

From: [Rebecca Messinger](#)
To: [Oliver Orjiako](#); [Jose Alvarez](#); [Sonja Wiser](#)
Subject: FW: The GIS METADATA INFORMATION BROWSER, GMA Landuse, dated May 12, 1993, and the "Green Alternative", explains what actually created the rural and resource land illegal zoning.
Date: Tuesday, April 2, 2024 8:27:41 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Please see the below comments. Thanks!



Rebecca Messinger
Clerk to the Council
COUNTY MANAGER'S OFFICE

564-397-4305



From: Kathleen Otto <Kathleen.Otto@clark.wa.gov>
Sent: Monday, April 1, 2024 4:48 PM
To: Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>
Subject: FW: The GIS METADATA INFORMATION BROWSER, GMA Landuse, dated May 12, 1993, and the "Green Alternative", explains what actually created the rural and resource land illegal zoning.



Kathleen Otto
County Manager

564.397.2458



From: Clark County Citizens United, Inc. <ccuinc@yahoo.com>
Sent: Monday, April 1, 2024 4:41 PM
To: Gary Medvigy <Gary.Medvigy@clark.wa.gov>; Karen Bowerman <Karen.Bowerman@clark.wa.gov>; Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Glen Yung

<Glen.Yung@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>

Subject: The GIS METADATA INFORMATION BROWSER, GMA Landuse, dated May 12, 1993, and the "Green Alternative", explains what actually created the rural and resource land illegal zoning.

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Clark County Council
P.O.Box 5000
Vancouver, Washington 98666

April 1, 2024

FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN UPDATE

Re: The GIS metadata page under METADATA INFORMATION BROWSER, GMA Landuse, dated May 12, 1993, and the "Green Alternative", explains what actually created the rural and resource land illegal zoning.

Dear Councilors,

Clark County Citizens United, Inc. is currently reviewing former court cases where CCCU has prevailed. While reading CCCU's initial brief, written by attorney, Glen Amster and presented to Honorable Edwin J. Poyfair in the Superior Court of Washington for Clark County, Case No. 96-2-00080-2, there is a quoted passage from staff that is of importance to the update of the 2025 Comprehensive Plan.

Mr Amster writes on page 23, of his Petitioners' Opening Brief:

"The "Agri-Forest" resource designation first appeared in the September 23, 1994 staff recommended plan. Exh. 20, p. 1. In a memorandum to the Board of Commissioners and Planning Commission, the staff attempted to explain its designation process:"

"The 20 year Plan map also included a third combination designation, Agri-Forest, which was initiated in part by the advisory committee but not resolved. A total of 36,000 acres of Agri-Forest are indicated on the 20 year Plan map, of which 3,000 acres were recommended by the advisory committee, under an earlier Agriculture Tier III classification. 8,000 acres were identified without formal recommendation by the committee as Agri-Forest and the remaining 25,000 acres were later identified by staff....."

What this says is that **only 3,000 acres or the Agri-Forest land was determined by the advisory committees. The remaining 33,000 acres were determined by staff.** But staff will claim that what is mapped in the current Comp Plan map, was the result of the work of the resource committees. As noted, there was no formal recommendation by the committee to name the downzoning Agri-Forest designation. The statement by staff is false.

The GIS metadata page under METADATA INFORMATION BROWSER, GMA Landuse, dated May 12, 1993, explains what actually happened and states:

"Landuse polygons created for 1994 GMA Depicts land uses within Clark County as determined by the Planning Department. It is a combination of the Assessors Landuse (Primary Property Type) and the mapping departments Photo Interpretation."

These committees spent two years, carefully going through the GMA criteria for both forest and agriculture resource

land. Before CCCU was formed, two of CCCU's current Board members were on those committees. Dan Dupuis has since passed away. Both of them reported that at the last hour, all their work was rejected, except 3,000 acres. In its place were the demands of staff and attorney, John Karpinski, representing CCNRC, which is now called Friends of Clark County.

In his letter to Peggy Scolnick, Clark County Planning, dated March 16, 1994 (EXHIBIT A)

Mr. Karpinski states:

"Dear Peggy,

Thank you for your inquiry regarding details of the CCNRC's Green Alternative, and the County's apparent consideration of including this alternative as a full and complete alternative in the Growth Management DEIS. As you know, CCNRC's Green Alternative has four elements: 1) reduced Urban Growth Boundaries; 2) enhanced Ag and Forest Land protections; 3) increased Critical Land protection; 4) vigorous rural development limitations. Here is a brief outline of the elements that we consider key to any Green Alternative:

I. URBAN GROWTH BOUNDARIES

- A. Shrink all Urban Growth Boundaries from approved Interim Boundaries.**
- B. Shrink Vnacouver UGB based on map I presented at recent meeting with County Staff, except exclude all of Felida west of McCann road.**
- C. Shrink Washougal UGB by areas inside Columbia Gorge National Scenic Area.**
- D. I would be more than happy to take a few minutes and sit down with you and other staff, to go into more detail on each of these UGBs. Please call and schedule a time if you are interested.**

II. INCREASED AG-FOREST PROTECTIONS

- A. Increase lands designated for Agriculture by removing parcelization criteria; paramount factor should be soil type.**
- B. Lands currently useable as both Ag/Forest but currently fall into neither category should be categorized as Ag/Forest with appropriate minimum acreages.**
- C. Minimum acreages described in Internal Draft 3-11-94 Alternative C are acceptable for SEPA purposes for Ag and Forest minimum lot sizes.**

III RURAL DEVELOPMENT SCENARIOS.

- A. Minimum lot sizes suggested in 3-11-94 Internal Draft acceptable, but should be re-labeled to: 10 acres: Rural; 15 acres: Rural Conservancy.**
- B. Clear and specific policies limiting development on currently valid by soon to be substandard lots must be included. Potential solutions include: 1) a lottery for building permits that will ensure that no more than approximately 1/20th of the rural residential growth projection is implemented per year; 2) required amalgamation of rural lots; and 3) an aggressive program of transferrable development rights, excise tax increase to buy development rights, etc. to obviate any major takings concerns.**
- C. Substantial new development limitations in Critical aquifer recharge areas, floodplains, steep slopes, etc.**

I hope this outline provides you sufficient detail as to be able to include, analyze and model a Green Alternative in the Draft EIS. If you have any questions regarding any of these ideas, or wish more details (for example, like on Urban Growth Boundaries), I will gladly meet with you to discuss these issues. Please be advised that I will be on vacation from April 1 through April 14. Also please be advised that CCNRC is willing to accept combining the Rural Clark County Preservation Association Rural Alternative with CCNRC's Green Alternative. Although there are minor differences between CCNRC and the rural group's plan (CCNRC opposes family compounds, requests larger lot sizes for Forest zones), the Internal Draft of 3-11-94, combined with the comments herein, should help to accurately present a comprehensive course of action that is both consistent with CCNRC and the Rural Clark County Preservation Association's interests, and is the best course of action for the community.

Thank you again for your continued consideration of including a Green Alternative as a full and complete alternative in the Growth Management Plan EIS.

Sincerely yours,

Joh S. Karpinski " A cc: was sent to Jim Seeley, Craig Greenleaf, Ed Gallagher, Olofre Contreras, CCNRC Chair, and RCCPA.

So one can see that the Agri-Forest resource land designation came from Mr. Karpinski, and not the resource committees.

RURAL CLARK COUNTY PRESERVATION ASSOCIATION is a business entity in , registered with the Secretary of State of Washington State. The Unified Business Identifier (UBI) of the entity is #601489785, the entity type is *Wa Nonprofit Corporation* and the business category is *Regular Corporation*. The entity was incorporated on August 20, 1993 in Washington, expiring on August 31, 2001, dissolved on December 3, 2001. The current entity status is *Inactive*. The registered business location is at 3800 Ne 399th St, La Center, WA 98629. The registered agent of the business is **Dennis R Dykes**. The agent office address is 3800 Ne 399th St, La Center, WA 98629.

The rural and resource maps were illegally created, as the researchfactu, al data and documents prove, regardless of what county staff claims that a Hearing Board decision says otherwise. The Published Opinion from the Court of Appeals Division II in Case #22164-1-II clearly states to all concerned:

"CCNRC argues that the trial court was required to defer to the Board's interpretation of the GMA, and that this court must also. Although a court will defer to an agency's interpretation when that will help the court achieve a proper understanding of the statute, "it is ultimately for the court to determine the purpose and meaning of statutes, even when the court's interpretation is contrary to that of the agency charged with carrying out the law? Here, in our view the Board misread the statute and exceeded its authority. If we were to defer to its ruling, we would perpetuate, not correct, its error. Under these circumstances, we hold that deference it not due."

Based on the foregoing, we conclude that the GMA does not require counties to use OFM's projections as a cap on non-urban growth. The Board exceeded its authority, and the trial court did not err by reversing the Board ruling.

Affirmed; J. Morgan

We concur: C.J. Bridgewater, J.P.T Reynolds"

Clark County Citizens United, Inc.can find no proof that Clark County complied with this court order and the court order of the Superior Court. The Hearing Board mis-stepped when it "presumed: compliance in **Case No. 95-2-0067c - Order Finding Compliance** and closing Case. That documents reads:

"Although compliance was shown on some issues, complaince for several remaining issues in this case has never been found i n a Board order. This case has been open for a number of years without actions by any party. However, on September 7, 2004, Clark County adopted a rervised comprehensive plan. Several aspecgts of this revised comprehensie plan were challenged in a Petition for Review and eventually found compliangt. See Building Assiciation of Clark County et at., v. Clark County WWWGMHB Case No. 04-2-0038c (Amended Final Decccision and order, November 23, 2005) The unchallenged portions of the reevised comprehensive plan are presumed valid and deemed compliant. RCW 36.70A.320 (1). Therefore, with the adoption of a revised comprehensive plan and"

'et.at., v Clark County, WWWGMHB Case No. 04-2 0038c, it appears to the Board that the complaince issues remaining in this case have been most likely resolved. June 6, 2006."

While all this process was playing out, CCCU was told by county staff and commissioners, not to respond to the 2004 Comprehensive Plan update, because the county was in the courts over **urban** issues and they would not be working on the rural issues, until the county had resolved those in , **Building Association of Clark County et al, v. Clark County WWWGMB Case No. 04-2-0038c**. Even so, CCCU did present testimony insisting that the court orders must be followed.

In addition, the county and building association were using CCCU's attorney, Glen Amster to process that court action, without CCCU's knowledge. CCCU would not have been able to respond on time to the Hearing Board request, because CCCU's registered attorney was tied up with the other court action, making it a conflict of interest. The Planning Commission was ordered by Clark County attorney, Rish Lowery prior to the court action, that they would not be allowed to revisit the rural areas or work on the issues noted in the court orders.

It was all so perfectly planned through the GMA, the Agri-Forest designation, the Hearing Board, the 2004 court action, the inability for CCCU to use the registered attorney, and the resulting non-compliance to the Superior Court and the Court of Appeals Division II Orders, to lock up rural and resource lands with a "cap on rural growth". But, there is no record in either the Superior Court data or the Court of Appeals data, confirming Clark County, or the Hearing Board had ever confirmed compliance to the Courts. For Clark County to move forward with yet another comprehensive plan update, they must adhere to the law, and be compelled to make the necessary corrections needed to be compliant to the Courts.

Sincerely,

Carol Levanen, Exec. Secretary

Clark County Citizens United, Inc.
P.O. Box 2188
Battle Ground, Washington 98604