

From: [Jeffrey Delapena](#)
To: [Darlene Ferretti](#); [Cnty 2025 Comp Plan](#)
Cc: [James D. Howsley](#); [Ezra L. Hammer](#); [Oliver Orjiako](#); [Jose Alvarez](#); [Jenna Kay](#)
Subject: FW: DEIS Comments
Date: Monday, December 1, 2025 9:43:57 AM
Attachments: [image001.png](#)
[image002.png](#)
[LT Clark County Community Planning re DEIS Comments 11.29.2025.pdf](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Good day, Darlene,

Thank you for submitting Jordan Ramis' feedback related to the Draft Environmental Impact Statement for the 2025 Comprehensive Plan Update.

I have forwarded your comments to additional Staff and will enter these into the Index of Record.



Jeff Delapena
Program Assistant
COMMUNITY PLANNING

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From: Darlene Ferretti <Darlene.Ferretti@jordanramis.com>
Sent: Saturday, November 29, 2025 2:33 PM
To: Cnty 2025 Comp Plan <comp.plan@clark.wa.gov>
Cc: James D. Howsley <jamie.howsley@jordanramis.com>; Ezra L. Hammer <Ezra.Hammer@jordanramis.com>
Subject: DEIS Comments

You don't often get email from darlene.ferretti@jordanramis.com. [Learn why this is important](#)

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.

Good afternoon,

Please find attached a letter of today's date from Mr. Howsley. Please confirm receipt.

Thank you,
Darlene

Darlene Ferretti | Legal Assistant
Direct: (503) 598-5551

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November 29, 2025

VIA EMAIL ONLY

Clark County Community Planning
Comp Plan Comments
P.O. Box 9810
Vancouver WA 98666
comp.plan@clark.wa.gov

Re: **DEIS Comments**

We offer the following comments on Clark County's Draft Environmental Impact Statement (DEIS) published October 1, 2025. The County has failed to consider, let alone adhere to, a litany of state laws and administrative rules related to long-range planning. These failures, both individually and collectively serve to fatally undermine the DEIS and any planning documents the DEIS purports to support and justify. We recommend that the County address these deficiencies and proceed forward with a Comprehensive Plan update that adheres to the applicable state laws and the administrative rules.

A. The DEIS is Deficient in that it Fails to Address Areas Characterized By Urban Growth and their Associated Capacity Needs as Required Under RCW 36.70A.110, 36.70A.830, and 36.70A.115.

Clark County (the "County") is actively advancing a proposed comprehensive plan update (the "Plan") that completely ignores the rapid urbanization occurring on the Cowlitz Tribe Lands (the "Cowlitz Lands"). As a foundational issue, the County cannot properly analyze the myriad environmental impacts occurring and likely to occur within the next decade without acknowledging and considering the Cowlitz Lands, which constitute one of the fastest growing commercial centers in the County.

This failure, fatally undermines the Plan generally and serves to significantly prejudice the cities of La Center and Ridgefield in their desires to grow in a manner complimentary to this growth and in accord with the Growth Management Act (GMA) (**RCW 36.70A**). The County's dismissal of the Cowlitz Lands, the activities occurring thereon, and said activities impact on the

areas surrounding the Cowlitz Lands means that the County subsequently fails to city-county coordination requirement, which itself is a core underpinning of the GMA and delineated in **RCW 36.70A.100**.¹

In order to facilitate orderly growth, the GMA obligates the County to develop the Plan in a manner that acknowledges and considers lands characterized by urban growth, which is defined as, “land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.” **RCW 36.70A.030(48)**. As a key tenant of good planning, the County should specifically ensure that the Plan direct growth to areas characterized by urban growth that is served by existing public facilities. **RCW 36.70A.110(3)**. Furthermore, the County must ensure that there is sufficient land capacity for development. **RCW 36.70A.115**.

Here, the cities of La Center and Ridgefield are attempting to craft comprehensive plans that, unlike the County, actually complement the rapid expansion of the Cowlitz Lands in and around the area adjacent to I-5 Exit 16. The County has taken an adversarial posture towards their cities. Over the course of multiple public meetings several County Councilors have expressed open hostility towards the cities’ plans and general unwillingness to consider the plans on their own merits.

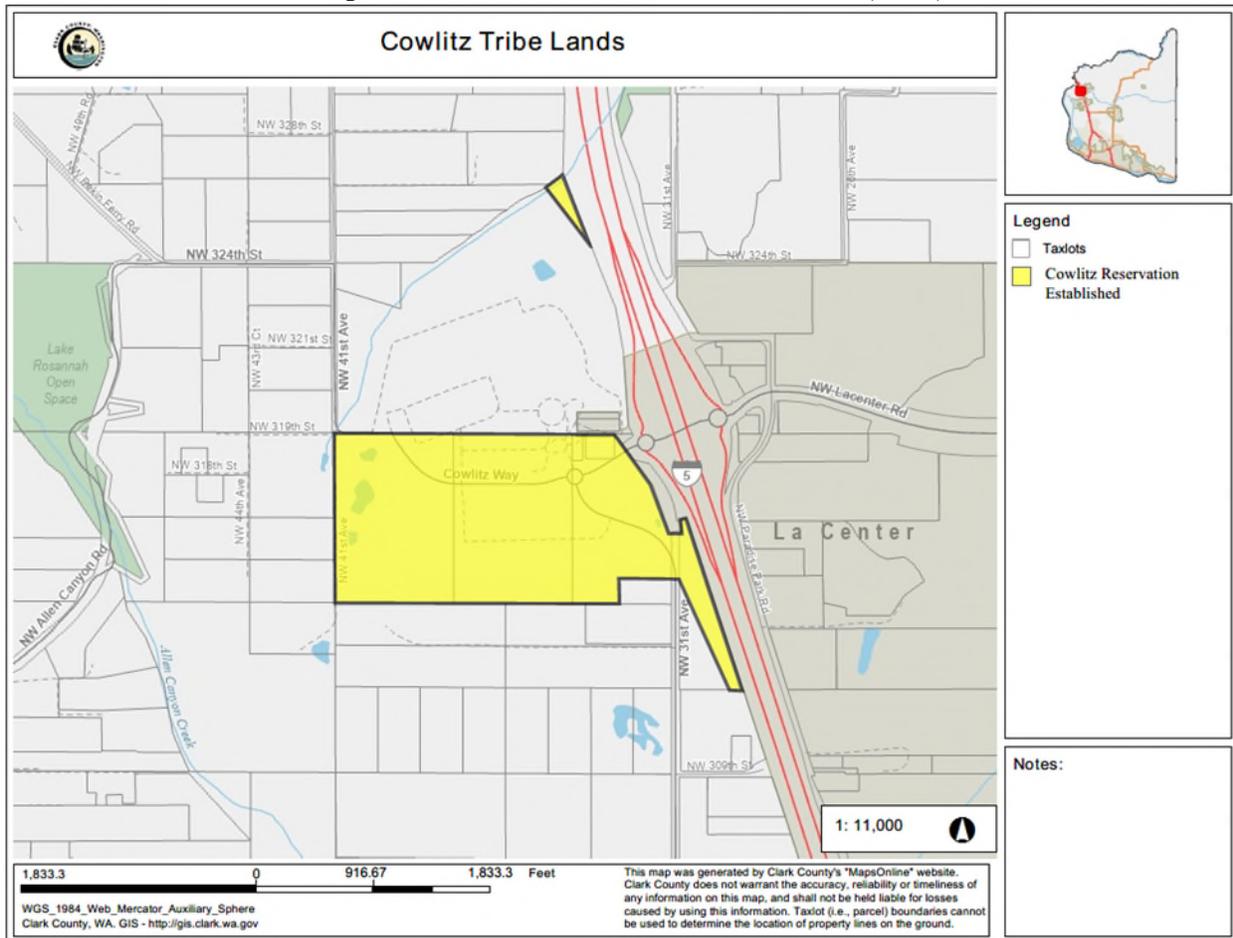
Since establishment of the Cowlitz Indian Tribe reservation in 2010, the Tribe as expanded its holdings to incorporate new property. This expansion has occurred to both the east (towards La Center) and the south (towards Ridgefield). The expansion is shown in Maps 1, 2, and 3 below. In addition to this expansion, the Tribe has engaged in robust economic development and now serve as a major employer in Clark County. The Cowlitz Lands currently host the Ilani Casino Resort, a 368,000-square-foot resort with over a 100,000 square-foot casino floor, 3,000 slot machines, and a 260,000 square foot area for shopping and dining; a 14 story hotel with more than 300 rooms, a top floor restaurant and is the tallest building in Clark County; a six-story, million-square-foot parking structure with more than 2,700 spaces and room to expand to more than 4,000 spaces; a large gas station and convenience store; and tobacco and marijuana stores. Furthermore, the interchange at I-5, Exit 16 developed with three major urban level roundabouts, one on both sides of the interchange and a second roundabout on the west side to send urban traffic down NW 31st Way to either the Ilani Casino Resort to the north or the myriad of urban uses to the south.

The Cowlitz Indian Tribe recently worked to secure legislative approval to support substantial future growth. In 2025, Washington State adopted **RCW 36.70A.830**, which allows for the

¹ The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues. RCW 36.70A.100.

extension of urban governmental services (i.e. sewer and water services) beyond the city and urban growth areas to property within the jurisdiction of the federally recognized Indian tribe. In order to avoid any ambiguity, the statute includes legislative intent, which states, “The legislature is providing a clear statement of the authority for a city and tribal government to mutually agree to contract for urban governmental services beyond the urban growth boundary of the city to tribal lands with *urban development* and be in compliance with the provisions of the growth management act” (emphasis added). With the ability to obtain new municipal services, it is evident that the ongoing Cowlitz Lands expansions will soon support further urbanization in Clark County.

Map 1 - Cowlitz Reservation Established (2010)



Map 2 - Initial Expansion (2011 – 2019)

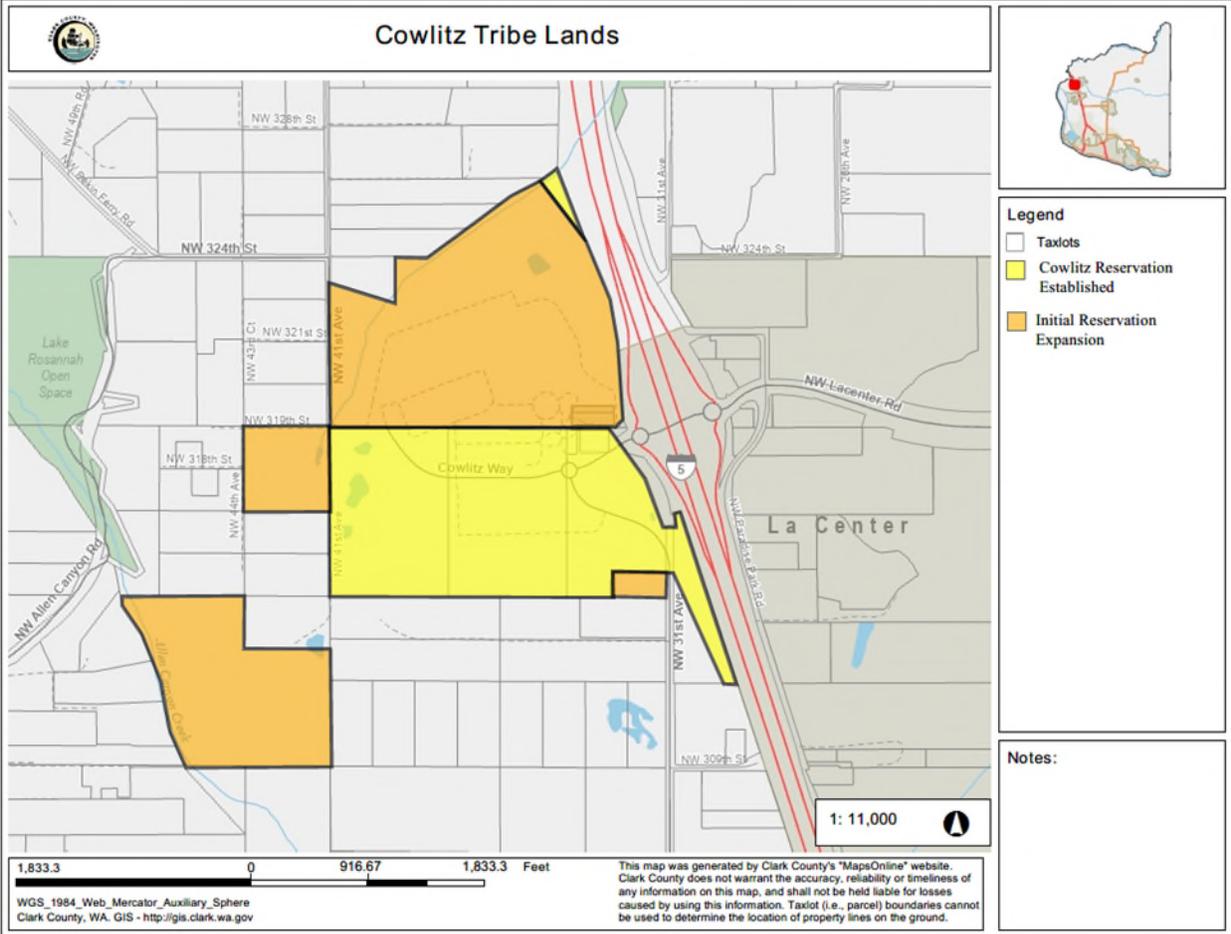


Table 1 – Growth of Cowlitz Lands

	PID	Acquisition Date	Acres	Zoning	Jurisdiction
Cowlitz Reservation Established	211002000	20-Oct-06	27.85	AG-20 (UR)	Clark County
	211035000	20-Oct-06	27.85	AG-20 (UR)	Clark County
	211218000	28-Apr-06	8.94	AG-20 (UR)	Clark County
	211005000	28-Apr-06	0.9	AG-20 (UR)	Clark County
	211006000	3-Jan-06	0.34	AG-20 (UR)	Clark County
	211003000	3-Jan-06	15.49	AG/I/JP (UR)	Clark County
	210118000	29-Jul-04	1.21	AG-20 (UR)	Clark County
	Subtotal		83		
Initial Expansion (2011 – 2019)	210993000	14-Oct-19	32.68	R-5/10	Clark County
	211017000	26-Apr-17	9.54	R-5 (UR)	Clark County
	211015000	23-Jan-15	2	AG-20 (UR)	Clark County
	210122000	5-Jul-13	69.17	AG/I/JP (UR)	Clark County
	210108000	5-Dec-12	0.84	JP (UH)	La Center
	210134000	5-Dec-12	0.38	JP (UH)	La Center
	Subtotal		115		
Subsequent Expansion (2020 – 2025)	211230000	5-Jun-25	2.32	JP	La Center
	209704000	5-Jun-25	0.51	JP	La Center
	211028000	28-May-25	9.83	AG-20	Clark County
	211037000	4-Oct-24	5	R-5 (UR)	Clark County
	211000000	22-Dec-22	4.99	AG-20 (UR)	Clark County
	211029000	22-Dec-22	5.01	AG-20 (UR)	Clark County
	209705000	23-Dec-21	31.43	JP	La Center
	209746000	17-Dec-20	12.45	JP	La Center
	211045000	13-Mar-20	6.06	R-5 (UR)	Clark County
	Subtotal		78		
Grand Total			276	Acres	

As discussed below, the County’s failure to properly consider the activity occurring on the Cowlitz Lands and the expansion of said lands leads to seven major deficiencies in the Draft Environmental Impact Report and the Plan.

1. Failure to Account for Population Growth and Economic Activity

The County acknowledges that the Ilani Casino Hotel is the largest private, non-healthcare, employer in Clark County.² However, the analysis stops there. This means that, as a first instance, the DEIS cannot not adequately account for population growth and economic activity. The GMA requires counties to plan for future population growth and economic activity, incorporating these projections into their comprehensive plans. This is tied to the Urban Growth Area (UGA) designation and the need to accommodate anticipated growth. The DEIS is inherently deficient insofar as it does not discuss the growth occurring on the Cowlitz Lands as RCW 36.70A.020(1) requires.

² See Table 68 (Largest Employers in Clark County, 2025) on page 121 of the DEIS.

Importantly, the GMA states as a primary goal, the County's obligation to "encourage development in urban areas where adequate facilities and services exist or can be provided in an efficient manner." **RCW 36.70A.020(1)**. Additionally, **RCW 36.70A.070** requires local governments to plan for future growth, including land use, housing, and economic development and account for growth projections and ensure there is sufficient land for residential, commercial, and industrial uses. Without considering the rapid urbanization occurring on the Cowlitz Lands, the County fails these obligations.

2. Failure to Account for Transportation Infrastructure Deficiencies

The GMA requires that transportation systems be planned and coordinated to accommodate future growth. The County must update plans to address transportation impacts. Specifically, **RCW 36.70A.070(6)** requires the County to develop a transportation element that includes land use assumptions used in estimating travel demand. Here, the County fails to acknowledge the high intensity commercial uses occurring on the Cowlitz Lands and, therefore, does not contemplate how those uses will impact transportation demands throughout the County.

Furthermore, **RCW 36.70A.020(7)** and **47.80.023** require the County to encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans. Again, failing to understand and acknowledge existing high intensity commercial uses on the Cowlitz Lands means that the County is unable to properly evaluate transportation demands and coordinate with the cities of La Center and Ridgefield regarding their transportation plans and how they address the increasing demand brought on by the urbanization occurring around Exit 16. Simply put, by failing to analyze the increasing urbanization occurring on the Cowlitz Lands, the County cannot reasonably plan for transportation needs arising from growth.

3. Failure to Plan for New Housing Demand

On August 8, 2023, the Clark County Council adopted Resolution No. 2023-08-01, which set the 20-year employment projection for Clark County's 2025 Comprehensive Plan periodic update (the "Resolution"). Pursuant to the Resolution, the County adopted an employment projection of 269,000 gross nonfarm jobs. This number was primarily predicated upon the desire to meet a "one-to-one" jobs to household ratio in order to help promote long-term synergy between housing and job growth. Because the County has failed to consider the increasing urbanization and associated job growth on the Cowlitz Lands, the County's housing production numbers are inadequate to ensure the "one-to-one" ratio that the Resolution requires.

Understanding that the Resolution calls for a coordinated relationship between housing and job growth, the DEIS and any subsequent Comprehensive Plan will violate the GMA unless it properly analyzes the job growth occurring on the Cowlitz Lands. Specifically the GMA requires the County to plan for a variety of housing types and ensure that there is enough housing to meet the projected population growth. **RCW 36.70A.070(2)** requires the County's housing

element to ensure that adequate land is available for housing, including affordable housing, and shall encourage a variety of housing types and densities to meet the needs of people of all income levels. **RCW 36.70A.130** further requires the County to update the housing element in order to reflect current needs and population projections.

4. Failure of Coordination on Economic Development

Economic development is a critical element of a comprehensive plan under the GMA, especially with regard to encouraging industries and businesses that support local economies. **RCW 36.70A.020(6)** obligates the County to encourage economic development that is consistent with adopted comprehensive plans. Additionally, **RCW 36.70A.100** requires the County to consider the economic impacts of new development and to ensure that their plans support the growth of both residential and commercial / industrial sectors. Here, the area around Exit 16 is experiencing rapid urbanization that includes significant job growth. The County must account for said growth so that they can properly calibrate infrastructure needs in order to support this growth.

5. Failure to Adequately Plan for Environmental and Critical Area Protections

The GMA mandates that local governments protect critical areas (such as wetlands, floodplains, and wildlife habitats) as part of their planning. Due to the County's failure to consider the rapid economic growth occurring on the Cowlitz Lands, it is unknown if said economic activity requires responsive planning to account for environmental and critical area impacts. Simply put, if development, like the Ilani Casino, affects these areas, it must be considered in the comprehensive plan.

The County is obligated to adopt development regulations that protect critical areas. These ordinances are designed to ensure that development is consistent with environmental protection. **RCW 36.70A.060** mandates that the County protect the environment and enhance the state's high quality of life, including air and water quality. **RCW 36.70A.030** requires the County to adopt a comprehensive plan that includes provisions for the protection of critical areas, shorelines, floodplains, and habitat areas, among others. Because environmental impacts may occur due to uses offsite, the County cannot ensure that it has complied with the obligated environmental protection framework unless it analyzes the rapid urbanization occurring on the Cowlitz Lands.

6. Failure to Properly Study Agricultural Land Designations

In a most glaring omission, the County explicitly excluded the Cowlitz Lands as part of the recently published Clark County Agricultural Lands Study (November 2025).³ **WAC 365-190-050(3)(a)** permits the continued designation of agricultural lands only when said lands are “not already characterized by urban growth.” However, the Agricultural Study first omits the Cowlitz Lands from analysis and then makes the striking conclusion that, “the analysis concluded that UGA boundaries provide the most reliable and defensible representation of land characterized by urban growth and removal of lands showing ‘characteristics of urban growth’ is not justifiable.” Agricultural Study, page 16. This conclusion makes no sense. The County cannot simply ignore one of the fastest urbanizing areas within Clark County and then state that urbanization is not occurring outside of existing Urban Growth Areas. Doing so is akin to the County refusing to acknowledge the presence of school aged children within its jurisdictional boundaries and then declaring there is no need to coordinate with the various school districts to ensure there is adequate land for future schools. Furthermore, as stated above this conflicts directly with the recently passed legislation in which the legislature explicitly found the purpose was to support “urban development.”

In addition to failing to consider the existing urbanization, the Agricultural Study inexplicably specifically ignores key designation factors explicitly debilitated in **WAC 365-190-050(3)**. It is likely that in their haste to prejudge the outcome of the Agricultural Study, the County chose to ignore those factors which acknowledged the need for de-designation of agricultural resource lands. Additionally, the County only chose to interview individuals and interest groups explicitly focused on opposing de-designation. In fact, Attachment A of the Agricultural Study – which is recreated below – indicates that the County interviewed only avidly anti-growth activities and those with financial interests in expanding agricultural land designations as part of the Agricultural Study.

³ “By design, all lands within incorporated city limits and their existing adopted Urban Growth Areas (UGAs) are excluded from this initial study area, as well as lands in Trust for the Cowlitz Indian Tribe. Page 6, Clark County Agricultural Lands Study (November 2025).

Attachment A: Interview Participants & Affiliations

The table below lists the 13 interviewed farmers and agricultural stakeholders—shown by participant code and affiliation only—to protect individual identities while providing the interview date and whether the conversation was held virtually or in person.

Participant	Affiliation	Interview Date	Mode (Virtual/In-person)
INT#1	Farmer	8/14/25	Virtual
INT#2	Friends of Clark County (FOCC)	8/15/25	Virtual
INT#3	FOCC	8/18/25	Virtual
INT#4	Farmer	8/20/25	Virtual
INT#5	FOCC	8/22/25	Virtual
INT#6	Ag Commission Member	8/22/25	Virtual
INT#7	Ag Commission Member	8/26/25	Virtual
INT#8	Ag Commission Member	8/27/25	Virtual
INT#9	Ag Commission Member	8/28/25	In person, Vancouver WA
INT#10	Ag Commission Member	9/3/25	Virtual
INT#13	Ag Commission Member	9/3/25	In person, Vancouver WA

This prejudicial action not only conflicts with the WAC but also renders the Agricultural Study itself unfit to serve as the basis of refusing to de-designate agricultural resource land. The County cannot rely on the Agricultural Study to make any decisions but rather, can only make designation or de-designation decisions based on a thorough analysis of the relevant factors listed below.

These critical factors include: the ability to use designated lands for agricultural purposes, which requires a detailed analysis of water rights and water availability **050(3)(b)**; the availability of public facilities, including roads used in transporting agricultural products **050(3)(b)(ii)**; the availability of public services **050(3)(b)(iv)**; the relationship or proximity (including adjacency) to urban growth areas **050(3)(b)(v)**; parcel size **050(3)(b)(vi)**; land use settlement patterns and their compatibility with agricultural practices **050(3)(b)(vii)**; the intensity and urbanized nature of nearby land uses **050(3)(b)(viii)**; history of land development permits issued nearby **050(3)(b)(ix)**; land values under alternative uses **050(3)(b)(x)**; and proximity to markets **050(3)(b)(xi)**.

Additionally, the County should consider the long-term commercial significance of agriculture itself. An important factor for consideration in this analysis is the fact that 94% of all active

farms produce less in annual sales than is necessary to satisfy the area medium income.⁴ This makes sense considering the a total of 43% of all farms are less than 10 acres in size, which is only half the minimum sized parcel that the Clark County will even accept as sufficient for new farmland. Clark County does not even designate agricultural land less than 20 acres in size, and in doing so, they acknowledge that smaller farms are unlikely to have long-term commercial significance for agricultural and associated resource production.⁵

In addition to the failure to consider the relevant WAC factors and the idea of long-term commercial significant itself, the Agricultural Study ignores water rights, which are a critical – if not the most critical – determination regarding whether land is capable of being used for agricultural production. Water rights determine which crops can be grown, influence land value and investment decisions, and are necessary for legal compliance, making them a fundamental factor in assessing the long-term sustainability and productivity of an agricultural operation.

Water right holders in Washington State, including Clark County, may hold one of two broad categories of water rights: a groundwater right or a surface water right. A groundwater right allows for water to be withdrawn from a well. Groundwater rights may allow for a range of uses. However, groundwater use for domestic and industrial uses of up to 5,000 gallons per day each, irrigation of up to half an acre, and stock water in an unlimited amount, which is water for livestock, are groundwater uses that are “exempt” from the requirement to obtain a permit. However, even though these uses are exempt from a permit requirement, a water right user with a claim to this type of use must submit a claim to the Department of Ecology.

A surface water right allows a property to use water diverted from a river, creek, lake, or similar. Consumptive water use, which can include consumptive use of groundwater or consumptive use of surface water describes water use that removes from a water supply without returning to the supply; examples include irrigation and manufacturing water use. The Department of Ecology has closed surface water rights in Clark County, including Lewis and Cowlitz rivers and Washougal River to new withdrawals. This means that options for additional water use are also limited. Buying existing rights costs up to thousands of dollars per acre, assuming that those rights are available.

The failure to acknowledge the rapid urbanization occurring on the Cowlitz Lands, the failure to properly consider the relevant WAC factors, and the clearly prejudicial predetermination of the findings themselves all serve to fundamentally undermine the Agricultural Study, the DEIS and the Plan which rely on its analysis.

⁴ According to the most recently published USDA data, 94% of farms produce less than \$50,000 in annual sales. 2022 USA Census of Agriculture, Clark County.

⁵ Clark County Code 40.210.010.A.3.

7. Capital Facilities Planning

The GMA requires local governments to adopt a **capital facilities plan** (CFP) that ensures the infrastructure needed to support new growth is adequately funded and planned for. The Cowlitz Lands and their rapid urbanization will necessitate substantial public infrastructure improvements throughout Clark County. **RCW 36.70A.070(3)** obligates the County to adopt a comprehensive plan that includes a capital facilities element that identifies the facilities and services necessary to support growth, including water, sewer, and transportation facilities. Without studying the Cowlitz Lands, the County cannot do so. **RCW 36.70A.020(8)** requires the County to ensure that public facilities and services necessary to support development are adequate to serve the development at the time the development is available for occupancy and use and **RCW 36.70A.130(3)** requires updates to the CFP to reflect the needs of the community based on growth projections and new developments. Again, without acknowledging and considering the significant urbanization occurring around Exit 16, the DEIS fails these requirements.

B. The DEIS is Deficient in that it Fails to Properly Calibrate Likely Development Yield as Required Under RCW 36.70A.215.

The DEIS is based on a non-existing market factor, and thus fails to properly calibrate actual land capacity as required by **RCW 36.70A.215** and the corresponding **WAC 365-196-315**. In fact, County staff has indicated – in multiple public meetings – that it does not intend to comply with these state requirements. As such the County and each city must engage in its own individualized analysis to determine appropriate market factor within their jurisdiction boundaries. Doing otherwise could serve as a fatal flaw in the 2025 Comprehensive Plan update.

A key component of the comprehensive plan update process is a robust and thorough analysis of development capacity within each urban growth area to determine whether there is sufficient land to accommodate the expected demand for new housing and employment. This work is referred to as buildable lands analysis and is required by **RCW 36.70A.215** and its corresponding **WAC 365-196-315**. As discussed in detail below, Clark County is actively ignoring the Department of Commerce guidance regarding analyzing land capacity.

The County has advanced a market rate factor of ten percent. They argue that there is absolutely no difference in land as between cities and therefore that the same types of housing and employment development will occur at the exact same rate in Ridgefield and Washougal.

This assertion lacks a factual underpinning and is far from the truth. In fact, the Department of Commerce explicitly rejects such collectivized planning in favor of detailed, individualized analysis within each community. As the Department explains, “having a ‘bottom-up’ approach to meeting the [buildable lands] program requirements recognizes that while there are commonalities between the counties and the cities within those counties, there are also distinct differences.” Department of Commerce Buildable Lands Guidelines, 2018; page 22.

Perhaps most concerning is that the one-size-fits all argument fails to account for key building constraints when determining whether a particular parcel is likely to develop over the coming years. After all, land that will not develop does not provide actual capacity for housing or employment land uses, which is the very purpose of the comprehensive plan update process. Recognizing this fact, the RCW and WAC require the inclusion of market factors to help counties and cities build a true understanding of what land the community should expect to develop in the near and medium terms.

This idea of market factor is easily understood. As the Department of Commerce succinctly explains, “Over a 20-year planning period, not all land will be available for development or redevelopment, no matter how suitable. One key constraint on property availability is market availability, or whether or not land will transact for purpose of development or redevelopment. Owners of property that could be developed or redeveloped may have no interest in selling or developing over an extended period of time for any number of reasons.” Department of Commerce Buildable Lands Guidelines, 2018; page 47. Additionally, infrastructure costs, restrictive covenants, the cost of development generally, parcel size, etc. are all meaningful market factors.

Perhaps the most important component of market factor is location. The Department of Commerce emphasizes the importance of this factor. “Market Supply Factors can and should be distinct for different counties and cities. [The RCW] does not intend for there to be uniformity in Market Supply Factor determination by counties and cities statewide. Variation and distinct differences to reflect unique local conditions are expected and protected.” Department of Commerce Buildable Lands Guidelines, 2018; page 55.

The legislature intended that, following the identification of vacant and partially vacant land, city and county planners should make, “Use of a reasonable land market supply factor when evaluating land suitable to accommodate new development or redevelopment of land for residential development and employment activities. The reasonable market supply factor identifies reductions in the amount of land suitable for development and redevelopment.” **RCW 36.70A.215(3)(b)(ii)**. Jurisdictions are encouraged to analyze market factors, in a robust planning exercise, and endeavor to understand the individual factors affecting each city. The law is clear and unambiguous; “In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.” **RCW 36.70A.110(2)**. Importantly, the state requires both cities and counties to engage in this analysis; it is not the jurisdiction of counties alone.

The WAC provides further clarity, when “establishing a market factor, counties and cities should establish an explicit market factor for the purposes of establishing the amount of needed land capacity. Counties and cities may consider local circumstances in determining an appropriate market factor.” **WAC 365-196-310(4)(b)(ii)(F)**. Again, it is clear that cities and counties should engage in this work and determine the actual market factors applicable to each jurisdiction.

After all, each community has a set of unique factors which drive how and when development will occur.

With even a cursory review of other GMA counties, it becomes evident that the particularized analysis called for under state law produces a wide range of market factor. King County took a robust and open approach to determining market factor. As detailed in the 2021 King County Urban Growth Capacity Report, the county used eight steps to identify market factor within each city and each zone. The county:

- Reviewed Department of Commerce guidance and past studies/methodologies;
- Explored and evaluated potential methodologies, data sources and implementation frameworks;
- Engaged with planners and development community to inform methodology;
- Conducted test fit analysis to inform market factor guidance;
- Developed a framework for each city to evaluate and select a market factor assumption;
- Recommended market factors for application across the county;
- Created a menu of options organized by geography, product and market typologies; and
- Provided additional discussion and recommendations related to specific conditions that may impact the Market Factor assumption.

This work resulted in a highly particularized set of market factors. Auburn has a 20% market factor for very low density zones and a 5% market factor for high density zones. Burien on the other hand has a 20% market factor for very low density zones and a range of 31% – 100% for high density zones. Similarly differentiated market factors are the norm, not the exception. The 2021 Pierce County Buildable Lands Report includes a wide range of market factor percentages. The low density zones have a 50% market factor in Buckley and 25% in Eatonville.

Clark County appears to have taken none of the King County steps. To date, the market factor conversation significantly conflicts with both the Department of Commerce guidance and state law. County staff have provided static, uniform market factor rates across the entire county in a top-down approach. They have produced no analysis or evidence to explain how their numbers were derived. They have not allowed the cities to conduct their own analyses. There is, in short, no defensible market factor analysis in the public record. Without proper underlying analysis, the DEIS mapping is unsupported and cannot demonstrate compliance with the **RCW 36.70A.215** and **WAC 365-196-315**.

C. The DEIS is Deficient in that it Fails to Properly Consider Countywide Forest Resource Lands as Required Under RCW 36.70A.050.

As part of the DEIS and Plan update process, the County is obligated to properly classify agriculture, forest, and mineral lands and critical areas. **RCW 36.70A.050**. In order to comply

with the statute, the County must conduct countywide studies. The County has done so for agricultural lands only.⁶ When analyzing forest resource lands, the County, “must conduct a comprehensive countywide analysis”. **WAC 365-190-060(1)**. The County has not done so. As such, it fails to comply the obligation to properly classify forest critical areas. Pursuant to 36.70A.131, the County is obligated to “review its mineral resource lands designations” as part of the DEIS and Plan update process. Specifically, **RCW 36.70A.131** requires the County to specifically consider both “new information made available since the adoption or last review of its designations or development regulations, including data available from the department of natural resources relating to mineral resource deposits” and “new or modified model development regulations for mineral resource lands prepared by the department of natural resources, the department of commerce, or the Washington state association of counties.” Here, the County has conducted no such mineral study.

The County has stated that it is not under any obligation to comply with the RCW because the Department of Natural Resources has not provided the County with new information. However, that is not the application standard. The RCW is unambiguous and the County is obligated to act based on “New information made available since the adoption or last review of its designations.” Here the county is in receipt of said information. It approved a mining overlay designation for the Chelatchie Bluff area as part of the application. The County accepted and concurred with the evidence that indicated the presence of mineral resources. As such, the County must comply with **RCW 36.70A.131** or proceed forward with a deficient DEIS and accompanying plan.

D. The DEIS is Deficient in that the Underlying Density Assumptions for the County’s Low Density Residential Zoning Designations are Wholly Unsupported by Evidence in Violation of RCW 36.70A.215.

Pursuant to **RCW 36.70A.215(3)(c)**, the County must “provide an analysis of ... development assumptions...” Further, **WAC 365-196-410(2)(d)(v)(A)** obligates the County to demonstrate that assumed housing capacity is justified via the use of, “calculations for determining residential capacity in each zone including the data and assumptions used for acreages, densities, and market factors influencing development ... It is not appropriate to make a finding that assumed growth contained in the countywide planning policies and the county or city comprehensive plan will occur at the end of the current comprehensive planning twenty-year planning cycle without rationale.” Read together, it is clear that the County is obligated to “show its math” rather than merely picking abstract numbers as a way to justify desired outcomes.

Here, the DEIS is predicated on realizing the residential density yields as delineated in the County’s Vacant Buildable Lands Model (VBLM). However, third-party independent analysis included in the County’s GMA Update Public Record demonstrates that the County

⁶ As discussed in Section A above, the County’s Agricultural Study is itself defective since it fails to adequately consider urbanization as the RCW requires.

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overestimates residential yield by a troubling 22% in low-density residential lands. As evidenced by a review of actual development within the past five years, realized yield is only 12.2 units per acre compared with the VBLM assumptions of 15.6 units per acre. The County has proffered no evidence to the contrary or a proposal that addresses these “missing” dwelling units. As such, their purported density yields are wholly unsupportable and have the affect of undermining both the DEIS and the Plan.

E. The DEIS is Deficient in that the County’s Proposed Zone Changes Along 179th Street are Unsupported by the Necessary Capital Facilities Plan Pursuant to RCW 36.70A.070(3).

The County proposes to increase zoning capacity along the 179th Street corridor. However, in order for this proposed capacity to actually facilitate development, the County must provide for significant sewer system upgrades along the corridor. The County is required to address this issue and provide, “a forecast of the future needs for such capital facilities [and] the proposed locations and capacities of expanded or new capital facilities.” **RCW 36.70A.070(3)(b) and (c)**. However, the DEIS does not acknowledge this fact, nor indicate there is any particularized need to upgrade utility capacity in order to serve the proposed zoning designations. This failure means that the DEIS complies with neither **RCW 36.70A.070(3)** nor the associated **36.70A.070(2)** insofar as the purported future housing cannot materialize without the County first addressing the utility capacity issues associated with the 179th Street corridor.

As discussed in detail above, we have significant concerns regarding the County’s failure to consider significant environmental impacts, such as the rapid urbanization occurring near Exit 16 as part of the DEIS. This failure has led to a situation where the County does not properly follow a litany of state laws and administrative rules related to long-range planning. These failures, both individually and collectively serve to fatally undermine the DEIS and any planning documents the DEIS purports to support and justify. We strongly recommend that the County address these deficiencies and proceed forward with a Plan update that adheres to the applicable state laws and the administrative rules and produces a Plan that works for all Clark County residents.

Sincerely,

JORDAN RAMIS PC



Jamie D. Howsley

Admitted in Oregon and Washington