

From: [Jeffrey Delapena](#)
To: "[Clark County Citizens United, Inc.](#)"; [Bart Catching](#); [Jose Alvarez](#); [Oliver Orjiako](#)
Cc: [Rebecca Messinger](#)
Subject: RE: The Growth Management Act RCW's, related WAC's and the NRCS-USDA 1972 Soils Manual must lead the work of the Agricultural Committee
Date: Monday, November 24, 2025 8:10:00 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Good day, Susan,

Thank you for submitting this feedback in relation to the 2025 Comprehensive Plan Update.

This will be entered into the Index of Record. We will ensure these are forwarded to the Agricultural Advisory Commission as well.

Best,



Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558



From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>

Sent: Friday, November 21, 2025 8:49 PM

To: CommDev OA Land Use <CommDevOALandUse@clark.wa.gov>; Jeffrey Delapena <Jeffrey.Delapena@clark.wa.gov>; Bart Catching <Bart.Catching@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Glen Yung <Glen.Yung@clark.wa.gov>; Wil Fuentes <Wil.Fuentes@clark.wa.gov>; Matt Little <Matt.Little@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>

Subject: The Growth Management Act RCW's, related WAC's and the NRCS-USDA 1972 Soils Manual must lead the work of the Agricultural Committee

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Clark County Council
November 21, 2025
Clark County Community Development
P.O. Box 5000
Vancouver, Washington 98666

FOR THE PUBLIC RECORD OF THE COMPREHENSIVE PLAN AND THE
AGRICULTURAL STUDY COMMITTEE

**Re; The Growth Management Act RCW's, related WAC's and the NRCS-USDA
1972 Soils Manual must lead the work of the Agricultural Committee**

Dear Councilors,

The Growth Management Act RCW's, related WAC's and the NRCS-USDA 1972 Soils Manual should lead the work of the Agricultural Committee. The land productivity and capability are critical to recognize. The land capability refers to the soil classification and the growing capacity for crops.

Class I soil type is the prime soil. Class VIII is the least suitable. Good soil is not good enough to meet the GMA standard. The GMA was written by the Department of Commerce and is not about farming at all costs. The land must be deemed *worthy* to quality for Natural Resource designation and that means it must be capable of long term *commercial* crop production, possible or sufficient is not good enough. Soil that is classified at IV or higher is highly unsuitable to grow commercial crops and is only useful for livestock grazing, home gardeners and land relevant to rural homes.

However, livestock pastures give rise to concerns for mud, manure and conflicts with environmental issues with adjacent creeks, habitat and large buffer infringements. Given the prevalence of Clark County demands for Conservation Covenants on entire private properties, should also be a consideration included in the study material of the Agricultural committee. To what degree have the county's own regulatory environmental actions removed land from agriculture and forest production?

The county's demands for Conservation Covenants burden entire deeds to private properties. This increases financial pressures on farms as untold numbers of acres are removed from production. There are no considerations for the soil typing or how much productive Prime Soil, (Class I and II), have been removed from production under the County's own actions. This has the ability to decimate the bottom lines of small-scale farming operations. This has the ability to not make county farms economically viable. This has effectively removed untold numbers of productive land from the ability to farm. There is no accounting of acreage that's been removed from production.

The large buffers and Conservation Covenants impact long-term commercial

significance for agriculture and need to be evaluated. They reduce the feasibility of any type of farming, regardless of soil type classification. It is not economically viable to conduct farming operations on these properties as the the property fails to have long-term commercial significance and fails to qualify for Natural Resource designation under GMA.

Conservation Covenants and large, aggressive buffers are countywide issues. The impacts must be included in the analysis and appropriate actions taken regarding natural resource lands. If properties lack prime soil, Classes I and II, that are vital to supporting long-term commercial production of high value crops, then properties fail to meet the GMA standard of, "*long-term commercial significance for agriculture.*"

If properties are burdened with Conservation Covenants and large buffers, then the land mass available to farm has been reduced and limits farming operations. The County's Environmental actions may render farming operations unprofitable, not commercially viable, not economically sustainable. As such, properties under the County's regulatory Conservation Covenants may fail to meet the GMA requirement of, "*long-term commercial significance for agriculture.*"

Clark County is on a very slippery slope when they apply a permanent conservation covenant on the deed of a landowners property. Consider this recent federal court decision:

[Alford v. Walton County](#)

Court: U.S. Court of Appeals for the Eleventh Circuit

Docket: 21-13999

Opinion Date: November 17, 2025

Judge: Barbara Lagoa

Areas of Law: Constitutional Law, Government & Administrative Law, Real Estate & Property Law

Several landowners in Walton County, Florida, owned beachfront properties that were affected by a county ordinance enacted during the early stages of the COVID-19 pandemic. In March and April 2020, the county first closed public beaches, then issued a new ordinance that closed all beaches—public and private—making it a criminal offense for anyone, including private owners, to access or use their own beachfront property. The ordinance was enforced by law enforcement officers who entered private property, excluded owners, and threatened arrest for violations. The ordinance remained in effect for about a month, after which it expired and was not renewed.

The landowners filed suit in the United States District Court for the Northern District of Florida, raising several claims, including a Takings Clause claim under the Fifth Amendment, and seeking both damages and prospective relief. The district court dismissed the claims for prospective relief as moot, finding the ordinance had expired and was unlikely to recur. On the merits, the district court granted summary judgment to the county on all damages claims, holding that the ordinance was not a per se

physical taking but rather a use restriction, and that the government's actions during a public health emergency were entitled to deference.

The United States Court of Appeals for the Eleventh Circuit reviewed the case. It affirmed the dismissal of the claims for prospective relief, agreeing that the ordinance's expiration rendered those claims moot. However, the court reversed the district court's judgment on the Takings Clause claim, holding that the ordinance constituted a per se physical taking because it barred owners from their property and allowed government officials to physically occupy and control access. The court remanded for a determination of just compensation, holding that no public emergency, including COVID-19, creates an exception to the Takings Clause.

Sincerely,

Susan Rasmussen, President

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