

**From:** [Oliver Orjiako](#)  
**To:** [Jeffrey Delapena](#)  
**Subject:** FW: FOCC Comments regarding DEIS Alternatives\_Dec\_6\_2024  
**Date:** Wednesday, December 4, 2024 4:27:44 PM  
**Attachments:** [DEIS Alternatives\\_12\\_6 FOCC letter.docx](#)  
[image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Hi Jeff,

FYI. For the comp plan record. Thanks.



**OLIVER ORJIAKO**  
Director  
COMMUNITY PLANNING

564.397.2280



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**From:** Ann Foster <annfoster5093@gmail.com>  
**Sent:** Wednesday, December 4, 2024 4:04 PM  
**To:** Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>; Bart Catching <Bart.Catching@clark.wa.gov>  
**Subject:** FOCC Comments regarding DEIS Alternatives\_Dec\_6\_2024

**EXTERNAL:** This email originated from outside of Clark County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Please accept our letter below as one of the submissions to be considered by the Council in its discussion of Comp Plan alternatives on Friday, December 6, 2024.

Please enter into the public record.

Thank you and best regards,  
Ann Foster, President  
Friends of Clark County



# Friends of Clark County

PLANTING THE SEEDS OF RESPONSIBLE GROWTH

December 4, 2024

Clark County Council  
In care of: Community Planning  
Dr. Oliver Orjiako, Jose Alvarez and Bart Catching  
Comments on DEIS Alternatives  
Public Services Building  
1300 Franklin Street  
Vancouver WA 98666

RE: For Clark County Council Hearing on DEIS Alternatives

Sent via email *only* to [rebecca.messinger@clark.wa.gov](mailto:rebecca.messinger@clark.wa.gov)

Dear Council:

As President of the Friends of Clark County<sup>1</sup> (FOCC), I am writing on behalf of the organization and our many individual members. I include myself in my personal capacity as a resident of Clark County.

These comments are for the record.

FOCC urges the current Council to defer the decision regarding which specific alternatives should be studied until the new Council is seated on January 7, 2025. The voters have chosen new representatives who will be charged with finishing the Comprehensive Plan update, including choosing a Preferred Alternative. In addition, given recent evidence of budget shortfalls, the new Council will have to grapple with complying with the current mandates while making sure the County has the financial resources to fund the plan through its adoption at the end of 2025. Therefore, FOCC asks the Council to defer this decision until the new Council is sworn in next month.

However, should the Council decide at the December 6, 2024 hearing on proceeding to a vote on the DEIS Alternatives to be studied, then we provide the following comments for your consideration:

A. We propose that the County adopt a broader vision which recognizes the intrinsic and

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<sup>1</sup> FOCC is a 501(c)(3) Washington State non-profit corporation that works collaboratively with community partners and policy makers to keep Clark County a beautiful and healthy place to live, work, and play. FOCC supports smart growth that allows for economic development in balance with protecting the area's precious resources and community assets. FOCC Board members, staff, supporters and members regularly participate in public processes by writing emails, letters, and providing testimony at public hearings concerning many land use and quality of life issues. FOCC has participated in each phase of the 2025 Comprehensive Plan update. We previously submitted comments on the scoping of the EIS and have incorporated those comments in this letter for the record.

- extrinsic value of these agricultural lands and takes positive and definitive steps to protect and preserve these lands. Our county has a rich agricultural history and much of it was recognized when the County initially designated agricultural lands of long-term commercial significance. However, in the decades since the original designations, institutional support has eroded for our agricultural community. This erosion of support has been fed by land speculation that turned our prime farmlands, farmlands of statewide significance, and our rural lands into just another subdivision inside an urban growth boundary or a cluster subdivision in the rural area. We propose a vision that embraces, rather than diminishes our rich agricultural history and recognizes the wealth of benefits and bounty our residents can draw from the preservation, protection and enhancement of these valuable resource lands.
- B. The Council should reject the inclusion of specific agricultural lands of long-term significance (most of which are currently designated as AG-20) into any UGAs. The County should also reject any other site-specific requests (SSRs) proposing conversion of AG-20 or forest lands that are located outside of proposed UGAs. In addition, the Council should reject any attempts to convert rural lands that abut or surround agricultural or forest lands because they are essential for protecting agricultural and forest lands. Thus, none of the SSRs, whether proposed to be within a specific UGA or as stand-alone requests located outside of proposed UGAs, should be included in any DEIS alternative proposed to be studied.
- C. A DEIS Alternative should include an “Existing Boundaries” Alternative as proposed by the City of Vancouver<sup>2</sup> and Futurewise<sup>3</sup> because at least one alternative should accommodate the selected population and employment projections within the existing urban growth areas and not convert natural resource lands to other uses. This alternative meets the requirements for a reasonable alternative in WAC 197-11-440(5)(b). Based upon the current Vacant Buildable Lands Model (VBLM), each UGA has sufficient land capacity to accommodate all population and housing. In addition, although parts of the VBLM may show a very modest deficit in land capacity for jobs in the Cities, FOCC believes that the calculations regarding jobs per acre underestimate the land capacity within the existing UGAs to accommodate the job growth allocations and, in fact, the Cities all have sufficient land within existing boundaries to accommodate their job growth allocations.
- D. Some of the SSRs are for Surface Mining Overlays (SMO). 22 of these requests come from BRP Minerals, LLC, a subsidiary of National Resources. None of these sites should be approved unless or until a full and complete county-wide study of aggregate availability is completed as the County did as part of the 2016 Comprehensive Plan Update<sup>4</sup>.

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<sup>2</sup> At the Planning Commission, FOCC advocated for the No Action Alternative because staff stated that the Cities had produced UGA expansions that were not supportable since the existing UGAs, even with the medium+ OFM # selected by the Council, had capacity for the forecasted housing and population allocations. However, an “Existing Boundaries” alternative may be appropriate as, at least so far, County staff’s reports show that all the existing UGAs have the land capacity to accommodate all of the forecasted population and housing needs for the planning period.

<sup>3</sup> See Futurewise Letter dated October 1, 2024 at pages 1-4 which FOCC adopts and incorporates by this reference.

<sup>4</sup> By way of comparison, that process included the convening of a Mineral Lands Advisory Committee, took over 3 years and included over 10 hearings and work sessions.

This letter incorporates by reference the prior letters on the DEIS alternatives submitted by FOCC, and Futurewise, to the Planning Commission as part of the official record of this Comprehensive Plan update and portions of the City of Vancouver letter dated November 6, 2024.

### DISCUSSION

First, County staff and the Planning Commission have rightly rejected the requests by Northwest Partners to study the myriad of SSRs that are outside of any proposed UGA<sup>5</sup>. Staff has made it clear that such a request is untenable for a plethora of reasons<sup>6</sup>. At the Planning Commission hearing, a motion to study those SSRs outside the proposed UGA's died for lack of a second. Therefore, the focus of any deliberation should be on the Alternatives forwarded by the Planning Commission. FOCC's position is that the proposed UGAs contain more land for population, housing and jobs than is necessary to accommodate those allocations, i.e. the existing UGAs can accommodate all the growth that is anticipated even when the County has selected the medium-high OFM population forecast.

Second, the Council should reject the Planning Commission recommendation to unpack the current VBLM and study the impact of a market factor for "jobs lands"<sup>7</sup>. There are multiple considerations/assumptions in the VBLM that lead to overall reductions in land that the model considers available for jobs and the BLPAC did not recommend what has now been brought up at the 11<sup>th</sup> hour by Commissioner Baker as a consideration.

Third, we emphasize that the County should set a goal where the Alternatives presented or the DEIS provide expansion of protections for designated agricultural lands<sup>8</sup>, as the Growth Management Act (GMA) requires it. *See Concerned Friends of Ferry Cnty. v. Ferry Cnty.*, 191 Wn. App. 803, 831–32, 365 P.3d 207, 221 (2015) *rev denied Concerned Friends of Ferry Cnty. v. Ferry Cnty.*, 185 Wn.2d 1030, 377 P.3d 724 (2016). The two proposed Alternatives forwarded by the Planning Commission would convert at least 700 acres of agricultural land to non-agricultural land uses<sup>9</sup>. The proposed conversions and reductions of prime farmland and

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<sup>5</sup> The NWP letter follows the same pattern of requesting thousands of acres of land to be converted to residential lands that have previously been rejected over and over by the Growth Management Hearings Board and the Courts.

<sup>6</sup> For example, the proposal suggests the conversion of 18,000 acres in the Vancouver UGA alone. *See* <https://websvc2.clark.wa.gov/CommunityPlanning/2025CompPlanUpdate/36712775.pdf>. FOCC assumes that many of these SSRs are being made as part of the Comprehensive Plan update rather than as part of the normal county land use process because they will likely receive less scrutiny this way simply as a function of time and staff availability and, even more importantly, they do not have to pay the fees that would be applicable should they go through the normal process. Of note, the County is seeking an increase in the applicable land use fees because the current fee structure does not cover the cost of processing the applications. *See* [https://clark.wa.gov/sites/default/files/media/document/2024-11/d120224\\_cd\\_wetlandhabitatfees.pdf](https://clark.wa.gov/sites/default/files/media/document/2024-11/d120224_cd_wetlandhabitatfees.pdf). Frankly, the request is simply not a serious proposal, as it is neither legally or factually justifiable and even the study of the request would far exceed the County's financial and staff resource limits.

<sup>7</sup> The PC recommendation was to study a market factor Of 10% for vacant lands and 30% for underutilized lands. FOCC also asserts that the staff's change in the determination regarding Mixed Use splits of residential and commercial is not supportable by the record, and we support the comments by the City of Vancouver in their November 6, 2024 letter at p 6 including fn 2.

<sup>8</sup> *See* WAC 365-196-815(1)(b)(i) and (ii).

<sup>9</sup> To emphasize the ridiculous nature of the NWP proposal, the SSRs also collectively seek to convert an additional 3300 acres of agricultural lands in addition to the 700 acres that are proposed to be converted by inclusion into the various UGAs.

farmlands of statewide importance in the various proposals are the antithesis of the legal requirement to maintain and enhance agricultural industries, meaning they are not legally supportable. Conversely, protecting those valuable agricultural lands would provide Clark County with an efficient, financially justifiable and effective path to meet the legal mandate of protecting and preserving agricultural lands.

Fourth, current legal precedents, combined with the GMA statutory scheme and the WAC rules regarding designation and de-designation of agricultural lands, are clear that de-designation is unlawful unless the county completes a full and thorough county-wide analysis of the County's AG lands. A parcel-by-parcel, or even parcels-by-parcels, analysis violates the requirement of a county-wide analysis<sup>10</sup>.

To summarize, the reasons the Council should deny all requests for de-designation (conversion) of agricultural lands include, but are not limited to:

1. All of the agricultural land has previously been studied and specifically designated as agricultural lands and those designations have been found to be legally valid;
2. The law requires preservation and protection of designated agricultural lands;
3. The law requires that the County conduct a comprehensive county-wide analysis *prior* to de-designating any agricultural lands. The County has not conducted such an analysis;
4. Piecemeal analysis and/or studies by specific parcels, do not meet the legal requirement of a County wide analysis and should be rejected<sup>11</sup>; and
5. An integral part of protecting and preserving designated agricultural lands is also providing sufficient buffer areas in the form of having low density rural lands (such as R5, R10 and R20) where possible to protect those lands; and
6. In addition to agricultural production, the law recognizes that designated agricultural lands provide multiple and varied environmental enhancements, priority habitats, fish and wildlife habitats and other environmental benefits that promote a healthy community; and
7. Each of the current City UGAs have sufficient capacity for the allocated residential

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<sup>10</sup> *Futurewise v. Benton County*, GMHB Case No. 14-1-0003, Final Decision and Order (Oct. 15, 2014), at 37 of 38.

<sup>11</sup> WAC 365-195-040(10)(b)(i) and (ii) provides:

Designation amendment process.

(b)(i) De-designations of natural resource lands can undermine the original designation process. De-designations threaten the viability of natural resource lands and associated industries through conversion to incompatible land uses, and through operational interference on adjacent lands. Cumulative impacts from de-designations can adversely affect the ability of natural resource-based industries to operate.

(ii) Counties and cities should maintain and enhance natural resource-based industries and discourage incompatible uses. Because of the significant amount of time needed to review natural resource lands and potential impacts from incompatible uses, frequent, piecemeal de-designations of resource lands should not be allowed. Site-specific proposals to de-designate natural resource lands must be deferred until a comprehensive county-wide analysis is conducted. WAC 365-195-040(10)(b)(i) and (ii)

population and housing forecasts. *See VBLM Memo from Dr. Orjiako and Mr. Alvarez dated May 7, 2024; VBLM for County pp 10-13; Letter from City of Vancouver to Clark County Planning Commission dated November 6, 2024 (Comment Number #36712775---  
<https://websvc2.clark.wa.gov/CommunityPlanning/2025CompPlanUpdate/36712775.pdf>*). In addition, even under the County's employment density analysis, every current UGA has capacity for almost all of the employment land allocations <sup>12</sup>.

## A Bold Vision For Agriculture in Clark County

### Current State

The amount of agricultural land in Clark County has been consistently eroded by the County's actions over the decades since the passage of the original Comprehensive Plan. However, our current Community Framework Plan affords protection for those lands. *See 2015-2035 Community §§ 3.1.0, 3.1.1, 3.1.3, 3.1.5, 3.1.6* According to the most recent USDA agriculture census, between 2017 and 2022, Clark County saw a staggering **38% decrease** of our lands in farms.<sup>13</sup> With the site-specific requests seeking to de-designate previously designated agricultural lands, we are at risk of losing more of the precious acres we have left.

The development community and the Cities argue that they need to de-designate these protected agricultural lands for housing, population and jobs needs, along with their perennial argument that the agricultural industry in Clark County is not economically viable<sup>14</sup>. We believe in an alternative vision that understands the importance and legality of maintaining the agriculture designation (currently AG-20) on ALL of the agricultural resource lands in Clark County. We assert that by adopting the notion that agricultural lands are better served if converted to non-agricultural uses, the County has historically and would continue to undermine the capability of our agricultural sector to rise to its highest levels of productivity, which would also undermine our communities' access to food and our successful adaptation to the climate emergency. Just as our residents need housing, population, and jobs, they also need food

Clark County's own actions over the years have fostered agricultural land speculation, in part, due to the County's history of de-designating agricultural lands that, even when found to be in violation of the GMA and substantially interfering with the goals of the GMA requiring invalidation, the unlawfully de-designated lands have still been converted due to a variety of reasons, including annexations and vesting. In order to allow our agricultural landowners to thrive in this environment, they must be protected in ways that allow them to act with certainty,

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<sup>12</sup> Employment densities are assumed at 20 jobs per acre for general employment (commercial, business park and mixed use capacities) and 9 jobs per acre for industrial. However, we believe that, without going back to the BLPAC, the County has changed part of the VBLM which led to a determination that some Cities have less land capacity than required for their job allocation. FOCC believes the County's job allocation numbers showing a lack of capacity in the current UGAs is skewed towards a finding that more land may be required and would not pass legal challenges when, in fact, each jurisdiction has capacity for the forecasted jobs allocations within their existing UGAs.

<sup>13</sup> See USDA census for Clark County:

[https://www.nass.usda.gov/Publications/AgCensus/2022/Online\\_Resources/County\\_Profiles/Washington/cp53011.pdf](https://www.nass.usda.gov/Publications/AgCensus/2022/Online_Resources/County_Profiles/Washington/cp53011.pdf)

<sup>14</sup> See discussion below that the County's pursuit of its economic goals cannot outweigh its duty to designate, protect and preserve agricultural lands.



without fear of continued agricultural land conversions by the County.

### **Land Speculation is Increasing the Cost of Farmland So That It Is No Longer Affordable for Farmers**

The current plethora of SSRs are a glaring example of agricultural land speculation at play. Some of these agricultural lands were purchased by developers over the past 20 years with the expectation that they would be de-designated. Some landowners are seeking de-designation now to take advantage of the land price speculation boom. It is important to note that it does not have to be this way. Whereas the average cost of farmland in Washington State was \$3K per acre in 2019, or \$3,700 in today's dollars, farmland currently for sale in Clark County has a much higher cost per acre, in part because the County has almost always favored requests for de-designations and, thus, fanned speculation that the trend will continue.<sup>15</sup>

For example, a 44.7-acre property on the Ridgefield urban growth boundary is listed at almost \$7M dollars.<sup>16</sup> Assuming that the 5-acre homesite within the city of Ridgefield is worth \$2M in this real estate market, this calculates to over **\$126K per acre of farmland**. The listing reads: "Investors alert!! This home sits on the border of the urban growth boundary with the proposed Ridgefield school land across the street. There are three points of accessibility, two in the front and one at the back of the land. This property has three adjoining parcels, two parcels are zoned AG-20 and one is zoned City of Ridgefield. The owner is currently working to get the AG-20 parcels annexed into the Urban Growth Boundary."<sup>17</sup> **This IS agricultural land speculation on the face of the listing.** It should be noted that of this property's 39.55 acres, 18 acres are designated USDA prime farmland, 9 acres are designated USDA prime farmland if drained, and nearly 13 acres are designated as farmland of statewide importance. The price of \$126K per acre is too high for a farmer to afford, but the market is assuming that the county will rezone these lands and that a land speculator is banking on that fact by investing in the property.

Another example is in Felida where one landowner has recently purchased agricultural lands for hundreds of thousands of dollars and is now claiming that they are no longer viable as agricultural lands, seeking to have them de-designated and converted to R5 lands that he could then sell at a higher price and/or seek to have converted to cluster subdivisions at higher densities.<sup>18</sup>

Recently, 200 acres of agricultural lands that are south and west of the Ridgefield UGA went on the market for \$20 million, while the land does not even abut the current city limits or proposed expanded UGA.

<sup>15</sup> Source: <https://acetrader.com/resources/washington-farmland-prices>

<sup>16</sup> Source: [https://www.zillow.com/homedetails/412-NW-279th-St-Ridgefield-WA-98642/23324057\\_zpid/](https://www.zillow.com/homedetails/412-NW-279th-St-Ridgefield-WA-98642/23324057_zpid/)

<sup>17</sup>This is land that the City is seeking to include in its UGA without a documented need for the land capacity expansion. <https://gis.clark.wa.gov/gishome/Property/?pid=findSN&account=212566000>.

<sup>18</sup> A landowner (family property) owns several parcels in the area. However, the landowner just recently purchased 3 parcels—182859000 (purchased in 2022 for 750,000), 182844000 (purchased for \$650,000) and 182845000 (purchased for \$700,000 respectively). These three parcels are all AG-20 and are all now subject to site specific requests for de-designation and conversion. The landowner bought them as late as November 2022 and by September 2023 requested conversion.

<https://websvc2.clark.wa.gov/CommunityPlanning/2025CompPlanUpdate/35449893.pdf>. The landowner then submitted them for conversion as part of the comprehensive plan update.

<https://websvc2.clark.wa.gov/CommunityPlanning/2025CompPlanUpdate/35890634.pdf>.

## **Land Speculation Contributes to Decrease in Productivity In Our Agricultural Sector**

Agricultural lands that have not been de-designated are purchased by land speculators and developers on the speculative hope that the County will later allow de-designations and non-agriculture uses. In addition, landowners are seeking de-designations of agricultural lands so that they can sell to investors at higher values. The result is that landowners and land speculators choose to maintain the lowest productivity of the land so as to be able to claim that the lands have low value as agricultural lands and therefore the County should de-designate them to non-agricultural uses.

We have *very* productive agricultural soils in Clark County. Our soils were created by the Missoula Floods and they are very similar to the highly productive soils in the Willamette Valley, Oregon. Our vision is to encourage the highest and best use of the lands under their legally valid and appropriate designation of agricultural lands of long-term commercial significance, rather than permanently lose those soils and our collective food security under empty warehouses and high-priced housing in isolated subdivisions.

Clark County holds the highest possible NRCS soil productivity rating (59.7/100), but we are not realizing the economic potential of those soils. According to WSU extension:

Washington County [OR] currently produces about 2.4x as much value per acre than Clark County farms. The gross revenue per farm in Clark County is also soberingly low, as is the overall value for a county with so much productive potential...Clark County's farmland is dominated by hay and/or pasture...Hay is a notably low value-per acre farm product. Clark Co. growers are not necessarily growing hay because the area just happens to be an outstanding place for growing hay, but rather, this is often -unfortunately- driven by hay production just being a low input way to keep land in agriculture for property tax reasons, and/or while holding out for the right opportunity to subdivide and sell to a developer.

By promoting the highest and best agricultural uses on our prime farmlands and farmlands of state-wide significance<sup>19</sup>, and making it a clear county policy to protect and preserve those lands, speculators will fall away in the face of official County recognition that farmers should have the financial ability to take advantage of those lands so that our agricultural sector will be able to realize its productivity potential.

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<sup>19</sup> "Lands of statewide significance" refers to land areas within a state that are considered particularly important for agricultural production, often including land that is nearly as valuable as "prime farmland" but may not fully meet the criteria, and are recognized by the state as crucial for maintaining food production capacity; typically determined by the USDA Natural Resources Conservation Service (NRCS) based on soil quality and agricultural use history.



## **Negative Impact of De-Designating AG-20 Lands on Farmers in R-5 to R-20 Zones**

The proposed de-designation of AG-20 lands has significant implications that extend beyond the immediate loss of prime agricultural land. Small farmers operating on non-agricultural zoned lands, such as R-5 to R-20 zones, are particularly affected by these changes. The de-designation process impacts their ability to farm effectively and sustainably in several ways:

### **1) Increased Development Pressure on Rural Lands**

When AG-20 lands are de-designated and opened up for urban development, it sets a precedent that encourages further expansion into rural areas. This creates a ripple effect where development pressure spills over into adjacent R-5 to R-20 zoned lands. AG-20 lands often serve as critical buffers that protect smaller farms on rural lands from urban encroachment. Their conversion exposes R-5 to R-20 lands to immediate pressures of development, reducing the viability of small-scale farming.

### **2) Fragmentation of Agricultural Communities**

The de-designation leads to the fragmentation of contiguous agricultural landscapes, disrupting the cohesion of farming communities. This fragmentation affects small farmers by:

- **Reducing Access to Shared Resources:** A connected agricultural community allows farmers to share resources such as equipment, labor, and knowledge. Fragmentation limits these opportunities, increasing operational costs for small farmers on non-agricultural lands.
- **Limiting Market Opportunities:** The dilution of agricultural regions can diminish local markets, making it harder for small farmers to sell their products and sustain their businesses.

## **Cumulative Effect on Small Farmers**

The cumulative impact of these factors makes it increasingly difficult for small farmers on non-agricultural zoned lands to remain viable:

- **Competitive Disadvantage:** Small farmers face increased competition for land and resources, not from other farmers but from developers and non-agricultural interests.
- **Erosion of Agricultural Heritage:** The gradual loss of both large and small farms diminishes the agricultural character and heritage of Clark County, affecting community identity and tourism potential.

**This story is playing out throughout the county, but fortunately, the Clark County Council has the power to stop this practice and preserve this farmland for future generations.**

## Farmers Farming On Farmland Is The Future

### Farmers Will Grow Higher-Value Crops if Agricultural Land is Protected

There are people here in Clark County who are farming, and want to farm at higher and more productive levels, but their potential is stymied by the land speculation which artificially drives up the cost of the land. When land speculation drives up the perceived value, and potential sale price, of these prime agricultural farmlands, then the likelihood that farmers will be forced to lease land on which to farm increases. When a farmer can only operate under a lease, their willingness and ability to invest in the land is diminished because the lease could be terminated at any time should the landowner find a land speculator to purchase the property and obtain a de-designation. This is another collateral consequence of land speculation due to the County's historically poor protection of agricultural land.

It is a truism that when we have farmland purchased for the express purpose of farming, we will see a transition to farmers focused on maximizing income per acre by growing high-value crops, many of which require more inputs, more infrastructure, or a longer duration to provide a return on investment. A person who owns the land to farm the land can take the longer view of investment in what is needed for more productive, environmentally sustainable, and financially beneficial agricultural endeavors.

For example, high-value crops that our prime farmland soils can support include at least the following:

- Wine grapes: According to the Washington State Wine Commission, wine contributes “more than \$9.5B in annual in-state economic impact”.<sup>20</sup> But despite our excellent soils, Clark County is not even on the map of AVAs in Washington state.<sup>21</sup> Wine grapes are a water-wise crop that can be grown without irrigation once they are established.
- Nuts: In particular, we are an excellent hazelnut growing region. Oregon currently produces 99% of the country's hazelnuts.<sup>22</sup> Clark County growers have an opportunity to capture some of this market, and hazelnuts don't need to be irrigated.
- Cut flowers: Cut flowers are one of the most profitable crops per acre, with many farmers earning \$30K annually per acre.<sup>23</sup> We can grow a number of particularly high-value cut flowers in Clark County including peonies, dahlias, and roses.
- Mushrooms: Mushrooms are not only a high-value crop, but they can also be grown in a forest, which stacks the benefit of both an agricultural and a forest resource land. According to Cornell University, 1,000 shitake mushroom logs could generate \$12,480 of income for the farmer each year.<sup>24</sup>
- Cane fruit and berries: According to the WSDA, Washington state is the largest producer of blueberries in the world ([Source](#)).<sup>25</sup>

<sup>20</sup> Source: <https://www.washingtonwine.org/fast-facts/>

<sup>21</sup>Source: <https://www.washingtonwine.org/wp-content/uploads/2024/10/AVA-MAP-6.2023.pdf>

<sup>22</sup> Source: <https://www.ag-management.com/blog-home/the-u-s-hazelnut-market>

<sup>23</sup> Source: <https://www.agweek.com/crops/other-crops/how-to-be-a-flower-farmer-and-make-money-doing-it>

<sup>24</sup> <https://smallfarms.cornell.edu/projects/mushrooms/outdoor-production>

<sup>25</sup> <https://wastatedeptag.blogspot.com/2023/08/blueberries-2023.html>

When farmers are able to invest in farm infrastructure, we can also expect to see more crops grown in high-tunnels (unheated greenhouses) to extend the harvest season for many crops including tomatoes, peppers, cucumbers, salad greens, and many more.

Highly productive working farms can lead to productivity in other industries including: food manufacturing, tourism, restaurants and hospitality, and the wedding and event industry. For example, The Oregon Wine Board estimates that the wine industry contributes to \$758M of tourism dollars annually. And it creates 39.4K jobs. ([Source](#))

### **Our Community Will Benefit From Our Protection and Preservation of Our Farms**

The benefits of increasing our agricultural productivity are not only economic, but have multiple independent community benefits. Similar to our investment in parks and open spaces, the protection and preservation of our agricultural lands have many benefits that are hard, if not impossible, to monetize.

Local food production gives our local residents the ability to obtain fresh non-processed foods at affordable prices, sometimes even from their neighbors. For example, we now have the Second Mile Food Hub<sup>26</sup> that is part of this vision of bringing our agricultural products directly to our community. In addition, having food produced and sourced locally is imperative for climate resiliency, which must be addressed in the Comprehensive Plan update. Supporting and expanding our local food economy protects communities from food price spikes and shortages caused by extreme weather events that disrupt the supply chain and reduce crop yields in regions the US has traditionally relied upon for agriculture. Thus, robust local agriculture increases food security for our community.

Additionally, the Pacific Northwest's mild climate, ample rainfall, and diverse landscapes position it more favorably than other regions for agriculture amid climate change. As other regions face challenges like water scarcity and extreme temperatures, the PNW, while facing its own challenges, may become a more optimal region than others for agricultural production.

Agricultural lands near urban development are particularly valuable to our community, not for claiming that they should be urbanized and consumed for development, but rather because they create a tapestry of special benefits for the entire community, including:

1. **Access to Fresh, Local Produce:** They offer affordable, healthy food options.
2. **Environmental Sustainability:** Urban farms help reduce the carbon footprint by promoting local food production and reducing transportation costs.
3. **Green Space Creation:** They enhance urban aesthetics and provide natural spaces for relaxation and recreation.
4. **Educational Opportunities:** Urban farms can serve as centers for teaching sustainable practices, gardening, and nutrition. WSDA has a farm to school purchasing grant program aimed at bringing local produce into schools and connecting students with agricultural producers.<sup>27</sup> A public / private partnership between our school systems and nearby producers

<sup>26</sup> <https://secondmilemarketplace.com>

<sup>27</sup> Source: <https://agr.wa.gov/departments/business-and-marketing-support/farm-to-school-toolkit/grants>

offers an alternative path for these agricultural properties.

5. **Community Engagement:** They foster social connections and cooperation through volunteer work and local initiatives.

6. **Health and Well-being:** Urban farming encourages active living, mental health benefits, and a stronger sense of community pride.

In summary, we envision a vibrant future for farming in Clark County, but that future begins with the simple act of preserving ALL the farmland we currently have left.

#### B. GMA Requires Counties to Designate, Protect and Conserve Agricultural Lands

In pursuit of that vision, we recognize that the County previously designated lands within the County as agricultural, and those designations have been affirmed by the Growth Management Hearings Board (Board) and by the Washington appellate courts. *See Comprehensive Plan Public Comment Number [35896940](#)* (Letter from FOCC to Dr. Orjiako, September 3, 2015 at pp 3-7<sup>28</sup>). Thus, all the lands being proposed for de-designation (i.e. conversion to non-agricultural uses) have been determined to have been legally designated based upon substantial evidence. Thus these designated lands of long term commercial significance have been found to meet the legal requirements for their designation. As legally designated agricultural lands, the County cannot de-designate those lands without complying with the legal precedents, statutes and rules regarding de-designation.

Recently the Washington Supreme Court emphasized that the GMA requires counties to designate, protect and conserve agricultural:

*In King County*, we noted that the GMA requires counties to “designate agricultural lands of long-term commercial significance,” to “assure the conservation of agricultural lands and to assure that the use of adjacent lands does not interfere with their continued use for the production of food or agricultural products,” and to “conserve agricultural land in order to maintain and enhance the agricultural industry and to discourage incompatible uses.” 142 Wash.2d at 556, 557, 14 P.3d 133 (emphasis removed); RCW 36.70A.020(8), .060(1), .170(1)(a). The County has the responsibility, once that designation exists, to conserve and enhance agricultural lands under the GMA.

*King Cnty. v. Friends of Sammamish Valley*, No. 102177-1, 2024 WL 4231188, at \*9 (Wash. Sept. 19, 2024)(FOSV)

The *FOSV* Court went on to state that:

***Agricultural land that is specifically designated must be***

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<sup>28</sup> Clark County created a lawful process to designate agricultural land and, most importantly, all of those designations have been found to be legally valid under GMA. *See* CCCU, Inc and Michael Achen and Catherine Achen, 96-2-00080-2, Final Order, Poyfair, J.; Clark Cnty. Washington v. W. Washington Growth Mgmt. Hearings Review Bd., 161 Wash. App. 204, 234, 254 P.3d 862, 876 (2011) vacated in part sub nom. Clark Cnty. v. W. Washington Growth Mgmt. Hearings Review Bd., 177 Wash. 2d 136,298 P.3d 704 (2013)

*maintained and enhanced for potential future use under the GMA, even if the land is not being used for agricultural production currently. The GMA requirement ensures the land is preserved for future agricultural uses.* “The County [is] required to assure the conservation of agricultural lands and to assure that the use of adjacent lands does not interfere with their continued use for the production of food or agricultural products.” *King County*, 142 Wash.2d at 556, 14 P.3d 133. That agricultural designation has an effect on the SEPA review considerations for ordinances that impact such land. Any action (even creating a temporary, grass soccer recreation field, *see King County*, 142 Wash.2d at 545, 14 P.3d 133) that removes potential future productivity of agricultural land may have a probable significant environmental impact. *King Cnty. v. Friends of Sammamish Valley*, 556 P.3d 132, 148 (Wash. 2024)(italic emphasis in original bold emphasis supplied)(*FOSV*)

As stated, the County’s process in designating agricultural lands has sustained legal challenges and the designations have been affirmed as being based upon substantial evidence. However, as discussed below, almost all of the de-designations that the County has attempted to push through have not only been found to violate GMA but also have been found to substantially interfere with the goals of the GMA such that the Board issued multiple Orders of Invalidity.

In addition to the holding in *FOSV*, the Growth Management Hearings Board (Board)’s decision in *Futurewise v. Benton County*, reversed the county’s piecemeal de-designation of agricultural lands of long-term commercial significance<sup>29</sup>:

The Board considers Benton County’s de-designation of agricultural lands for this small section of land, in isolation from a much larger County or area-wide study to be inappropriate and, by de-designating lands that qualify as agricultural lands of long term commercial significance, the County violated WAC 365-190-050 and corresponding GMA sections RCW 36.70A.030, RCW 36.70A.050, and RCW 36.70A.170.<sup>30</sup>

Similar to the acreage that the Board found to have been unlawfully de-designated in *Futurewise v. Benton County*, the proponents of converting agricultural lands to non-agricultural uses in the current CP update process are attempting to support those conversions by asking that the County consider the parcels “in isolation”.<sup>31</sup> In separate letters to the County for the December 6, 2024 hearing, FOCC has highlighted some of designated agricultural lands zoned AG 20, many of which have a Current Use Agriculture and Farmland designation, that are

<sup>29</sup> *Futurewise v. Benton County*, GMHB Case No. 14-1-0003, Final Decision and Order (Oct. 15, 2014), at 37 of 38.

<sup>30</sup> *Id.* at 35 of 38.

<sup>31</sup> See *Futurewise* letter to Clark County Re: Ridgefield UGA expansion p. 3 (Sept. 16, 2015) and *Futurewise* letter to Clark County Re: La Center UGA expansion pp. 2 –3 (May 23, 2016) both of which highlight actions that were found to violate the GMA. Despite those previous findings, Cities and landowners are seeking similar conversions on the same or similar grounds in this current update.

proposed to be included into expanded UGAs<sup>32</sup>. The requests by the Cities to de-designate these AG20 lands are in violation of WAC 365-190-050 and the GMA, just as the Board held in *Futurewise v. Benton County*.

Thus, the County has a continuing obligation to protect and preserve those previously designated lands with regulations designed to prevent conversion and deny any primary use on the agricultural lands that would have the effect of converting the lands to non-agricultural purposes. WAC 365-190-815(1)(b)(i). In addition, the development regulations must be designed such that lands adjacent to agricultural lands do not interfere with the lands being used for agricultural purposes. WAC 365-190-815(1)(b)(ii).

### **History of De-designating Agricultural Lands In Contravention of GMA**

The fact that Clark County has continually taken multiple actions over the years to convert previously designated agricultural lands without legal justification is easily documented and establishes a pattern of conversions that are in contradiction to the legal and factual precedents. The County should reject the urge to again take actions to convert previously designated agricultural lands without engaging in the countywide process required by legal precedent, the statutes and the WAC.

In 2007, as part of reopening a previously updated Comprehensive Plan, the County approved the de-designation of thousands of acres of agricultural land. In reversing many of the County's de-designations, the Board embarked on their analysis with a basic premise of GMA that supports why we must be diligent in maintaining these legally valid and valuable agricultural lands:

The pressure to convert these lands, especially in areas impacted by population growth and development, is even more prevalent today. The Board recognizes that the counties and cities of Washington face a multitude of difficult and demanding challenges when determining how their communities will grow. But, these challenges must be addressed within the mandates of the GMA so as to serve the "public's interest in the conservation and the wise use of our lands"<sup>83</sup> Washington's limited, irreplaceable agricultural lands are at the forefront of this mandate, with cities and counties discretionary planning choices confined so as to prevent the further demise of the State's ability to provide food for its citizens.

*John Karpinski, Clark County Natural Resources Council and Futurewise, Petitioners v. Clark County, Respondent and Gm Camas L.l.c., Johnston Dairy, Et Al and Macdonald Properties, Daryl Germann, Curt Gustafson, T3g, LLC, 2008 WL 2783671, at \*19.*

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<sup>32</sup> As previously stated, these requests for expansion of the UGAs are unnecessary as the County has concluded that existing UGAs have the land capacity to accommodate the forecasted housing and residential populations, along with the lion's share of the job lands.



It is ironic, even though this foundational principle was made clear to the County 20 years ago, the County continues to ignore the basic foundational legal principle of the GMA to protect and preserve agricultural lands. As stated in the opinion, even economic development goals cannot “outweigh” the goals of protecting our agricultural lands and industries:

***Therefore, in using its discretion to balance the agricultural and economic development goals, the County’s economic development goals cannot outweigh “the duty to designate and conserve agricultural lands to assure the maintenance and enhancement of the agricultural industry”***

*Id.* at 36-37 (emphasis supplied)

The Board also stated that current use and landowner intent are not factors to consider:

The Supreme Court addressed the issue of landowner intent in the *City of Redmond* decision:

... there are compelling reasons against concluding the Legislature intended current use or landowner intent to control the designation of natural resource lands under the GMA. First, if current use were a criterion, GMA comprehensive plans would not be plans at all, but mere inventories of current land use. The GMA goal of maintaining and enhancing natural resource lands would have no force; it would be subordinate to each individual landowner's current use of the land.

***... if landowner intent were the controlling factor, local jurisdictions would be powerless to preserve natural resource lands. Presumably, in the case of agricultural land, it will always be financially more lucrative to develop such land for uses more intense than agriculture.***

*John Karpinski, Clark County Natural Resources Council and Futurewise, Petitioners v. Clark County, Respondent and Gm Camas, LLC; Johnston Dairy, Et Al. and Macdonald Properties; Daryl Germann; Curt Gustafson; T3g, LLC; 2014 WL 1371206, at \*13 (emphasis added)*<sup>33</sup>

In the 2007 update, the County asserted that they complied with the laws regarding de-designation of agricultural lands because they conducted some site specific analysis. However, even despite those site-specific analysis, the Board still found that the conversion of approximately 2,600 acres of agricultural lands violated the GMA and found that some of the County de-designations of agricultural lands substantially interfered with the Goals of the GMA and issued Orders of Invalidity.

<sup>33</sup> See also WAC 365-190-050(3)(b)(i)

Yet, in 2008, before the Board had a chance to rule on whether or not those properties were legally de-designated, Ridgefield annexed some of the properties<sup>34</sup> Ironically, the City now seeks to de-designate 11.5 acres of agricultural lands (admittedly without a county wide analysis) and assert that the lands should have been annexed back in 2008 and the other lands annexed are currently residential. Therefore, the city's position is "we annexed wrongfully de-designated agricultural lands, we then failed to protect legally designated agricultural lands we should have annexed before the Board ruled and now because we failed to protect them and developed around them, they should be de-designated".

In 2010, the state amended WAC 365-190-050 to **require** a countywide comprehensive analysis prior to de-designating agricultural lands.

As set forth above (fn 4), WAC 396-190-040(10) specifically provides that:

(10) Designation amendment process.

(a) Land use planning is a dynamic process. Natural resource lands review procedures should provide a rational and predictable basis for accommodating change.

***(b)(i) De-designations of natural resource lands can undermine the original designation process. De-designations threaten the viability of natural resource lands and associated industries through conversion to incompatible land uses, and through operational interference on adjacent lands. Cumulative impacts from de-designations can adversely affect the ability of natural resource-based industries to operate.***

(ii) Counties and cities should maintain and enhance natural resource-based industries and discourage incompatible uses. Because of the significant amount of time needed to review natural resource lands and potential impacts from incompatible uses, ***frequent, piecemeal de-designations of resource lands should not be allowed. Site-specific proposals to de-designate natural resource lands must be deferred until a comprehensive countywide analysis is conducted.*** (emphasis added).

In addition, the WAC 395-190-040(10)(c) provides:

***(b) Reviewing natural resource lands designation. In classifying, designating and de-designating natural resource lands,***

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<sup>34</sup> In its submitted comments in this update, Ridgefield, admits that the de-designation of those properties violated the GMA ***and substantially interfered with the goals of the act and the Board issued an Order of invalidity*** and, essentially, they annexed the properties recognizing that the Board might overturn the decision to include them in the Ridgefield UGA. Yet, now they lament that they failed to annex even more of the lands that should not have been de-designated and now which to annex those properties that they recognize were de-designated in violation of the GMA. Ironically, they assert landowner intent and current use as reasons to bring the land into their UGA in contravention of the direct edict of *City of Redmond*.

***counties must conduct a comprehensive countywide analysis. Counties and cities should not review natural resource lands designations solely on a parcel-by-parcel basis.***

(emphasis supplied)

Despite the rulings by the Board in the 2007 update, and also despite the 2010 amendment to WAC 1396-190-050, Clark County again sought to de-designate hundreds of acres of agricultural lands in the 2016 update. On June 20, 2016, as the date set for the final hearing to approve the 2016 update approached, the Washington Department of Commerce sent a letter to the County which forewarned them that specific proposals regarding the inclusion of agricultural lands in the Ridgefield and LaCenter UGAs, the upzoning of the AG lands from 20 acre to 10 acre minimum and the conversion of agricultural lands for the Rural Industrial Land Bank were unnecessary and not supported by the record. *See* <https://websvc2.clark.wa.gov/CommunityPlanning/2025CompPlanUpdate/35896938.pdf>

However, the County Council never referred to that letter in their deliberations and, again, despite those warnings from the Department of Commerce, the County approved multiple de-designations of agricultural lands in the LaCenter and Ridgefield area, as well as in an area the County designated as the Rural Industrial Land Bank. The County also changed the minimum acreage for Agricultural lands from 20 to 10. Thus, despite the warnings from DOC that these decisions were not legally sustainable, the County approved the land use changes.

Futurewise and FOCC appealed. Regarding the de-designation of agricultural lands in the LaCenter and Ridgefield, ***the Board found that the County failed “to provide evidence of a county-wide analysis to meet the requirements in WAC 365-190-050(5)” and stated in conclusion that “The Board finds and concludes the FOCC has carried its burden of showing that the County failed to conduct an area or county wide analysis in compliance with RCW 36.70A.050 and .060 and WAC 365-190-050”.*** *Clark County Citizens United, Inc, Friends of Clark County and Futurewise v. Clark County*, GMHB Case No. 16-2-0005c, Final Decision and Order (March 23, 2017)), at 43. As to the RILB land, the FDO states “The Board finds and concludes FOCC has carried its burden of proof demonstrating the County failed to conduct an area-wide analysis for this RILB site. *Id* at 79<sup>35</sup>.”

The Board’s FDO from 2016 case makes it clear that a countywide study that results in a determination that there are sufficient amounts of agricultural resources “to maintain and enhance the viability of the agricultural industry in the county ***over the long term.***” *Id.* at p 43.

Specifically, the Board found that:

La Center and Ridgefield ALLTCS de-designation decisions did not comply with WAC 365-190-050 in which a county-wide or area-wide study creates a “process [that] should result in designating an amount of agricultural resource lands sufficient to maintain and

<sup>35</sup> This ruling came after the County failed to heed the warning from the Department of Commerce set forth the DOC letter dated June 20, 2016. *See* Site Specific comments (<https://clark.wa.gov/community-planning/2025-update-public-comment>) at [35896938](https://websvc2.clark.wa.gov/CommunityPlanning/2025CompPlanUpdate/35896938.pdf).

enhance *the economic viability of the agricultural industry in the county over the long term.*” (Emphasis added in original). Instead, the Board finds the County requested these cities and property owners to include in their UGA requests:

“...a map clearly indicating the subject parcels... [and] the jurisdictions are responsible for providing the de-designation analysis of any land that is proposed to be taken out of the agricultural designation. The de-designation analysis of agricultural lands must be provided to County planning staff by May 1, 2015.”

Clearly, the County relied upon a parcel-by-parcel update from Globalwise for the La Center<sup>128</sup> and Ridgefield<sup>129</sup> and the County does not provide evidence of a county-wide analysis to meet requirements in WAC 365-190-050(5). The Board finds and concludes that FOCC has carried its burden of proof showing the County failed to conduct an area-or county-wide analysis in compliance with RCW 36.70A.050 and .060 and WAC 395-190-050.

*Id.*

Thus, in 2016, County did not heed the warnings of the DOC, the clear statements of the Board’s FDO on the 2007 de-designations (*Karpinski*) and ignored the 2010 WAC amendment. Thus, it should have come as no surprise that the Board found the 2016 de-designations violated the GMA and issued orders of invalidity. After those findings the County repealed the RILB designation<sup>36</sup> and also reverted the minimum acreage size for agricultural lands back to a 20-acre minimum<sup>37</sup>. However, due to annexations and vesting rules, and despite the rulings by the Board finding the de-designations and upzoning substantially interfered with the goals of the GMA, hundreds of acres that were de-designated unlawfully were allowed to convert<sup>38</sup>.

Since the County de-designated lands in 2016 without conducting the required county wide analysis, the Board found those designations to violate the GMA, and found that they substantially interfered with the goals of the GMA and issued Orders of Invalidity. Thus, the legal precedents, the WACs and the statutes collectively require that the County went through the correct legal process when it designated its agricultural lands of long-term commercial significance and those designations have been upheld by the Board and the Courts. Based on the

<sup>36</sup> [https://clark.wa.gov/sites/default/files/dept/files/community-planning/AR-Dockets/2019/ORD%202019-11-16%20RILB\\_exhibits.pdf](https://clark.wa.gov/sites/default/files/dept/files/community-planning/AR-Dockets/2019/ORD%202019-11-16%20RILB_exhibits.pdf)

<sup>37</sup> [https://clark.wa.gov/sites/default/files/dept/files/council-meetings/2017-Q1-Q2/062017PH\\_GMAComplianceOrdinanceF.pdf](https://clark.wa.gov/sites/default/files/dept/files/council-meetings/2017-Q1-Q2/062017PH_GMAComplianceOrdinanceF.pdf) Ord # 2017-06-04.

<sup>38</sup> The City of Ridgefield and the City of LaCenter annexed the converted lands prior to the Board’s ruling and, even though the Board ruled the de-designations violated GMA, a subsequent court decision held that the Board lost jurisdiction over the land once it was annexed into the cities. In addition, for example, the landowner of a 400-acre area of legally designated agricultural lands in the Manor area south of 199<sup>th</sup> and east of 50<sup>th</sup> avenue, filed a pre-application after the County approval of the reduction in minimum lot size and before the Board ruled and, thus, under the county vesting rules, vested its property at 10 acres instead of 20 acres and now have been successful in proposing a large cluster subdivision which would not have been possible under the 20 acre zoning.

law, the County cannot allow those legally designated agricultural lands to be de-designated unless the County engages in a full and complete county wide analysis.

After the Board issued its FDO in March 2017 that found those 2016 de-designations violated the GMA, the County held a meeting to discuss the issue of “compliance”. During that meeting, the County Counsel engaged in a discussion with the Council regarding the necessity for a county wide analysis prior to any de-designation of previously designated lands of long term commercial significance and acknowledged that the WAC was amended in 2010 to require a county wide analysis prior to de-designating agricultural and forest lands. <https://clark.wa.gov/sites/default/files/dept/files/council-meetings/2017-Q1-Q2/062017CompPlanVerbatimTranscript.pdf> at pp 45-46. Therefore, as of the spring of 2017, the County was well aware of the county wide analysis requirement.

However, despite the clear legal precedents, *and* the County’s recognition that the actions of de-designating agricultural lands in 2016 was done in violation of the law, FOCC has found 3 “studies”<sup>39</sup> that are in the record which were completed by private entities paid by landowners to conduct piecemeal de-designation of agricultural lands that purportedly “justify” the de-designation of agricultural lands. However, by their very content, and applicability to specific carved out parcels of agricultural lands, these “studies” are asking the County and Cities to do exactly what has been previously found to be in violation of the GMA and to substantially interfere with the Goals of the Act.

Ironically, in using what amounts to be the exact process as was rejected by the Board in their March 23, 2017 FDO, for this update the County sent an email to all of the cities and their representatives on August 27, 2024 that clearly puts the burden on the cities and/or to the property owners to comply with the WACs regarding their proposed de-designation of agricultural lands of long term commercial significance (ALLTCS):

Dear Colleagues,

Thank you for submitting your land use scenarios for the DEIS study as part of the 2025 Comp plan update. Your proposed Urban Growth Boundary expansion included agricultural resource lands. ***We have advised through our city-county meetings that any consideration of including resource lands within the UGA would require the proponent and jurisdiction proposing such action to provide an***

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<sup>39</sup> The reports submitted by Claire Lust at site specific request #s [36705565](#) and [36705511](#) include “studies” that purport to support de-designating these agricultural lands. However, under the reasoning of *King Cnty. v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 142 Wash. 2d 543, 14 P.3d 133 (2000), those studies are simply “piecemeal” studies of specific parcels and do not meet the legal requirements of WAC 365-190-040 and 050. The first study announces in its title that it is parcel specific and, thus on its face, violates (Agricultural Land Resource Analysis of **Four Parcels** Adjoining the City of Ridgefield, Washington). It does not even refer to the WAC or the criteria set forth in the WAC. The second “study” done by “Johnson Economics”. The Johnson Economics report will be addressed in a separate letter that is specific to the “Zimmerly” property even though it should be rejected in total because, again, a Parcel by Parcel, or even Parcels by Parcels, analysis violates the requirement of a county wide analysis. *Futurewise v. Benton County*, GMHB Case No. 14-1-0003, Final Decision and Order (Oct. 15, 2014), at 37 of 38. In addition to the fact that these are parcel by parcel analysis similar to the ones rejected in 2016, both studies rely on market factors, current use and landowner intent, factors that have been rejected by the Board and the Courts as proper considerations.



*analysis demonstrating that the criteria for de-designation have been met. Upon reviewing your submittal, we have not found the required analysis regarding de- designation.* In 2023 the Department of Commerce updated the administrative rules “with a large focus on the designation and protection of critical areas and natural resource lands”. Please refer to WSR 23-08-037 for the updated language under WAC 365-190-040 and WAC 365-190-050. The county looks forward to reviewing your analysis. Please let us know if you have any questions.

Thank You,

*See*

<https://websvc2.clark.wa.gov/CommunityPlanning/2025CompPlanUpdate/36598770.pdf>

On September 10, 2024, Ms. Claire Lust, representing the City of Ridgefield, replied:

what timeline are we on to submit more detailed UGA expansion proposals? Our staff are working *with a couple property owners who submitted expansion requests to the County to ensure their legal counsel prepares de- designation studies* in a timely manner, but any further detail on next steps would be appreciated. Thank you,

*Id.*

The response from the City of Ridgefield is clear, “a couple of property owners” submitted requests to bring their agricultural lands into the City and the City intends to rely on “their legal counsel” to prepare these studies. This is exactly what the Board rejected in its 2017 FDO<sup>40</sup>.

### **There is a Critical Need for a Comprehensive Countywide Ag Analysis**

Therefore, when preparing the current comprehensive plan, if the County had wanted to de-designate any agricultural lands, they knew, or certainly should have known, that they needed to engage in a comprehensive countywide study, a study that would have required an immense amount of time, financial and staff commitment. However, it was apparently not until the cities belated submitted their “Alternatives” in August 2024 that it became clear that some of the cities were seeking to de-designate previously designated lands of long term commercial significance to non-agricultural uses without complying with the WAC amendments of 2010 and 2023. Instead, the Cities have chosen not to comply with the legal mandates while still seeking to de-designate specific parcels of land at the request of property owners and their legal counsel. Such actions are not legally valid and should be rejected by the Council.

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<sup>40</sup> *Clark County Citizens United, Inc, Friends of Clark County and Futurewise v. Clark County et al*, 16-0005c (Final Decision and Order March 23, 2017) at p 43.



In addition, there are scores of site-specific requests to de-designate (i.e. convert) agricultural lands to non-agricultural uses that are not proposed to be within any proposed UGA and there is no County wide analysis by the County as to those lands. Therefore, all of those de-designations should be rejected. In addition, the County should similarly deny any requests to convert Rural lands (R 20, R 10 and R 5) that are required as buffers to protect agricultural lands<sup>41</sup>. To be sure, one of the reasons that the “studies” submitted by the City of Ridgefield and the City of Camas, ironically claim that lands bordering the agricultural lands have been converted to urban lands and, therefore, so should the agricultural lands. However, the law is to the contrary and the County (and Cities) have an obligation to protect the agricultural lands by maintaining Rural land buffers.

So now county residents find themselves in a “déjà vu all over again” situation. Fourteen years after the amendment to the WAC, and 8 years after the last Board decision invalidating de-designations that were initiated without complying with WAC 395-190-040 and 050, multiple site-specific requests to convert 700 acres of legally designated agricultural lands are being included in proposed UGA expansions (Ridgefield is a specific egregious example). Those requests for expansion are unsupportable on their face because the County has concluded that the City’s current UGAs are sufficient to handle the individual City’s allotted allocations for housing, population and jobs. In addition, there are scores of requests for de-designations of agricultural and forest lands outside of proposed UGAs. Yet, the County still has not complied with the WAC by completing a full county wide analysis.

### **Agricultural Lands Provide Priority Habitat for Fish and Wildlife**

In addition, FOCC asserts that whenever the County engages in the legally required process involving the consideration of any de-designation of any agricultural land, such an analysis must include consideration of the fact that agricultural lands have multiple benefits, including that they provide priority and riparian habitat for fish and wildlife.

According to the County records, the attachment shows an extensive amount of land that is considered waterfowl habitat (“waterfowl concentrations”), biodiversity corridors and riparian habitat. AG lands have multiple purposes and those also include environmentally sensitive fish and wildlife habitat. See <https://wdfw.wa.gov/about/wdfw-lands/working-lands> and <https://wdfw.wa.gov/about/wdfw-lands/working-lands/farming>.

Waterfowl Concentrations and Biodiversity corridors are considered Priority Habitat by Clark County. See Clark County Environmental Services Resource Enhancement and Permitting Division Habitat and Wetland Frequently Asked Questions. Clark County defines Priority Habitat, in pertinent part, as:

Priority Habitats are environmentally distinct, fragile and valuable fish and wildlife habitat areas. Washington State's Growth Management Act attempts to balance the need to protect these areas for present and future generations with the need for

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<sup>41</sup> See 2015-2035 Community Framework Plan at §3.2.0.

reasonable use of private property. These areas are generally defined as:

1. Riparian Priority Habitat. Areas extending outward from high water mark to the edge of the one hundred (100) year floodplain, and varying distances of associated Stream buffer areas.
2. Other Priority Habitats and Species (PHS). Areas identified by and consistent with the Washington Department of Fish and Wildlife priority habitats and species criteria.
3. Locally Important Habitats and Species area reas (sic) legislatively designated and mapped by the county because of unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators. This subsection shall not apply to areas which have not been designated on official mapping.

Priority Habitat Buffers represent 100 foot buffers areas that were generated around Washington State Department of Fish and Wildlife identified habitat areas. Parcels that are within this 100 foot buffer but outside the actual habitat area must notify WDFW prior to development activity.

Priority Species Buffers represent 300 foot buffers areas that were generated around Washington State Department of Fish and Wildlife identified species habitat areas. Parcels that are within this 300 foot buffer but outside the actual habitat area must notify WDFW prior to development activity.

These lands are also riparian habitat and have a plethora of fish bearing streams, non-fish bearing perennial streams and non-fish bearing seasonal streams. According to the County's own documents, riparian habitats need to be protected by sufficient buffers: 200' for fish bearing streams, 100' for non-fish bearing perennial streams and 75' for non-fish bearing seasonal streams.

These lands also contain Critical Aquifer Recharge Areas (CARA), some are Category I (Jones property). Category I CARA are defined by County Code as: "the **highest priority critical aquifer recharge area**, represented by the one (1) year time-of-travel for Group A water wells."

In recognition of the importance of these habitats, the County (in conjunction with CPU and other partners) spent over \$500,000 for restoration of McCormick Creek from the East Fork Lewis River and flows south transecting some of the properties proposed for de-designation, and

inclusion into the Ridgefield UGA. The County report recognizes that McCormick Creek in its upper reaches contains Coho, Steelhead, Chinook and possibly chum *which are threatened and endangered species*.

FOCC is unaware of any comprehensive environmental study completed by the County regarding the importance of these lands proposed for inclusion into the Ridgefield UGA without the benefit of a legally required countywide comprehensive analysis. In addition, given the proximity of the city limits to these lands, it appears that the City is already violating the County ordinances that require protection and buffering of these resource lands because the City has allowed development that does not appear to meet the buffer standards for Priority and Riparian Habitats.

It is noteworthy that in prior updates, the City of Ridgefield and the City of LaCenter have proposed, and the County has approved, inclusion of legally designated agricultural lands into the City's UGA without going through the legally required de-designation process. However, as stated, the City of Ridgefield was able to keep some of the agricultural lands unlawfully de-designated and converted to non-agricultural lands by annexing the lands prior to the Growth Board finding 1) the inclusion of them in the UGA to be in violation of the GMA and 2) the violation was of such a degree that the inclusion of the lands substantially interfered with the goals of the GMA and the action subject to an Order of Invalidity. Yet, despite those prior rulings, precedents, and the clear provisions of the statutory scheme and the WACs, the City is again proposing to include previously designated AG lands without complying with, at a minimum, WAC 365-190-040 to 060. However, the legislature has adopted RCW 36.70A.067 which provides that if agricultural and forest land designations or urban growth area expansions are appealed to the Growth Management Hearings Board, the effective date is delayed until after the Board's Final Decision and Order is issued. So it is no longer possible to vest to illegal agricultural or forest land de-designations or illegal urban growth area expansions.

In conclusion, the agricultural lands at issue are lands designated by the County as agricultural lands of long term commercial significance (ALLTCS) as they are prime farmlands or farms of statewide importance, and those designations have been affirmed because there was substantial evidence in the record before the Board and the Courts to substantiate those designations. The County has failed to conduct any current county wide analysis of the lands which is a condition precedent to even considering them for de-designation. The "studies" provided by the legal counsel for the landowners are incomplete and, mostly, irrelevant to the inquiry and studies required by WAC 365-190-050 and 040 and should be rejected. In addition, the lands are priority habitat for waterfowl, contain biodiversity corridors and riparian habitat including fish bearing streams, perennial streams and seasonal streams.

Thus, the County should reject any inclusion of previously legally designated agricultural lands in any DEIS alternative as the County has failed to comply with the legal precedents, statutes and rules regarding de-designation of these protected, beneficial legally designated agricultural lands

## Conclusion

In summary, FOCC's position is as follows:

- 1) the Cities and the County have failed to conduct a countywide study ***as required by statute and rule.***
- 2) given the time remaining for the County to complete its work on the Comprehensive Plan update, there is insufficient time and County resources to conduct a thorough and comprehensive analysis of the agricultural lands of long term commercial significance.
- 3) all site specific requests for conversion of designated agricultural or forest lands should be excluded from any review, and
- 4) the County should embrace our rich agricultural resources and adopt a vision for agriculture in Clark County that preserves, protects and enhances our agricultural lands, provides the support for farmers to thrive and maximize productivity of those lands, addresses the urgent need to build climate resilience, protects fish and wildlife, and creates the conditions for the collective well-being of the residents of Clark County.

Best,



Ann  
President, Friends of Clark County

Foster