

From: [Jeffrey Delapena](#)
To: "[Clark County Citizens United, Inc.](#)"; [Cnty 2025 Comp Plan](#); [Bart Catching](#); [Oliver Orjiako](#); [Jose Alvarez](#)
Cc: [Rebecca Messinger](#)
Subject: RE: January 8, 2026 PC and Councilor Hearing court information by staff incomplete
Date: Friday, January 9, 2026 2:05:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Good day, Carol,

Thank you for providing this feedback related to the Joint Hearing to select the Preferred Land Use Alternative for the 2025 Comprehensive Plan Update.

I am forwarding to additional members of Staff. Your comments will also be brought to the attention of the Planning Commission ahead of the continuation of the Hearing on Jan. 15th. This will also be added to the Index of Record.

Best,



Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558



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From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Friday, January 9, 2026 1:52 PM
To: Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Matt Little <Matt.Little@clark.wa.gov>; Glen Yung <Glen.Yung@clark.wa.gov>; Wil Fuentes <Wil.Fuentes@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>; Cnty 2025 Comp Plan <comp.plan@clark.wa.gov>; Bart Catching <Bart.Catching@clark.wa.gov>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jeffrey Delapena <Jeffrey.Delapena@clark.wa.gov>; Jose Alvarez

<Jose.Alvarez@clark.wa.gov>

Subject: January 8, 2026 PC and Councilor Hearing court information by staff incomplete

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January 9, 2026

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

FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN

Dear Councilors, Commissioners, and Staff,

Clark County Citizens United, Inc., a 501c4 non-profit organization representing approximately 6,000 members, notes that in the Staff Report submitted for the January 8, 2026 Joint Planning Commission and County Council Hearing, reference is made to the history of the Comprehensive Plans. Specific language from the Poyfair Superior Court Decision **Case # 96-2-00080-2** was also included. But that information was incomplete. CCCU's following testimony quotes excerpts from that staff report..

Staff failed to note the Court of Appeals Division II Court Order, and continues to use the Office of Financial Management population projection erroneous formula for rural lands. Staff also failed to recognize one important statement from the Poyfair Superior Court Order, regarding ignoring existing rural development. Those statements were the most important aspects of the court decisions and the county has never been compliant to those court orders.. The following discussion was provided by staff.

(Poyfair) *“The agri-forest designations violate the GMA... Furthermore, there is no substantial evidence in the record to support the designation of agri-forest lands under the GMA.” [Poyfair Decision, page 5]. “...failure to solicit meaningful public input for the agri-forest resource lands violates the public participation...” [Poyfair Decision, page 5].*

(Staff) 3. The EIS issued by the county violated SEPA because of procedural flaws;

(Poyfair) "The agri-forest resource land designations were disclosed subsequent to the publication of the final Plan EIS and were not disclosed or discussed in any way in the EIS alternatives." [Poyfair Decision, page 5].

(Poyfair) "The Board's decision to uphold the adequacy of the EIS absent additional environmental analysis regarding the agri-forest designations and changes to the pattern of rural development was clearly erroneous." [Poyfair Decision, pages 5-6].

(Staff) 4. On the issue of parcel size, the court ruled that the removal of rural activity centers was not addressed in the EIS; and "...the county needed to provide a variety of rural densities to be compliant with the GMA, and that could be achieved by designating rural centers as envisioned in the Community Framework Plan." [Poyfair Decision, page 5].

CCCU NOTES: Number 4 claims what the court decision said. But on page 5 of the Poyfair Decision, and any other page of the order, the court did not say what staff claims in #4. Staff says it was an issue of parcel size, which could be achieved using rural centers. That statement is false. On page 5 of the Order, nothing is said about parcel size or the ability to achieve it via rural centers. What the Court said in item #7 was in reference to the overall zoning in rural zones when the court said:

"The removal of rural activity centers also was not addressed in the EIS. The County did not require additional environmental review and did not solicit additional public comments. The County failed to comply with SEPA's requirement for additional environmental review when a proposal changes substantially from the one addressed in the initial EIS."

(Staff) 5. Rural development regulations were inconsistent with GMA because of failure to provide for a variety of rural densities.

CCCU NOTES: The court was referencing three different topics, rural development regulations, resource development regulations, and rural centers in it's ruling when it said:

"Rural Land Densities. The County's (1) rural and (2) resource development regulations are inconsistent with the GMA....One of the planning goals requires a variety of residential densities and housing types which the Clark County Community Framework Plan met by identifying pre-existing small development patterns in rural areas, and (3) creating rural activity centers with a variety of rural densities."

(Poyfair) "The eradication of the centers and their replacement

with a uniform lot density violates the planning goal requiring a variety of residential densities.” [Poyfair Decision, page 6].

(Poyfair) “The only requirement for rural areas in the GMA is that growth in rural areas not be urban in character. While the GMA contains no restrictions on rural growth, it does require a variety of residential densities.” [Poyfair Decision, page 6].

(Poyfair) “There is no requirement in the GMA that the OFM projections be used in any manner other than as a measure to ensure urban growth areas are adequately sized and infrastructure in those growth areas is provided for.” [Poyfair Decision, page 6]. The Board decision, however, compelled the county to downzone substantial portions of the rural area in order to meet the Board’s apparent requirements.” [Poyfair Decision, page 6].

(Poyfair) “The Board’s interpretation was erroneous, and the county’s decision to follow the Board’s lead was unfortunate.” [Poyfair Decision, Pages 6-7].

CCCU NOTES: Staff has quoted the Poyfair Decision excerpts from the Superior Court Decision Case # 96-2-00080-2. But staff did not quote the most important aspect of the Decision. On page 7, the court Decision states:

(Poyfair) (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.”

CCCU NOTES: This directive from the Superior Court, indicates and states the county illegally ignored the terms of the GMA as it regards recognizing existing rural development, This rural development cannot legally be ignored by the county, but Clark County has not recognized this development in a meaningful way in any of the Comprehensive Plans, since 1994. Clark County has not been compliant to two court orders, which has jurisdiction over and above the Western Washington Growth Management Hearing Board.

On page 4 of the Poyfair court decision,

(Poyfair) CONCLUSIONS OF LAW ,

1. Jurisdiction . "This Court has jurisdiction over this case pursuant to RCW 36.70A.300 and RCW 34.05.514."

3. Statutory Mandate. "In reviewing Clark County's Comprehensive Plan, the Board was required to comply with the statutory mandates and guidelines set forth in the GMA. The legislature created the Board in the GMA. The Board is

not above the law which gave it its existence. The Board must not only comply with express statutory mandates, but, in reviewing a County's record, must also assess whether the planning goals set forth in the GMA were utilized and consider those goals when deciding whether the planning goals set forth in the GMA were utilized and consider those goals when deciding whether a county complied with the GMA."

CCCU NOTES: The Court of Appeals Division II states on Page 8 ruling:

(COA) "Based on the foregoing, we conclude that the GMA does not require counties to use OFM's projections as a cap on non-urban growth. The Board exceeded its authority, and the trial court did not err by reversing the Board's ruling."

According to the Growth Management Act, the Courts had and have jurisdiction over the Hearing Board, when any county decision is appealed to the courts. The Hearing Board is supposed to assure the court decisions are complied with by the county. In the case of Clark County and the Poyfair and COA's Decisions, that did not happen. The Superior Court ruled the county cannot ignore existing rural development, but they did. The Court of Appeals ruled the county cannot use the OFM projections to cap rural growth, but the former 80/20, 90/10 and now the 95/5 urban/rural split formula does just that. The courts called such a formula erroneous.

(Staff) The county did not appeal the Superior Court decision and instead began a process to comply with the court's order. The first step was to appoint two task forces; one to deal with the agri-forest designation and the other with establishing rural centers. 1998 The Agri-forest Focus Group comprised of 13 public members, (including some CCCU members), made recommendations on re-designating approximately 35,000 acres of Agri-forest designated resource lands. The Agri-forest Focus Group majority recommended that approximately 99% of the land should be designated Rural-5, Rural-10 and Rural-20. Rural-10 and Rural-20 were newly created in order to provide a variety.

CCCU NOTES: The 13 member task force had only three CCCU members, the rest were environmental activists. Even though much of the land in question was formerly zoned 2.5 acres, the task force was ordered not to designate any land smaller than five acres. In addition, there was to be a consensus by the group, and if not, the commissioners would decide its fate. That was an impossible task, given the makeup of the group.

The Planning Commission supported five acre zoning, but in the end, county staff designated most of that land into 10 and 20 acre rural zones. Those county actions made approximately 90% of the parcels non-conforming, which meant they were less than their new zone.

The county has yet to comply with the Superior Court and the Court of Appeals Division II Orders. CCCU expects the county to do so in this Comprehensive Plan update of 2025 -2026. Clark County must perform reasonable future planning for rural lands by recognizing existing rural and resource development, and cannot use OFM's population projections to put a cap on rural growth by using an erroneous formula to prevent that growth . Such a formula disregards the critical housing needs of the rural and resource areas which deserves equal standing with urban areas for a county wide process.

Sincerely,

Carol Levanen, Exec Secretary

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