

**From:** [Rebecca Messinger](#)  
**To:** [Cnty 2025 Comp Plan](#)  
**Subject:** FW: FINAL; Primary stakeholders were ignored in the Wetland and Habitat Ordinance Conservation Covenant  
**Date:** Friday, July 12, 2024 3:14:22 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Good afternoon,

Please see the below public comments. Thank you!



**Rebecca Messinger**  
Clerk to the Council  
COUNTY MANAGER'S OFFICE

564-397-4305



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**From:** Kathleen Otto <Kathleen.Otto@clark.wa.gov>  
**Sent:** Friday, July 12, 2024 1:04 PM  
**To:** Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>  
**Subject:** FW: FINAL; Primary stakeholders were ignored in the Wetland and Habitat Ordinance Conservation Covenant



**Kathleen Otto**  
County Manager

564.397.2458



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**From:** Clark County Citizens United, Inc. <[cccuinc@yahoo.com](mailto:cccuinc@yahoo.com)>  
**Sent:** Friday, July 12, 2024 12:45 PM

**To:** Gary Medvigy <[Gary.Medvigy@clark.wa.gov](mailto:Gary.Medvigy@clark.wa.gov)>; Karen Bowerman <[Karen.Bowerman@clark.wa.gov](mailto:Karen.Bowerman@clark.wa.gov)>; Michelle Belkot <[Michelle.Belkot@clark.wa.gov](mailto:Michelle.Belkot@clark.wa.gov)>; Glen Yung <[Glen.Yung@clark.wa.gov](mailto:Glen.Yung@clark.wa.gov)>; Sue Marshall <[Sue.Marshall@clark.wa.gov](mailto:Sue.Marshall@clark.wa.gov)>; Kathleen Otto <[Kathleen.Otto@clark.wa.gov](mailto:Kathleen.Otto@clark.wa.gov)>; Oliver Orjiako <[Oliver.Orjiako@clark.wa.gov](mailto:Oliver.Orjiako@clark.wa.gov)>; Jose Alvarez <[Jose.Alvarez@clark.wa.gov](mailto:Jose.Alvarez@clark.wa.gov)>

**Subject:** Fw: FINAL; Primary stakeholders were ignored in the Wetland and Habitat Ordinance Conservation Covenant

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Clark County Council  
July 12, 2024  
P.O. Box 5000  
Vancouver, Washington 98666

FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN

**Re: Primary stakeholders were ignored in the Wetland and Habitat Ordinance Conservation Covenant**

Clark County Citizens United, Inc. believes that rural land owners, farmers, equestrians, and property rights advocates should have been considered primary stakeholders in the formation of the county's Wetland and Habitat Ordinance, particularly as it regards the permanent conservation covenant. The new policy, meant to guide future rural permitting, would have excited strong feelings within these key stakeholder groups, whose lands would be directly impacted, personally and financially.

The exclusion of these certain citizens, from the public process, can best be compared to the lawlessness of a Wild West poker game, due to the amount of creativity involved. This makes the public process woefully flawed and meaningless, as it's tilted in favor of a certain outcome. CCCU's membership is well aware of how the deck is intentionally stacked. Most readers are unaware of the joker concealed in the agency's sleeve, the conservation covenant.

The ambiguous, controversial conservation covenant language was not asked for and not needed. It was innocently born by environmental concerns. The membership of Clark County Citizens United believes staff is not being honest with their motives when applying covenants. It appears the application of the ordinance is being used in attempts to end rural housing, drive excessive costs and assume management and control over the entire parcel of land from unsuspecting permittees.

Language that burdens the entire parcel was not discussed in any public process, and the covenants are being used as staff's hidden wild card. Compounding bias, staff will readily assume unauthorized authority and interpret rules without benefit of best available science. This provides staff a massive boost towards gaining the covenants. Unfortunately, the landowners are forced to rely on agency incorrect judgements, characterizations and determinations.

The sledgehammer impacts on property rights, land uses, and excessive costs are huge and heavy. The covenants have *tremendous influence* on landowner activities yet the impacts to private land ownership are never acknowledged and evaluated. The "reasonable use" language in the ordinance is useless, and farmers, equestrians, rural land owners and permittees have no understanding of what is happening. They have no idea how unelected agency staff are allowed to decide what the policy and regulations say. Who is left to uphold the true ordinance, if agency interpretations are allowed to be arbitrary and capricious?

Agency permitting actions show a radical departure from the ordinance that was presented to the public and adopted in final policy. Conservation covenants *recorded on deeds in perpetuity* is not recognized in any public process, is not recognized in public hearings, and is not recognized in the final adopted ordinance. The lack of specific policy and ordinance language requiring the *conservation covenant recorded on the deed in perpetuity* is alarming, and leaves land owners vulnerable and open to staff's imaginative interpretations.

The ordinance language and resulting regulatory actions need to explicitly express what is to take place and what will be required by the land owners. The document's language needs to more clearly support a true nexus, and the mitigation needs to be roughly proportional and restricted to the potentially impacted area. There are no legitimate reasons the covenant should burden the entire parcel deed, and not be confined to the mitigated area.

The intent of the policy to recognize critical areas is well supported. On the other hand, the land owner's perspective and impacts to property rights and lawful activities has been purposefully left out. Both should carry equal weight as one interest does not outweigh the other. According to **RCW 36.70A.020 GMA Goals**, both interests are to be acknowledged, as they both carry **equal footing under the law**, a mandate that is ignored.

According to **MRSC, Overview**

*Under **RCW 36.70A.020**, the GMA establishes a series of 15 goals that should act as the basis of all comprehensive plans. The GMA specifically notes in the statute that the goals*

***"are not listed in order or priority"** and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations".*

**Goals 4, 5, 6, and 11** are not given their rightful place in the Clark County Comprehensive Plan, regardless of all the text by staff that says otherwise. It is all just story telling, and does not demonstrate a full hand in the showdown to win the pot.

## **GMA Goals RCW 36.70A.020**

1. **Urban growth.**
2. **Reduce Sprawl.**
3. **Transportation**
4. **Housing.** Plan for and accommodate housing affordable to all economic segments.
5. **Economic development.** Encourage economic development throughout the state.
6. **Property rights.** Private property shall not be taken for public use without just compensation having been made.
7. **Permits.** Applications should be processed in a timely and fair manner.
8. **Natural resource industries.**
9. **Open space and recreation**
10. **Environment**
11. **Citizen Participation and coordination.** Encourage the involvement of citizens.
12. **Public facilities and services.**
13. **Historic preservation**
14. **Climate change and resiliency**
15. **Shoreline management** (RCW 36.70A.480)

Clark County will not benefit from environmental wins without the rural landowners. Their financial and on-the-ground contributions are unparalleled, as they comprise a broad swath of stakeholders. In most cases, staff will fabricate a nexus to establish a covenant. Agency staff are leveraging this broad stakeholder group to gain unwarranted mitigation, demand needless restorative work and create environmental enhancements on private land. The landowner's are never compensated. The entire property of the stakeholder is burdened with a conservation covenant in perpetuity, rather than confined to the mitigated area, in a reasonable timeframe. This is not clearly stated in the ordinance. In truth, no nexus, and no rough proportionality exists when the entire deed is burdened in perpetuity.

As CCCU delves into the history of the critical lands ordinance, details are emerging about the murky origins of the conservation covenant, the ordinance, the regulatory actions and staff's interpretation. One cannot deny, the public process was highly restricted and flawed. No one in charge recognized the primary stakeholders, the rural landowners. No one in charge opened up the process to be representative of those most impacted. The ordinance is a *vaguely worded* document that is very powerful and capable of superseding the guaranteed zoned land uses in the lawfully adopted Comprehensive Plan. The deed-recorded conservation covenant makes the county a co-manager of privately owned land, and that is not allowed under the GMA and the law.

Sincerely,

Susan Rasmussen, President

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