



P.O. Box 2188, Battle Ground, WA 98604

May 29, 2025

FOR THE PUBLIC RECORD AND THE 2025 COMPREHENSIVE PLAN UPDATE

Clark County Council
Clark County Community Development
P.O. Box 5000
Vancouver, Washington 9866

Re: Clark County Citizens United, Inc. 2025 Comprehensive Plan Update Open House testimony submitted four documents on 5-29-25 regarding the Plan update:

Dear Councilors and Community Development,

Clark County Citizens United, Inc. is submitting four items of testimony for your review and consideration in the review of the 2025 Comprehensive Plan update. CCCU would be happy to discuss any of these items of testimony for clarification and consideration. The testimony items are listed below:

Sincerely,

Carol Levanen, Exec. Secretary

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

- 1. Clark County Citizens United, Inc. 5-29-25 Open House Testimony regarding the 2025 Comprehensive Plan Update**
- 2.. Ashbaugh Beal - Attorney Zac McIsaac - 11-18-14 testimony to the Clark County Commissioners, as it relates to any update to the Clark County Comprehensive Plan**
- 3. Stephens & Klinge - Attorney Richard Stephens- 2022 testimony to the Clark County Council regarding the Buildable Lands for the 2025 Clark County Comprehensive Plan update**
- 4. Stephens & Klinge - Attorney Richard Stephens - 2024 testimony to the Clark County County as it relates to the enabling ordinances to the 2025 Clark County Comprehensive Plan update.**

Clark County Citizens United, Inc. P.O. Box 2188 Battle Ground, Washington 98604 E-Mail
cccuinc@yahoo.com

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

May 29, 2025

FOR THE PUBLIC RECORD AND THE 2025 COMPREHENSIVE PLAN UPDATE

Dear Councilors and Community Planning,

Re: Rural and Resource zoning must change to address the critical lack of housing in Clark County

All of the people living in Clark County recognize the critical lack of housing throughout the county. No organization recognizes that fact more than Clark County Citizens United, Inc.. On a daily basis, CCCU is pressed to help the rural and resource people attempt to create housing for themselves and their families, under the existing county zoning and abusive regulations.

CCCU would like to clarify the record regarding previous zoning maps that planners have presented to the Clark County Council, at various work sessions. They claim the resource zoning maps have been in place since 1994, and stress how much resource land there is. But, staff fails to mention that the maps had been in constant flux, prior to 1994, and what the parcel sizes actually were at that time, and the fact that nothing has changed in the rural and resource areas since that time. The lots are almost gone.

They were designated in 2.5, 5, 10, and 20 acre zones, not the 5, 10, 20, 40 and 80 acres that are currently in place. Over the years, lots were created into those size parcels. CCCU has a very large two inch binder of various land use maps of Clark County dating from 1987 to today. One particular Clark County, Washington 1993 map, of a township of the Rock Creek, Fargher Lake, View, Cedar Creek areas, shows the existing parcels in those areas at the time, along with the names of the owners of the parcels. It's very telling. These were lands that had been divided long before the GMA. There are many historical family names on that map, in addition to Long View Fiber Company, School Land, State Forest Board, Washington State Game Department, and others.

This map shows the people and the rural and resource parcels that define the rural character in that area of Clark County. It shows the pattern of small rural lots of 2.5 and 5 acres throughout the area. Another old map (with no date) called *Clark County Broad Land Use and Traffic Circulation*, shows the broad expanse of state, federal, and large private timber lands in eastern Clark County.

A *Draft 20 year Plan Map (Rural and Natural Resource Lands)* map shows massive areas of the old Agri-Forest 40 acre zoning, which was ruled as illegal in the courts. The notebook has numerous Agri-Forest maps of different areas showing the parcels that were in place at the time. There is a Portland metro agriculture map that includes Clark County. This book also has aerial photos of the Agri-Forest lands with white tape strips surrounding parcels of rural land. In one instance, there was white tape around two twenty acre parcels in the same ownership. That area was designated as 40 acres.

There is a map called, *Prime Farmland - Clark County Washington, General Highway maps - Thematic detail compiled by state staff. US Department of Agriculture Soil Conservation Service M7-0-24076*. It is very different than the 1994 GMA SEIS map of Prime and Unique Agriculture Soil. the Forest Soil map, and the existing Comprehensive Plan map of 1994 and today. A GIS research map of resource land demonstrates there is very little land in Clark County that meets the definition of resource land under the Growth Management Act.

CCCU's notebook also contains a *Growth Management - Issue 9 - June 1994 Perspectives* map of *Alternative A, B and C*. Alternative A has Ag Tier 1 - 20 acres, Ag Tier 2 - 10 acres, Forest Tier 1 - 40 acres, Forest Tier 2 - 20 acres, Rural Farm - 10 acres, Rural Estate - 5 acres and Rural Residential 2.5 acres. There are maps of the old Resource Line that divided the rural lands. There are also 1996 *Orthophotography - Clark County, Washington* aerial maps.

If a picture tells a thousands words, these maps certainly do. It was erroneous for Clark County to ignore the existing parcels in the rural and resource lands in 1994, even though they had maps and documents to

determine what would be the most appropriate zoning for those areas.. One 1993 GIS metadata document states: *"Resource Lands were determined via aerial photography and staff interpretation. "* Such determination is not recognized by the GMA. For this Council to continue to accept that faulty data is erroneous. The court in 1997 has said, *"The Board's (WWGMHB) interpretation was erroneous, and the County's decision to follow the Board's lead was unfortunate. The result is a plan that gives little regard for the realities of existing rural development in direct contradiction of the terms of the GMA.* IN 1999, the Court of Appeals Division II, unanimously confirmed, in a published opinion, the Superior Court decision. But, Clark County ignored court orders.

The existing rural and resource parcels of those lands must be recognized in a meaningful way in the 2025 Comprehensive Plan. The county staff had all of the data that was to be used for designation of resource land at their fingertips, in the Comprehensive Plan, prior to 1994. But all of that data was thrown out, and exchanged for an environmental attorney's directives, called the "Green Alternative". The GMA does not recognize such directives. Clark County must come into compliance with the GMA and with these court decisions, using their plain meaning. Only then will Clark County be compliant to GMA mandates for affordable housing, and a variety of affordable housing in the rural land.

Sincerely,

Carol Levanen, Ex. Secretary

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November 18, 2014

VIA EMAIL and U.S. MAIL

Commissioner Tom Mielke
Commissioner David Madore
Commissioner Edward L. Barnes
Board of Clark County Commissioners
P.O. Box 5000
Vancouver, WA 98666-5000

RE: Comment on the Clark County Growth Management Plan Update Process

Dear Commissioners:

Thank you for the opportunity to provide formal comment on the Growth Management Plan update process. I present these comments on behalf of myself, my brother and my father, who both individually and collectively own different rural properties in Clark County. I am also certain that these comments are echoed by a vast number of voters in the rural areas that make up your respective constituencies.

Our primary objective in providing this comment is to ask that each of you **in your roles as the deciding authority** on the issue to add two new alternatives to the single alternative currently being considered for rural property designations. Of the three alternatives currently scheduled for analysis in the Supplemental Environmental Impact Statement (SEIS), one is status quo, and one applies to the La Center city limits only. **Given this reality, there is really only one alternative for the rural properties**, an alternative strikingly similar to status quo. Given that the stated purpose of this extremely important process is to **"prepare for increased population and employment through 2035,"** entertaining just one slightly different alternative to status quo falls well short of what would be expected from a good public policy standpoint, as well as the requirements of the Growth Management Act and the State Environmental Protection Act (SEPA).

Under the terms of SEPA, the staff is to present a **"reasonable number and range"** of alternatives to the Commissioners for consideration. WAC 197-11-440. Similarly, the EIS process (by the terms of the Washington Administrative Code and the Revised Code of Washington) is supposed to provide both the Commissioners and the public with **"sufficient information for a reasoned choice among alternatives."** *Solid Waste Alternative Proponents v. Okanogan County*, 66 Wn. App. 439, 442 (1992); see also WAC 197-11-440(5). One alternative, as currently proposed, hardly accomplishes this legislative and judicial intent and does not serve the rural voters of Clark County.

Moreover, it is imperative that your staff provide you with the full spectrum of growth possibilities, not just actual population statistics or State projection guidelines to predict future growth. We have just endured what has been widely described as "the great recession"—clearly not something that should be expected to be repeated again in the next twenty years. As such, any statistics that do not account for this rare occurrence are skewed and need to be adjusted. If we take an accurate, balanced and honest look at the past twenty years, we can expect extraordinary growth in Clark County in the twenty years to come.

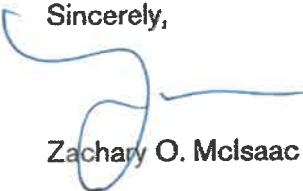
You are in charge of this important analysis, and you have the authority and responsibility vis-à-vis your constituency to direct a neutral, realistic, and balanced analysis of possibilities!

It is my understanding that Clark County Citizens United has proposed two alternatives that account for the realities outlined above and that provide the "reasonable range" of alternatives necessary to allow for a "reasoned choice" as required by Washington law. Without attempting to recite the specifics of those alternatives in this letter, it is my understanding that Alternative 4 reasonably and appropriately expands changes to rural designations detailed in Alternative 3 (the only current alternative), and Alternative 5 presents a "pro-growth" approach that deserves equal consideration given the tremendous growth we have seen in Clark County over the last twenty years.

Commissioners should direct staff to include two new hearings at one of their public meetings by the end of the year where consideration of these two alternatives is a specific agenda item to be discussed.

I trust that these comments will not fall on deaf ears, and look forward to the Commissioners exercising their inherent authority to ensure that this process results in a reasoned and fair update to the Growth Management Plan in 2016.

Sincerely,



Zachary O. McIsaac

ZOM:tm

c: County Administrator Mark McCauley



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February 14, 2022

Via email to Councilors of the
Clark County Board of County Councilors

Re: Clark County Citizens United comments on the draft Buildable Lands Report
scheduled for hearing on February 15, 2022

Dear Clark County Councilors:

We represent Clark County Citizens United, Inc., a grass roots nonprofit organization that represents a group of citizens who live in and are most concerned about the rural area of Clark County. We believe the draft Buildable Lands Report (Report) in its current form is legally deficient in at least two particular ways described below.

First, there appears to be a significant discrepancy in the Report's data regarding rural lands. The Report asserts that rural population growth was 1% for a total increase of 794 people. Report, at page 12, Fig. 2. At the same time the Report claims that rural share of new housing was at 6% of the 22,000 units of new housing for the same 2016-2020 time period. Report, at page 10. That equates to 1,320 new housing units in the rural area. From the face of the Report, there is some error in the data or analysis. It is highly unlikely that in the same time period (over four years) there would be approximately twice as many new homes as there are new people.

Second, RCW 36.70A.215 requires the Report to:

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter. Reasonable measures are those actions necessary to reduce the differences between growth and development assumptions and targets contained in the countywide planning policies and the county and city comprehensive plans with actual development patterns.

RCW 36.70A.215(1)(b) (emphasis added); *see also* RCW 36.70A.215(2)(d).

There are differences between the growth and development assumptions in the comprehensive plan and actual development patterns. The Clark County Comprehensive Plan assumes that 10% of the population growth will be in the rural area.

The Rural Area is not expected to accommodate large amounts of growth, but allows for low-density residential development and other traditional rural uses. . . .

It is anticipated that 12,859 people or 10 percent of the new growth will be accommodated in the rural area.

Comprehensive Plan, at 82 (emphasis added).

According to the Report, the County's population growth was 44,458 people. Report, at page 12, Fig. 2. Under the comprehensive plan, the population growth in the rural area should have been 10 percent of that number—4,446 people—but it was only 794 people. Report, at page 12, Fig. 2. The actual population growth in the rural area was only 18% of what the Comprehensive Plan planned for. There is clearly a difference between the assumptions and targets in the Comprehensive Plan and actual development patterns.

Because of those differences, RCW 36.70A.215(1)(b) and (2)(d), require the County to identify reasonable measures (other than adjusting urban growth areas) in the Buildable Lands Report to reduce these differences. Yet, the Report's section on reasonable measures constitutes one page that identifies various determinations made, but not one reasonable measure that could reduce the differences between the planned for rural growth and the actual development patterns. Report, at page 35. The reasonable measures section is inadequate in that it does not comply with RCW 36.70A.215(1)(b) and (2)(d).

Clark County Citizens United, Inc., believes there are many reasons for the vast discrepancy between the assumptions and targets in the Comprehensive Plan and the actual population growth in the rural area, such as the high cost of subdividing rural land and the limited opportunity for such subdivision. However, the primary point of this letter is that the draft Report fails to identify this discrepancy between reality and the comprehensive plan and fails to identify any reasonable measures for reducing the differences between comprehensive plan assumptions and the actual pattern of population growth. Before finalizing the Report, this issue should be addressed and Clark County Citizens United, Inc., is more than willing to provide information about the rural area to assist in analyzing required "reasonable measures."

Sincerely,

Richard M. Stephens

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September 6, 2024

Dear Members of the Clark County Council:

We represent Clark County Citizens United (CCCU), a nonprofit organization representing approximately 6,000 citizens of Clark County. Based on numerous complaints, CCCU is concerned that Clark County is repeatedly violating people's rights, resulting from either intentional action or at least a failure to train staff adequately. The problem arises in four general categories.

1. Erroneously designating critical areas.

The first is that County staff will simply declare portions of rural land to constitute a critical area, such as wetland, even though the area fails to meet all three criteria necessary for constituting a wetland. This includes fabrication and/or mischaracterization of critical areas, wetlands, or streams to require a buffer of some sort, resulting in a mandatory covenant. This has occurred on so many occasions and called to staffs' attention that it appears to be not merely ignorance, but a concerted effort to declare as much land as possible as a critical area with the expectation that few will challenge the declaration. I expect that the expectation is right—many people are unlikely to realize that a staff member's declaration of a critical area is wrong. However, one would expect that County staff would be knowledgeable and fair and not take advantage of individuals' lack of understanding of wetland and critical area requirements.

It is apparent that staff is either not knowledgeable or not fair and the latter seems more likely in that the errors of wrong declarations of critical areas have been addressed. By now, surely staff must know what they are doing. Although CCCU has called this to the attention of the council previously, we are doing so again. Because staff is following a consistent illegal approach of designating land as critical areas which does not qualify as a critical area, and the County Council is aware, unless a change is made it appears that the County has established a policy of ignoring the legal requirements for critical area determinations in an effort to preserve as much private land as possible.

2. Improperly using covenants to create County-owned property interests.

The second problem relates to using covenants to preserve critical areas when land use permits are issued. The covenants appear to bind the property owner to a version of the county code in place at the time the permit is issued without regard to the fact that critical area regulations including buffers may change over time. It is

also troubling that the County is not merely putting notice on title that certain critical area regulations apply but are requiring a covenant which is its own interest in property. That is, the County requires property owners to transfer a property interest to the County to obtain permit approval.

I have also seen these covenants refer to the area subject to the restrictions to be based on a map that is only an approximation. It is one thing to require a notice on title that there may be a critical area on site and include an approximate location. It is another thing altogether to issue a property interest (a covenant) to the County that says that the geographic area is merely an approximation. The County would do well to no longer require covenants that appear to be binding, conveying a separate interest in property that is so ill-defined.

3. Lulling property owners into a false sense of security.

The third problem is a tactic which I have seen in other jurisdictions, but only rarely. That is, County staff will make some decision which is appealable, and the property owner will contact staff in the hopes of correcting a mistaken determination, as in the declaration of wetlands or streams that do not exist. Believing that staff would informally work to correct the situation, the property owner waits, but hears nothing definitive from staff until the appeal deadline runs. At that point, staff is no longer willing to work with the property owner because the County has a final determination of something that is untrue but can't be appealed.

It is hard to imagine that the Clark County Council would believe that this treatment is good public policy. It would be far fairer for the County to raise issues for this first time in a manner which does not result in an appealable decision so that the private party and staff member can discuss the issue. When it appears that there can be no agreement, then staff could issue an appealable decision. The current practice misleads people into thinking that errors can be corrected informally when County staff has no intention of doing so. While we expect the County to enforce its land use regulations, it should not be doing so by trickery.

4. Ignoring the County's obligations for management of stormwater runoff under the Clean Water Act.

The fourth problem is that Clark County is failing to live up to its responsibilities under the Clean Water Act for managing stormwater running off public roads. There are County roads without any, or, inadequate ditches and it appears stormwater runoff is intentionally being discharged onto private property. In essence, the County is using private property to attempt to handle stormwater from public roads when it is the County's responsibility. The County is neglecting its own responsibility and imposing the duty to manage stormwater onto private

Clark County Councilors
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landowners. This is inappropriate. The County must manage stormwater without routing the discharge from roads onto private lands. The County is obligated to use Best Management Practices under the Stormwater Management Manual for Western Washington. But the County is forcing private landowners to provide the conveyance systems, to mitigate with trees and plantings, and then to provide a conservation covenant. As stated above, these covenants are problematic for landowners and the County.

We draw these issues to your attention because the council has ultimate responsibility and opportunity to correct ongoing practices which are neither good public policy nor legal. Clark County Citizens United, Inc., believes all covenant language in the Wetland and Habitat Ordinance should be removed, retroactive to 2008. Instead, a three-year monitoring program might meet the County's desires to confirm that mitigation is working without requiring conveyance of a covenant. We would be happy to discuss this further if you so desire.

Sincerely,

Richard M. Stephens

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