighboring two lots to the east which are undeveloped and approximately 40 acres each. Of the 25 lots, the majority of them are less than 10 acres in size. A similar 5-acre size lot pattern extends north and west of the site under the zoning designation of RA-5. All lots directly north and west of the site are 5 acres or less and have a variety of zoning designations. Parcels to the south and across Kent-Kangley Road SE are zoned Forestry (F) and in large tracts. These parcels are owned by King County Parks Division

and form the Ravensdale Natural Retreat greenbelt containing Rock Creek. Properties to the west of the site and across Landsburg Road SE are developed with neighborhood business on small lots (Exhibit 17).

#### H. TRANSPORTATION:

The site borders Landsburg Road SE to the west and SE Kent-Kangley Road SE to the south. Roads could be used as access to a future subdivision resulting in 2 lots based on the current zoning classification, or 4 lots if the rezone gets approved.

## I. PUBLIC SERVICES:

The site is within Covington Water District. Any future subdivision, whether resulting in 2 lots or a maximum of 4 lots, must be on a septic system and be connected to the public water system. Please see site evaluation memo determining the feasibility for an on-site sewage system (**Exhibit 18**) and the water availability certificate (**Exhibit 19**).

#### J. COMPREHENSIVE PLAN:

The following analysis provides the relevant text and policies from the King County Comprehensive Plan related to this rezone request. Of note, the rezone must comply with the comprehensive plan in this matter because the development regulations require compliance with the comprehensive plan. The referenced sections of the text and policies are highlighted.

#### Rural Forest Focus Areas (Rural Areas and Natural Resource Lands - Page 3-11)

Text: Although economic incentive programs and technical assistance are available to all property owners in the Rural Area interested in pursuing small-scale forestry, special efforts to maintain forest cover and the practice of sustainable forestry are warranted where there are opportunities to sustain large, contiguous blocks of rural forest. The Agricultural and Forest Lands map identifies such areas as Rural Forest Focus Areas and notes the locations and boundaries of each focus area.

KCCPP R-207 Rural Forest Focus Areas are identified geographic areas where special efforts are necessary and feasible to maintain forest cover and the practice of sustainable forestry. King County shall target funding, when available, new economic incentive programs, regulatory actions, fee and easement acquisition strategies and additional technical assistance to the Rural Forest Focus Areas. Strategies specific to each Rural Forest Focus Area shall be developed, employing the combination of incentive and technical assistance programs best suited to each focus area.

KCCPP 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.

# **COMMENT**:

The Comprehensive Plan places emphasis on retaining forest cover in rural areas using a variety of tools including the designation of RFFA. RFFA have been designated in the Comprehensive Plan since 2000. Policy R-207 speaks to using special efforts to achieve this goal, including the use of regulatory actions; zoning is such a regulatory action. The subject site is within the RFFA. This designation covers a large area east, north and west of the site and consists of RA-5, RA-10 zoning designations as well as NB zone properties. This large area within RFFA consists of a variety of lot sizes and are predominantly in residential use. The R-208 policy encourages maximum density of one home per 20 acres in RFFA by providing incentives in order to keep lots in large tracts of 20 acres or larger, thus allowing small scale forestry uses.

As shown on the RFFA map above, a large section of rural area at Ravendsdale is surrounded by the FPD. To protect rural area and nearby resource land environmental resources and functions, the RFFA is applied to this section with goals including retaining larger parcel sizes. The subject parcel demonstrates the intent of retaining large sizes through regulatory tools including zoning.

Read in the context of policy R-304 (further analysis provided in this report), which discourages individual reclassifications and says they should not be allowed but does allow them when consistent with a suite of residential zoning density policies, denial is recommended in order to retain "low overall densities...through very large minimum lot sizes" to "maintain forest cover and the practice of sustainable forestry" as stated in the policies. Current conditions on the site are not relevant as the parcel may be returned to a state that includes rural forestry if development at higher rural densities is not approved.

## Residential Density (Rural Areas and Natural Resource Lands - Page 3-16)

Text: The low-density residential living choices available in the Rural Area provide an important part of the variety of housing options for King County residents. The residential land use policies in this section, together with their implementing regulations, strike a balance between making rural housing available to those who desire a rural way of life and keeping densities and the number of housing units low enough so they can be supported by a rural level of public facilities and services, be compatible with nearby commercial and noncommercial farming and forestry, and prevent or significantly reduce adverse impacts of development on the natural environment.

These policies and implementing regulations could allow 14,000 to 24,000 more housing units at ultimate buildout in addition to the roughly 45,000 residences existing in the designated Rural Area in 2000. The Transfer of Development Rights Program will help reduce development capacity in the Rural Area, and King County should continue to seek other programs that provide economic incentives for property owners to voluntarily limit residential development of their land.

KCCPP R-302 Residential development in the Rural Area should occur as follows:

- a. In Rural Towns at a variety of densities and housing types, compatible with maintenance of historic resources and community character; and
- b. Outside Rural Towns at low densities compatible with traditional rural character and uses, farming, forestry, mining and rural service levels.

The use of land and the density of development (measured as the number of homes or other structures per acre or per square mile of land) are key determinants and contributors to the character of the Rural Area, as described above in Section A. Although human settlement of King County's Rural Area has a wide variety of uses and densities, both the historical and desirable range of uses and densities defined here are necessarily narrower and less intense than that found in the Urban Area. Residential development at very low densities (including the land for accessory uses, on-site sewage disposal and local water supply) consumes or will consume most of the land in the Rural Area. Residential density may be the single, most important factor in protecting or destroying rural character that can be influenced by government policies and regulations.

Low overall densities in the Rural Area will be achieved through very large minimum lot sizes or limited clustering at the same average densities when facilities and services permit (for example, soil conditions allow on-site sewage disposal on smaller lots). The Rural Area cannot be a significant source of affordable housing for King County residents, but it will contain diverse housing opportunities through a mix of large lots, clustering, existing smaller lots and higher densities in Cities in the Rural Area and Rural Towns, as services permit.

KCCPP R-303 Rural Area zoned properties should have low residential densities that can be sustained by minimal infrastructure improvements such as septic systems and rural roads, should cause minimal environmental degradation and impacts to significant historic resources, and that will not cumulatively create the future necessity or expectation of urban levels of services.

KCCPP 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.

<u>COMMENT</u>: The Comprehensive Plan recognizes the importance of residential densities, stating "residential density may be the single, most important factor in protecting or destroying rural character". Given this, policy R-304 discourages individual reclassifications and says they should not be allowed but does allow them when consistent with a suite of residential zoning density policies. The text preceding the policy speaks to achieving "low overall densities in the Rural Area... through very large minimum lot sizes" and through other tools. Read together, the policy and text support denial of this type of zone reclassification.

# Residential Density (Rural Areas and Natural Resource Lands – Page 3-17)

Text: Although King County designated Resource Lands and zoned extensive portions of its territory as Agricultural Production Districts or Forest Production Districts, very low residential densities adjacent to Natural Resource Lands are essential to minimize land use conflicts. In addition, a significant part of the Rural Area land base is still used for farming or forestry uses. Therefore, suitability of lands for continuing resource uses and proximity to designated natural Resource Lands will be important considerations in applying the lower rural densities.

**Policy 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.

<u>COMMENT</u>: The Comprehensive Plan states that "very low residential densities adjacent to Natural Resource Lands are essential." Policy R-305 states that a density of RA-20 or RA-10 shall be achieved through regulatory and incentive programs for parcels that have a RFFA designation; zoning is such a regulatory program. The subject parcel and the surrounding area, including nearby large parcels that could be threatened by future subdivision if this zone reclassification is approved and a new precedent is set, all have the RFFA designation. The presence of the RFFA on the parcel supports denial of this type of zone reclassification.

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

- a. The lands are adjacent to or within one-quarter mile of designated Agricultural Production Districts (APD), the Forest Production District (FPD) or legally approved long-term mineral resource extraction sites: or
- b. The lands contain significant environmentally constrained areas as defined by county ordinance, policy or federal or state law, or regionally significant resource areas or substantial critical habitat as determined by legislatively approved basin plans or Watershed Resource Inventory Area Plans; and
- c. The predominant lot size is greater than or equal to 10 acres in size.

<u>COMMENT:</u> A small portion of the site, approximately 5,429 square feet near Kent-Kangley Road along south property line is within the FPD. The north line of ½ S31- T22-07R which also forms the south line of ½ S30-T22-07R runs approximately parallel to Kent-Kangley Road. Staff did research and confirmed this is not a mapping error. Please see **Exhibit 15** which contains the email correspondences between DLS-Permitting former staff Fereshteh Dehkordi and GIS Specialist Paul McCombs.

The Comprehensive Plan in policy R-306 includes three criteria for the designation to RA-10.

Sub-policy (a) states that a parcel shall be zoned RA-10 if it is adjacent to or within a quarter mile of a designated FPD. The subject parcel is adjacent to the FPD and, furthermore, a portion of the parcel is within the FPD. A previous map amendment on land adjacent to this parcel (Ordinance 12927) did not remove the FPD designation on the subject parcel. As noted previously, while in open space conservation, the County has and will continue to conduct commercial timber harvesting on parcels in the Ravensdale section of this FPD. The presence of FPD on the parcel supports denial to avoid establishing a precedent that parcels with FPD on them can be rezoned to higher rural densities.

Sub-policy (b) applies to parcels that are environmentally constrained. There are two small pockets of steep slopes mapped as potential Steep Slope Hazard Areas. A small portion of the site approximately 20,000 square feet on the southwest corner is designated as Coal Mine Hazards Area. A wetland and aquatic area report was prepared indicating no wetland or stream on or within the maximum buffer distance of the project site.

Sub-policy (c) states that a parcel shall be zoned RA-10 if the predominant lot size is greater than or equal to 10 acres in size. This is a central rationale for the applicant – that the nearby parcels are smaller than 10 acres and therefore the predominant lot pattern does not exist. First, in consultation with the Office of the Prosecuting Attorney, the predominant lot size analysis was applied at the time the property was originally zoned and is not intended to be applied during the rezone process. In other words, the policy describes what was considered at the time of initial designation, and this is made clear by the text which describes the amount of additional housing units allowed under the "policies and implementing regulations could allow 14,000 to 24,000 more housing units at ultimate buildout". The facts of substandard lots in the RA-10 zone, and smaller adjacent RA-5 and RA-2.5 lots, makes clear that application of the predominant lot size test as theorized by the applicant would have profound and unintended impacts.

Importantly, this approach was somewhat aspirational when adopted as not all parcels in the area met the minimum lot size requirements and that is still the case today. See RA-10 Analysis (Exhibit 20) provided by staff from the Office of Performance, Strategy and Budget. A review of privately held RA-10 parcels across the County finds that over 85% of them are less than 10 acres in size, with a median size of approximately 3.95 acres. This finding means that most RA-10 areas would not meet the predominant lot size test. Compounding this is the fact that almost 60% of RA-10 parcels touch RA-5 and RA-2.5 parcels which are by definition smaller than 10 acres in size, and therefore would not meet the predominant lot size test. If the predominant lot size test were applied in the rezone context, a significant share of RA-10 parcels would fail to meet the test of a 10-acre predominant lot size. With this understanding of the policy, denial of this zoning reclassification request is supported.

The applicant has provided written argument that the proposed request meets all applicable policies (See Exhibit 21).

## K. KING COUNTY CODE PROVISIONS:

**KCC21A.44.060** Zone reclassification. A zone reclassification shall be granted only if the applicant demonstrates that the proposal complies with the criteria for approval specified in K.C.C. Title 20.22.140 and 20.22.150 and is consistent with the Comprehensive Plan and applicable community and functional plans.

**KCC20.22.150-** Examiner duties – zone reclassification. When the examiner issues a recommendation regarding an application for a zone reclassification of property, the recommendation shall include findings on whether the application meets both of the following:

The proposed rezone is consistent with the King County Comprehensive Plan:

- A. The proposed rezone is consistent with the King County Comprehensive Plan; and
- B.1. The property is potentially zoned for the reclassification being requested;
  - An adopted subarea plan, subarea study or area zoning specifies that the property shall be subsequently considered through an individual reclassification application; or
- 3. The requested reclassification is based on changed conditions. Ord. 18427 § 8, 2016: Ord. 18230 § 33, 2016: Ord. 16950 § 12, 2010: Ord. 16263 § 9, 2008: Ord. 15243 § 2, 2005: Ord. 14047 § 12, 2001: Ord. 4461 § 10, 1979. Formerly K.C.C. 20.24.190).

<u>COMMENT:</u> Pertinent King County Comprehensive Plan policies were considered in justifying the proposed rezone request. While the proposed site is argued to be suitable for additional density due to no presence of critical areas, the rezone request is inconsistent with some of the stated policies and intent. Staff cannot support the proposed rezone request since the property is within ½ mile of FPD therefore inconsistent with the KCCPP R-306. Additionally, this proposal is in conflict with the goal of Forest Focus Area designation of the site which encourages lands to be in large tracts for forestry use as stated in KCCPP R-207 and 208. Lastly, the proposal is in conflict with the goals of residential development in the Rural Area as stated in KCCPP R-302, 303, 304, 305, and 306.

L. CONCLUSIONS: The proposed rezone is not consistent with the King County Comprehensive Plan.

M. RECOMMENDATION: DENY the proposed rezone request (KC File LUT420-0002).

# N. EXHIBITS:

- Exhibit 1: Staff Report and Decision
- Exhibit 2: Site Plan
- Exhibit 3: PREA19-0162 Meeting Notes
- Exhibit 4: Rezone Application
- Exhibit 5: Notice of Application
- Exhibit 6: SEPA Threshold Determination
- Exhibit 7: SEPA Checklist
- Exhibit 8: Public Comments
- Exhibit 9: Applicant Response Letter to Public Comments
- Exhibit 10: Assessor Map
- Exhibit 11: Critical Areas Report
- Exhibit 12: Environmental Response Memo
- Exhibit 13: Technical Information Report
- Exhibit 14: Zoning Map
- Exhibit 15: Email re Forest Production District
- Exhibit 16: Black Diamond Area Stewardship Plan
- Exhibit 17: Development Patterns Map
- Exhibit 18: Preliminary Septic Report
- Exhibit 19: Covington Water Availability
- Exhibit 20: RA-10 Analysis
- Exhibit 21: Applicant Written Argument

## O. TRANSMITTED TO PARTIES LISTED HEREAFTER:

The default method of transmittal is via electronic mail, unless DLS – Permitting only has a mailing address or the party of record has specifically requested a hard copy.

		Organization/	Phone	
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