

June 1, 2025

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

FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN

Re: Only the "Green Alternative" - the truth about the 1994 Clark County Comprehensive Plan

Dear Councilors and Community Development,

Clark County Citizens United, Inc. formed in response to the illegal public process, illegal EIS, illegal removal of rural centers, and the illegal Agri-forest designation that created the 1994 Clark County Comprehensive Plan.. The illegality of all of those things was confirmed by the Superior Courts and the Court of Appeals Division II in a Published Opinion. But Clark County thumbed its nose at those courts and their orders, and continues with their illegal activity, even to today.

How the 1994 Comprehensive Plan was created did not happen according to what staff is telling you. In fact, the only staff member closely involved, prior to the creation of the 1994 Plan, was Peggy Scolnick, according to attorney, John Karpinski. The Plan was centered around his last minute "Alternative". All of the public testimony, Committee recommendations, and original Alternatives were simply ignored. Mr. Karpinski's *"one and only"* Alternative was called the **"Green Alternative"**. In that document, he dictated to the county what was to be included in the 1994 Comprehensive Plan and that is what we have today. CCCU has attached that two page letter to Peggy Scolnick, to this testimony, for your review. It is very telling. (See Exhibit A)

He begins by thanking her for asking for his details for CCNRC's "Green Alternative". CCNRC membership is the same people as Friends of Clark County. and he was their attorney. It was the intent of the county staff to include his alternative *"as a full and complete alternative in the Growth Management DEIS"* Two years of committee work by the agriculture and forest committees was thrown out. Two of those members were later members of CCCU's Board of Directors and clearly explained what happened in 1994. They would be happy to explain it to you.

Mr. Karpinski starts with dictating that urban growth boundaries must be shrunk. Then he goes on to dictate an increase to lands for agriculture by removing parcelization criteria. He states that the Agri-forest land should be created, using the large lot zoning in Internal Draft 3-11-94 alternative C for SEPA purposes. He goes on to dictate rural development using the 3-11-94 Internal Draft. But now he describes what it all looks like.

He states, *"Clear and specific policies limiting development on currently valid but soon to be substandard lots.a lottery for building permits that will ensure that no more than approximately 1/20th of the rural residential growth projection is implemented per year.....required amalgamation of rural lots.....excise tax increases.....eliminate rural centers. He says to "increase critical are protections. Broad extension of strong wetland regulation....Category 5 wetlands. A broad program ..of habitat protection beyond Washington Department of Wildlife....Substantial new development limitations."* And the story goes on.

Mr. Karpinski was not a county staff, county official or elected county official, who would have the legal authority to dictate such changes to the already extensive public process and the Plan. CCCU Board members attended all of the county open houses and hearings for the 1994 Plan and took notes over the pros and cons of the proposed policies. Hundreds of persons attended those meetings and 90% of them were opposed to the Plan, according to a CCCU poll of their public testimony. CCCU has all of those records for your review. But the Commissioners adopted the Karpinski plan, anyways. One Commissioner apologized to CCCU later, for his vote.

This resulted in a record 61 appeals against the Plan. Susan Rasmussen filed one of those appeals because they lost their three generation dairy farm after the massive downzoning of their 100+ acre dairy. They were zoned five acres until that time, and suddenly they were 20 acres. They were processing a federal farm loan for a new manure pit, but now the "loan to value" ratio numbers didn't add up and the loan application was rejected. They were unable to comply with DOE requirements, and were downgraded from a grade A dairy to a grade B dairy. They started selling off cows to meet expenses, but eventually lost the farm, when they went into default with the federal government. The government divided the land into 20 acre lots and sold them off. In 1994 there were 39 dairy farms, and now there are only two. When environmentalists tout "save the farmland", don't believe them.

When Mrs. Rasmussen was gathering her data for the appeal, some were missing in the record. She was later told to look in a cardboard box underneath lead planner, Jerri Bohard's desk. That box was filled with public testimony that was never put in the record. She found her information, and she also found CCCU's 800 items of testimony from our members. In addition, another group had also formed against the downzoning and their 200 testimony items of protest, were also in the box. It was shocking that 1000 testimony items, against the 1994 Plan, were never put in the public record, even though they were submitted for that purpose. That box also contained John Karpinski's letter to Peggy Scolnick., which Susan brought to CCCU, with the other items. That was when she joined the CCCU Board.

CCCU filed their appeal over seven different items, and won over six of them. The only reason we didn't win over the agricultural designation is that the county claimed that they had gone through all of the proper processes, but they didn't. CCCU didn't find the proof until the ability to search the records data via the internet was possible. Now we all know what was the real truth.

CCCU researched the Assessor's parcel data to determine the impact and found that approximately 90% of the existing parcels were now non-conforming and less than their zone. Even more onerous was the massive equity loss and loss of use that land landowners endured. That loss was likely in the billions of dollars. CCCU has included a copy of that survey, which was previously submitted as testimony, showing the break down of the zoning designation percentages. (See Exhibit B)

That 1994 Plan has changed very little since that time, and is the same one you are dealing with today. It just keeps getting rolled over. Since 1994, there has been nothing in the Plan to address rural housing, jobs and the critical lack of rural housing, today. The Plan is particularly abusive in the rural and resource designations of the county.

The courts ordered the county to recognize the existing development and told them they cannot put a cap on rural growth, but the county ignored those orders. The WWGM Hearings Board Final Compliance Order for No. 952-0067 (Poyfair Remand), stating compliance, was issued on May 11, 1999. The Court of Appeals Division II NO.22164-1-II Mandate for Clark County Cause No. 96-2-00080-2 was not issued until December 13, 1999, well after the Hearings Board signed their final determination. The Hearings Board did not give any consideration to the COA Orders. The courts and the Hearings Board never received a confirmation that the county had complied with the court orders.

Clark County continued to ignore CCCU's court orders until a Superior Court action related to a different case, called Building Industry Association v. Clark County, et.al, v. Clark County Case # 04-2-0038c, occurred in 2004. The Hearings Board states that "*several aspects of this revised Plan were challenged...*", But none of those actions had to do with Clark County Citizens United, Inc. and the Poyfair or Court of Appeals decisions on behalf of CCCU. Even so, the Hearings Board claimed that "*The unchallenged portions of the revised comprehensive plan are presumed valid and compliant.*" The Hearing Board goes on to say, "*With the absence of any response by any party, the Board concludes that compliance should be found and this case closed.*" The Hearings Board only assumed the county had complied, according to their letter.

Clark County Citizens United, Inc. was not aware of any connection between the BIA 2004 court case and CCCU's court cases. CCCU was told by Clark County attorney and Planning Director, the county could not comply with the court orders regarding the Poyfair decision, until the 2004 BIA court case was settled. CCCU was told to wait until that happened. That is what CCCU did, expecting to see county actions regarding our court cases in the near future. That never happened. On November 23, 2005 the WWGMHB finalized the BIA 2004 actions, and shortly after, CCCU received a letter from the Board that

they were closing CCCU's case, based on those 2004-2005 court decisions. Clearly, it was a nasty trick, to prevent real county compliance to the Poyfair and COA court orders. Those actions were erroneous. (See Exhibits C,D,E)

As far as CCCU is concerned, the county did not comply with the Poyfair decision nor the Court of Appeals Division II decisions and orders, and compliance must happen for the Clark County Comprehensive Plan to be valid.

Sincerely,



Carol Levanen, Exec. Secretary

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

Attachments:

Exhibit A
Exhibit B
Exhibit C
Exhibit D
Exhibit E



JOHN S. KARPINSKI

Attorney at Law
2612 E. 20TH STREET
VANCOUVER, WA 98661
(206)690-4500
FAX (206)695-6016

March 16, 1994

VIA FAX 699-2011

Peggy Scolnick
Clark County Planning
P.O. Box 9810
Vancouver, WA 98666-9810

Re: CCNRC Green Alternative Details

Dear Peggy:

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

I. URBAN GROWTH BOUNDARIES

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

II. INCREASED AG/FOREST PROTECTIONS.

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

III. RURAL DEVELOPMENT SCENARIOS.

- A. Minimum lot sizes suggested in 3-11-94 Internal Draft acceptable, but should be re-labeled to: 10 acres: Rural; 15 acres: Rural Conservancy.
- B. Clear and specific policies limiting development on currently valid but soon to be substandard lots must be include Potential solutions include: 1) a lottery for building permits that will ensure that no more than approximately 1/20th of the rural residential growth

Peggy Scolnick
Re: CCNRC Green Alternative Details
March 16, 1994
Page 2

projection is implemented per year; 2) required amalgamation of rural lots; and 3) an aggressive program of transferrable development rights, excise tax increase to buy development rights, etc. to obviate any major takings concerns.

C. Substantially reduced or eliminated "rural activity centers".

IV. INCREASED CRITICAL AREA PROTECTIONS.

A. Broad extension of strong wetland regulations including, but not limited to, rural areas and Category 5 wetlands.

B. A broad program of sensitive wildlife habitat protection beyond the Washington Department of Wildlife PHS program as to be recommended by the scientist Citizens Wildlife Habitat Committee.

C. Substantial new development limitations in Critical aquifer recharge areas, floodplains, steep slopes, etc.

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

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

Sincerely yours,

John S. Karpinski

JSK/dmk

cc: Jim Seeley
Craig Greenleaf
Ed Gallagher
Onofre Contreras
CCNRC Chair
RCCPA

scolnick.ga

Clark County Board of Councilors
P.O., Box 5000
Vancouver, Washington 98666

March 10, 2015

Re: Parcel Survey of February 20, 2015 GIS parcel files called AllRuralParcelsList.xlsx data for parcels in Rural and Resource Land, R-10, R-20, Ag-20, F-40 and F-80 Zones
(This information clarifies preliminary information submitted on March 9, 2015) (For the public Record)

Clark County Citizens United, Inc. has recently conducted a data survey of 27,800 parcels using Clark County GIS data called AllRuralParcelsList.xlsx. The purpose of this survey was to determine what percentage of all lots in the rural and resource areas are less than the parcel size in the designated zone, and how many of the lots conform or are larger than the designated zone. A count was taken of the R-10, R-20, Ag-20, Forest-40 and Forest-80 zone categories within the 27,800 parcels contained in this data spreadsheet. It seems logical and appropriate that when considering changes to the Comprehensive Plan, conformance would be a primary goal to achieve. By allowing these parcels to be conforming, very little changes on the ground would occur. But, landowner vesting rights would be confirmed via the land being in the appropriate zone. The following information, in percentages, is the result of this survey.

1. Rural 10 Acres - Total Non-Conforming Parcels - 86.8%

Less than five (5) acres	64.4%	5 acres to 9.99 acres.....	22.4%
10 acres or more.....	13.2%		

2. Rural 20 Acres - Total Non-Conforming Parcels - 89%

Less than five (5) acres.....	48%	5 acres to 9.99 acres.....	28%
10 acres to 19.9 acres.....	13%	20 acres or more.....	11%

3. Ag 20 Acres- Total Non-Conforming Parcels - 85%

Less than five (5) acres.....	54%	5 acres to 9.99 acres.....	15.5%
10 acres to 19.99 acres.....	15.5%	20 acres or more.....	15%

4. F Tier II-40 Acres - Total Non-Conforming Parcels - 93%

Less than five (5) acres.....	42%	5 acres to 9.99 acres.....	24%
10 acres to 19.99 acres.....	16%	20 acres to 39.99 acres.....	11%
		40 or more acres.....	7%

5. F Tier I - 80 Acres - Total Non-Conforming Parcels - 69.6%

Less than 10 acres.....	32.4%	10 acres to 19.99 acres.....	11.6%
20 acres to 39.99 acres.....	20%	40 acres to 79.99 acres.....	5.6%
		80 acres or more.....	30.4%

This information is very compelling. The survey is one of many rural and resource land surveys conducted by various agencies and groups that again confirms the problem of non-conformance in the rural and resource zones of Clark County. Clark County Citizens United, Inc. hopes the Board of Councilors will take seriously the conclusion that something needs to be corrected to achieve conformance. Zoning should change to reflect what is on the ground.

Sincerely,



Carol Levanen, Ex. Secretary
Clark County Citizens United, Inc.
P. O. Box 2188
Battle Ground, Washington 98604

EXHIBIT "B"

May 11, 1999 COP

BEFORE THE WESTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD

ACHEN, et.al.,

Petitioners,

vs.

CLARK COUNTY, et.al.,

Respondents,

and

CLARK COUNTY SCHOOL DISTRICTS, et.al.,

Intervenors.

No. 95-2-0067
(POYFAIR REMAND)

COMPLIANCE
ORDER

PROCEDURAL HISTORY

In the September, 1995 Final Decision and Order (FDO) we upheld Clark County's designation of approximately 35,000 acres of land as resource lands (RLs) under the Growth Management Act (GMA, Act). The County had designated this acreage as "agri-forest", a hybrid designation involving both agricultural and forest lands classifications. We also upheld the County's public participation process used to develop and designate those agri-forest lands. Petitioners North Lackamas Corporation (N. Lackamas) appealed the agri-forest designation of its property to Superior Court under cause #95-2-05636-7.

Washington
Growth Management
Hearings Board
Suite #B-2
Box 4095
B504-095
J-664-896
0-664-897

EXHIBIT

Western Washington
Growth Management Hearings Board
905 24th Way SW

COPY

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

CLARK COUNTY NATURAL
RESOURCES COUNCIL,
VANCOUVER AUDUBON
SOCIETY, COALITION FOR
ENVIRONMENTAL
RESPONSIBILITY AND ECONOMIC
SUSTAINABILITY (CERES),
RURAL CLARK COUNTY
PRESERVATION ASSOCIATION
(RCCPA) AND LOO-WIT GROUP
SIERRA CLUB,

Appellant,

v.

CLARK COUNTY CITIZENS
UNITED, INC.,

Respondent.

No. 22164-1-II

MANDATE

Clark County Cause No.
96-2-00080-2

RECEIVED

DEC 13 1999

LPSL

The State of Washington to: The Superior Court of the State of Washington
in and for Clark County

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division II, filed on March 12, 1999 became the decision terminating review of this court of the above entitled case on November 2, 1999. Accordingly, this cause is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.



IN TESTIMONY WHEREOF, I have
hereunto set my hand and affixed the
seal of said Court at Tacoma, this
9th day of December, 1999.

Dan L. Taylor
Clerk of the Court of Appeals,
State of Washington, Div. II

EXHIBIT "D"

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2
3 ACHEN, et al.,

4 Petitioners,

Case No. 95-2-0067c

5
6 v.

7 CLARK COUNTY, et al.,

**ORDER FINDING
COMPLIANCE AND CLOSING
CASE**

8 Respondents,

9
10 and

11 CLARK COUNTY SCHOOL DISTRICTS, et al.,

12 Intervenor.

13
14
15
16 THIS Matter comes before the Board upon its order to show cause why compliance should
17 not be found on the remaining issues in this case. The Board issued an Order to Show
18 Cause Re: Compliance, on May 8, 2006, providing that the parties must respond no later
19 than May 22, 2006 or the case would be dismissed. No response was received from any
20 party.
21

22
23 Although compliance was shown on some issues, compliance for several remaining issues
24 in this case has never been found in a Board order. This case has been open for a number
25 of years without action by any party. However, on September 7, 2004, Clark County
26 adopted a revised comprehensive plan. Several aspects of this revised comprehensive
27 plan were challenged in a Petition for Review and eventually found compliant. See *Building*
28 *Association of Clark County, et al., v. Clark County*, WWGMHB Case No. 04-2-0038c
29 (Amended Final Decision and Order, November 23, 2005). The unchallenged portions of
30 the revised comprehensive plan are presumed valid and deemed compliant. RCW
31 36.70A.320(1). Therefore, with the adoption of a revised comprehensive plan and the
32

ORDER DISMISSING CASE
Case No. 95-2-0067c
June 6, 2006
Page 1 of 3

Western Washington
Growth Management Hearings Board
905 24th Way SW, Suite B-2
Olympia, WA 98502
P.O. Box 40953
Olympia, Washington 98504-0953
Phone: 360-664-8966
Fax: 360-664-8975

EXHIBIT "E"

1 issuance of the November 23, 2005, Amended Decision and Order in *Building Association*
2 *of Clark County, et al., v. Clark County*, WWGMHB Case No. 04-2-0038c, the Board
3 determines that any compliance issues remaining in this case have most likely been
4 resolved.
5

6
7 For that reason, the Board issued its show cause order of May 8, 2006. With the absence
8 of any response by any party, the Board concludes that compliance should be found and
9 this case closed.
10

11 **ORDER**

12 Based on the foregoing, COMPLIANCE on the remaining issues in this case is found and
13 the case is CLOSED.
14

15
16 SO ORDERED this 9th day of June, 2006.
17

18
19 
20 Holly Gadbaw, Board Member

21
22 
23 Margery Hite, Board Member
24

25
26 
27 Gayle Rothrock, Board Member
28