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No. 102177-1

SUPREME COURT
OF THE STATE OF WASHINGTON

KING COUNTY,
Appellant,

v.

FRIENDS OF SAMMAMISH VALLEY, a Washington
nonprofit corporation; A Farm in the Sammamish Valley LLC,
Marshall Leroy d/b/a Alki Market Garden, Eunomia Farms,
LLC, Olympic Nursery Inc., C-T Corp., Roots of Our Times
Cooperative, Regeneration Farm LLC., Hollywood Hills
Association, Terry and David R. Orkiolla, Judith Allen, and
FUTUREWISE,
Respondents

MEMORANDUM OF *AMICI CURIAE*
SUSAN BOUNDY-SANDERS AND PAULA WATERS IN
SUPPORT OF REVIEW

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I. INTRODUCTION

The Growth Management Act (“GMA”) has successfully reduced “uncoordinated and unplanned growth.”¹ It resulted from lessons learned about protecting agricultural lands and their rural buffers from sprawl, and achieving compact, efficient urban areas.

The normal process of urbanizing rural and resource areas requires testing against growth criteria, then amending the Urban Growth Area boundary (“UGA boundary”, or “UGA”), then annexing small areas to be urbanized into cities. Ordinance 19030 (“19030”)² “make[s] an end run around the GMA”³ by permitting an urban use on rural and resource lands countywide. Division I’s published opinion (“Opinion”) ratifies this approach statewide. It creates a template for exempting any chosen industry from the GMA.

¹ RCW 36.70A.010

² CR 217-338

³ CR 9853

The Opinion undermines the “primacy” of GMA comprehensive plans.⁴ It subverts cities’ longstanding efforts to comply with the GMA. It harms cities as well as the environment, rural lands, and rural character.

The potential impacts to agricultural and rural lands—and to nearby cities—are foundational and not unique to King County. There are currently over 1700 licensed wineries, breweries, distilleries, and tasting rooms (WBDs) in the state; the Opinion immediately opens rural and agricultural land to these businesses. In addition, a broad range of businesses are poised to follow suit: event centers, entertainment, accommodations, and a variety of retail.

This harms cities. It affects the location of commercial construction, vacancy rates in existing buildings, job locations, allocations of mass transit, and tax revenues, all of which cities consider in their planning, budgeting, and investments.

⁴ MSRC, “Growth Management Act,” <https://mrsc.org/explore-topics/planning/general-planning-and-growth-management/growth-management-act#comprehensive> (“The GMA establishes the primacy of the Comprehensive Plan.”).

This case is worthy of Supreme Court discretionary review under RAP 13.4(b)(1) (conflict with previous decisions) and 13.4(b)(4) (substantial public interest).⁵

II. IDENTITY OF *AMICI CURIAE*

Susan Boundy-Sanders served on the City of Woodinville (“City”) Planning Commission 2008-2009 and City Council 2009- 2021. Paula Waters served on the City Planning Commission 2009-2012 and City Council 2013-2019.

As detailed in the Motion for Leave, both have for many years studied and participated in municipal efforts to implement the GMA, foster compact and efficient urban areas, and protect farms, farming, and farmers, including agricultural zoning and rural buffers, from urban sprawl.

Ms. Boundy-Sanders was a co-author, and Ms. Waters a reviewer, of Woodinville Resolution 532, which is

⁵ RAP 13.4(b)(1) and (4).

Woodinville’s current adopted position on Ordinance 19030

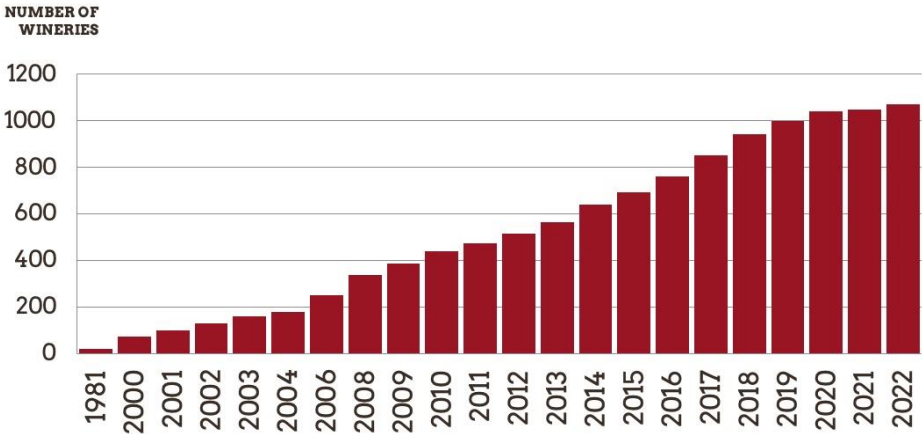
(Appendix 1).⁶

III. STATEMENT OF CASE

The Amici acknowledge the parties’ statements of the case. However, they lack important factual context.

A. The alcoholic beverage industry is large and growing, with increasing demand for retail outlets near population centers.

There has been rapid growth in the Washington wine industry from its beginnings in the 1980s to over 1,050 wineries today.⁷



⁶ CR 9728-9741

⁷ Washington State Wine Commission, <https://www.washingtonwine.org/fast-facts/>

The table below shows the potential scale of demand for retail outlets for wine and other alcohol businesses in or near urban areas: over 1700 WBDs, with a total economic impact of over \$13 billion per year.

Manufacturer type	Number in WA	Economic impact
Wineries	1050-plus ⁸	\$8 billion/year ⁹
Breweries	448 ¹⁰	\$1.7 billion/year ¹¹
Distilleries	135 ¹²	\$2.95 billion/year ¹³
Cideries	89 ¹⁴	\$370 million/year ¹⁵
Sake breweries	3 ^{16, 17, 18}	
Totals	1725-plus	\$13-plus bn/yr

⁸ Washington State Wine Commission, <https://www.washingtonwine.org/fast-facts/>

⁹ Washington State Wine Commission, <https://www.washingtonwine.org/fast-facts/>

¹⁰ Brewer’s Association, <https://www.brewersassociation.org/statistics-and-data/state-craft-beer-stats/?state=WA>

¹¹ Brewer’s Association, <https://www.brewersassociation.org/statistics-and-data/state-craft-beer-stats/?state=WA>

¹² American Craft Spirits Association, <https://americancraftspirits.org/wp-content/uploads/2017/02/Final2021Craft-Spirits-Data-Project-compressed.pdf>

¹³ Distilled Spirits Council, <https://www.distilledspirits.org/state-data/>

¹⁴ Cider Guide, <https://www.ciderguide.com/washington-cider-map-directory/>

¹⁵ Gail Oberst, “Northwest cider industry continues to grow,” *Capital Press*, https://www.capitalpress.com/specialsections/orchard/northwest-cider-industry-continues-to-grow/article_e1c2732a-5d74-11ea-8540-3b36f0d4cc46.html

¹⁶ Tahoma Fuji Sake, <http://tahomafuji.com/>

¹⁷ Shirafuji Sake Brewery Company, <https://www.facebook.com/profile.php?id=100083001687358>

¹⁸ Cedar River Brewing Company, <https://www.urbansake.com/sake-guide/cedar-river-brewing-company/>

Benton and Walla Walla Counties, the largest WBD growing and production area,¹⁹ are a 4.5-hour drive from major urban centers and tourists. To survive financially, WBDs want a retail presence in population centers.

B. Rural land and rental rates are significantly cheaper than urban commercial rates.

The US Department of Agriculture reports that the average price of irrigated agricultural land in Washington is \$8,400 per acre.²⁰ In the Sammamish Valley, properties sold for agricultural uses in the past few years have ranged from \$18,000²¹ to \$68,000²² per acre.

In contrast, average assessed land values for 2019 within the City of Woodinville were \$340,000 per acre in the Tourist Business (TB) zone, \$500,000 per acre for Industrial (I) zone,

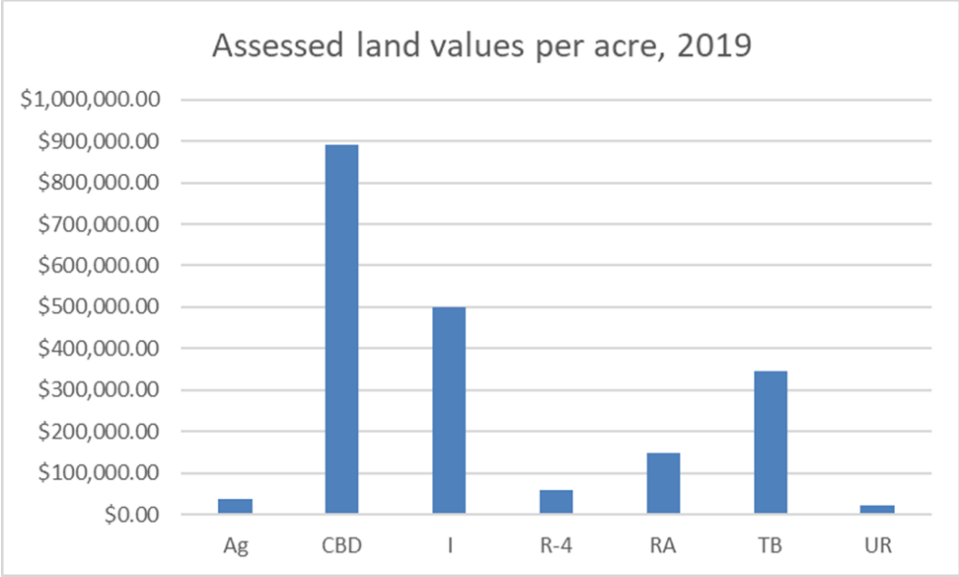
¹⁹ CR 7971

²⁰ USDA Land Values 2022 Summary, August 2022,
https://www.nass.usda.gov/Publications/Todays_Reports/reports/land0822.pdf

²¹ <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=1526059039>

²² <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2326059068>

and \$880,000 per acre in the Central Business District (CBD) near the Sammamish Valley APD.²³



Virtually every urban-rural boundary in the state can expect a similar price differential.

C. Sewer and other infrastructure are present in cities and intentionally absent in rural areas

Sewer treatment—a bright-line differentiator between urban and rural—mitigates the environmental harms of manufacturing, large retail, and entertainment activities including WBDs.

²³ CR 10131

In addition to sewers, urban areas also have stormwater management, roads, transit, sidewalks, streetlights, parking lots and other infrastructure that make cities more convenient, safer, and less environmentally harmful locations for commercial uses than rural lands.

D. Cities have ample buildable land for commercial uses.

Every ten years the seven most populous counties in western Washington, and their cities, prepare buildable lands inventories for the statewide growth allocation process.²⁴ For example, there are 6,347 acres of buildable non-residential land in King County's urban areas²⁵ and comparable amounts in each of the other urban counties.

²⁴ Washington Department of Commerce Buildable Lands Program, <https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/buildable-lands/>

²⁵ *2021 King County Urban Growth Capacity Report 2021*, KCUGCR, <https://kingcounty.gov/~media/depts/executive/performance-strategy-budget/regional-planning/GrowthManagement/GMPC-2021/GMPC-Meeting-062321/KC-UGC-Final-Draft-Report-June-2021.ashx?la=en>, page 65 of the 409-page PDF (page 58 in the printed pagination).

Exhibit 39. Buildable Non-Residential Land by Assumed Density (acres)

Geography	Assumed Density Level					Total	
	Very Low	Low	Medium Low	Medium High	High	#	%
Metropolitan Cities	51	35	58	788	2,960	3,891	61%
Core Cities	212	490	343	691	232	1,969	31%
HCT Communities	93	32	73	5	1	204	3%
Cities & Towns	67	45	111	24	5	251	4%
Urban Unincorporated	27	0	0	5	0	32	1%
Urban King County	450	602	584	1,512	3,199	6,347	100%

The buildable lands inventories guide the housing and jobs allocations that form the basis for counties’ and cities’ comprehensive plan updates.²⁶

Industrial²⁷ and retail²⁸ vacancies in the region each run 3.2% in the most recent analysis, providing immediately available commercial space inside the UGAs.

E. Public transit relies on urban densities.

Most cities receive less public transit service than their residents wish for. The amount of transit service correlates with

²⁶ The next updates will occur in 2024.

²⁷ Q2 2023 Puget Sound Industrial Report, <https://www.cushmanwakefield.com/en/united-states/insights/us-marketbeats/seattle-bellevue-marketbeats#:~:text=The%20Puget%20Sound%20Eastside%20industrial,2023%2C%20down%2040%20bps%20YOY.>

²⁸ Seattle Retail Market Report, 2nd Quarter 2023, <https://kidder.com/market-reports/seattle-retail-market-report/>

density: “Higher densities supply more potential riders for transit, which, in turn, can support more frequent transit service and a greater variety of routes.”²⁹

IV. ARGUMENT

Argument A describes the linguistic sleight of hand in 19030 that allows pseudo-production and unlimited retail. Arguments B through F describe the problems this creates for cities.

A. Code revisions in Ordinance 19030 enable WBDs to locate retail-centric businesses outside cities.

The changes to the sourcing, production, and sales requirements in Ordinance 19030 allow WBDs to locate on rural lands and operate as retail outlets.

²⁹ Sue Enger, The Density/Transportation Connection: MRSC, <https://mrsc.org/stay-informed/mrsc-insight/december-2012/the-density-transportation-connection>

Sales:

Ordinance 19030 *deletes* the unambiguous requirement that sales are “*limited to sales of products produced on site.*”³⁰

In 19030’s definitions, WBDs are allowed to offer “on-site tasting of products and sales *as authorized by state law*”³¹ where state law *allows and does not limit* sale of products *produced off-site.*³²

The development condition for sales at WBDs says, “tasting and retail sales *of products produced on-site* may occur only as an accessory to the primary winery, brewery, distillery production use and may be provided *in accordance with state law.*”³³ This restricts *only products produced on-site, not products trucked in.*

³⁰ CR 241, line 511.

³¹ CR 237 lines 466-467 (WBD II definition) and CR 237 lines 478-479 (WBD III definition).

³² WAC 314-24-160(1); WBDs under the same corporate umbrella can sell all products at all locations; WAC 314-20-015(1); WBDs can cross sell some other WBDs’ products.

³³ CR 253, lines 709-711; CR 258, lines 809-811.

These businesses' goal is to sell alcohol, and under 19030's sales rules, a WBD can sell, *from rural and agricultural locations, unlimited quantities of alcohol produced elsewhere.*

Production:

Ordinance 19030 requires only *partial* production: "At least two stages of production" ³⁴ Meeting 19030's production requirement is as simple as one on-site barrel labeled "fermenting" and another labeled "mixing" or "aging."

There is *no minimum quantity requirement.*

These hollow (or absent) standards betray the common understanding of what constitutes a "winery, brewery or distillery." They set a very low bar for enabling a pseudo-producer to locate on rural or agricultural land, with almost no capital investment. ³⁵

³⁴ CR 253, line 698.

³⁵ Alcohol production at a WBD it is at odds with the GMA-mandated absence of sewer on rural and agricultural lands. Sewer is not permitted outside the UGA (RCW 36.70A.030(37)), and using domestic septic "is neither legal nor prudent." (FOSV Petition for Review at Appendix B, page 2).

Sourcing:

For Rural Areas, 19030 *drops* the requirement that “sixty percent or more of the products processed must be grown in the Puget Sound counties,”³⁶ leaving *no constraints* on the source of fruit or grain.

For the Agricultural zone, 19030 says “sixty percent or more of the products *processed* must be grown on-site”.³⁷ The development condition applies only to products *processed* on site, not to products trucked in for retail *sale*. Growing enough fruit or grain on-site to produce the two barrels mentioned in the Production section is sufficient to meet 19030’s requirements on agricultural land.

Impact:

The plain words of 19030’s sales, production, and sourcing rules lay out a clear path for inexpensively establishing businesses that are WBD “producers” in only the

³⁶ CR 253, lines 693-694. This development condition 3(c) previously applied to both RA and A zones.

³⁷ CR253, lines 693-694.

loosest sense. Once qualified as “producers” they can sell unlimited quantities of alcohol, trucked in from anywhere.

In combination with the land prices discussion that follows in Argument B, 19030’s three lax rules invite WBDs to profit from Washington’s nonrenewable agricultural lands and buffers—an affront to the GMA and public investment.

For cities and their residents, the same WBDs that would be a desirable amenity when located in urban commercial districts are detrimental for all the reasons discussed below when located on rural or agricultural land.

B. Locating on inexpensive rural lands confers an unfair cost and time advantage to rural buyers, landlords, and tenants compared to in-city businesses.

Less expensive land³⁸ outside the UGA allows rural owners and landlords to offer lower purchase prices or rents. *This was the fundamental problem that led to passage of the GMA; it is neither speculative nor restricted to King County.*

³⁸ CR 10131

Symptomatic, and not unique, is the report by a commercial landlord in Woodinville's Tourist Business District that businesses have moved out of their development into cheaper space barely a block away but outside the UGA.³⁹

In-city businesses go through permitting processes, environmental compliance, and costs and construction time for urban infrastructure such as sewer hookups, frontage improvements, parking, and stormwater management. The time differential can amount to months or years compared to their rural competitors.

Combined, the changes to WBD rules (Argument A) and low land prices create a *powerful perverse incentive* for alcohol businesses to locate outside of cities.

C. Sprawl onto rural lands creates uncertainties in cities' tax revenues and their ability to plan and invest for growth.

The GMA requires cities to create comprehensive plans that plan for growth; these are soon followed by the need to

³⁹ CR 10129-10130

spend time and money accommodating growth. Cities must plan for infrastructure investments such as roads, water, sewer, and stormwater management to support their mandated growth. Infrastructure investments, in turn, require tax revenues to fund planning and construction. The GMA also requires cities to maintain traffic concurrency. Cities face a perennially difficult challenge trying to juggle growth, infrastructure, revenue, and concurrency requirements. The Opinion adds uncertainty to the challenge by destabilizing growth patterns.

D. Cities' job growth, and thus transit service, are impeded if employers can sprawl onto rural lands.

In the comprehensive plan update that many Washington cities will undertake in 2024, the cities will create capacity for additional jobs through zoning changes. This expectation stands even if 19030 leads in-city employers to move to nearby rural lands. The Opinion undercuts cities' ability to plan, invest for, and achieve job growth.

Closely related, 19030 diverts jobs, and customers, into areas where densities will not be high enough to warrant public transit service. By draining jobs, it diminishes cities' ability to achieve compact urban commercial centers that support public transit service. Ordinance 19030 and the Opinion make Washingtonians more car dependent.

E. Allowing WBDs to sprawl onto rural lands sets the stage for similar requests by other businesses.

Ordinance 19030 is the proverbial camel's nose under the tent. Even before 19030 was passed, WBD retail venues have sold clothing, jewelry, and accessories.⁴⁰ Permanent businesses have included a coffee shop and antique shop on agricultural land.⁴¹ WBD owners have proposed a list of additional permitted uses including conference centers, theaters, and bookstores.⁴²

⁴⁰ CR 9947-9948

⁴¹ CR 10116-10119

⁴² CR 9707

The portents are clear: making urban-serving, non-soil-dependent commerce legal on rural land for WBDs will result in requests for similar permitted uses by other types of businesses. Division I's Opinion invites migration of a wide variety of businesses to rural lands and in so doing harms cities.

F. The Opinion ignores the difference between urban and rural, and undercuts GMA comprehensive plans' rural lands protection.

Washington values planning for growth while simultaneously protecting the environment and rural lands. These values permeate public policy, including the GMA,⁴³ State Environmental Policy Act,⁴⁴ King County Comprehensive Plan,⁴⁵ Countywide Planning Policies,⁴⁶ and Zoning Code.⁴⁷

⁴³ RCW 36.70A

⁴⁴ RCW 43.21C

⁴⁵ *2022 Update to 2016 King County Comprehensive Plan*, https://kingcounty.gov/~media/depts/executive/performance-strategy-budget/regional-planning/2016CompPlanUpdate/2022UpdateTo2016-asAmended/2016_KCCP_KingCountyComprehensive_Plan-updated_12062022_with_Ord_19555.ashx?la=en

⁴⁶ *2021 King County Countywide Planning Policies*, https://kingcounty.gov/en/~media/depts/executive/performance-strategy-budget/regional-planning/CPPs/2021_CPPs-Adopted_and_Ratified.ashx

⁴⁷ King County Code Title 21A -- Zoning, https://kingcounty.gov/council/legislation/kc_code/24_30_Title_21A.aspx

Particularly troubling are the lack of “*full disclosure*”⁴⁸ in King County’s SEPA checklists and DNSs, and the retroactive SEPA and DNS reviews eleven months after the passage of 19030. The Opinion’s acceptance normalizes underperforming on both fronts. In their experience as policymakers, *amici* would expect that a governmental agency would set an example for what all applicants should do.

Also troubling is the Opinion’s misinterpretation of King County Policy R-201’s plain language mandating “Rural uses that *do not include urban-serving facilities.*”⁴⁹ Even if there were not the sleight of hand in Argument A that allows unlimited retail, the superficial provisions of this ordinance allow manufacturing—a fundamentally urban and urban-serving activity—on rural and agricultural lands. It’s an “end

⁴⁸ *Norway Hill Pres. & Prot. Ass'n v. King Cty. Council*, 87 Wn.2d 267, 272, 552 P.2d 674, 677 (1976)

⁴⁹ CR 9238

run around the GMA”⁵⁰ and comprehensive plan amendment process that exempts one industry at a time from the GMA.

This court held in *King County v. Central Puget Sound Growth Management Hearings Board* (“*Soccer Fields*”) that under the GMA “[t]he County was required to assure the conservation of agricultural lands and to assure that the use of adjacent lands does not interfere with their continued use for the production of food or agricultural products.”⁵¹

Ordinance 19030 and the Opinion fail these foundational guides, harming cities and Washington.

V. CONCLUSION

For the reasons above, *amici curiae* support FoSV’s and Futurewise’s requests for discretionary review.

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⁵⁰ CR 9853

⁵¹ *King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 142 Wn.2d 543, 14 P.3d 133 (2000) (“*Soccer Fields*”) at 556 (emphasis in original); RCW 36.70A.060(1)(a); WAC 365-196-815(1)(b)

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APPENDIX 1: WOODINVILLE RESOLUTION 532, CITY'S CURRENT ADOPTED POSITION

RESOLUTION NO. 532

A RESOLUTION OF THE WOODINVILLE CITY COUNCIL SUPPORTING ENFORCEMENT OF KING COUNTY ZONING CODES; SUPPORTING INCREASED PROTECTIONS OF AGRICULTURAL AND RURAL LANDS IN AND SURROUNDING THE SAMMAMISH RIVER VALLEY; SUPPORTING TRANSIT IMPROVEMENTS IN THE SAMMAMISH VALLEY AND CITY OF WOODINVILLE; AND REPEALING RESOLUTION NO. 483.

WHEREAS, the Woodinville City Council adopted Resolution No. 483 on August 2, 2016 to establish the City's position on the issue of preservation of the agricultural and natural character of the Sammamish Valley; and

WHEREAS, King County has completed an extensive public input and study process and is now considering legislative action to revise County Code addressing land use regulations in the Sammamish Valley; and

WHEREAS, the Woodinville City Council deems it prudent and appropriate to ensure its position on the issue is current; and

WHEREAS, Sammamish River Valley wine tourism relies in part on unobstructed views of working agricultural land to draw wine tourists; and

WHEREAS, agricultural land is a nonrenewable resource; and

WHEREAS, the citizens of King County voted in 1979 to fund a Farmland Preservation Program that includes the Sammamish River Agricultural Production District for the purpose of preserving farmland, agriculture, and open space (see <https://www.kingcounty.gov/depts/dnrp/wlr/sections-programs/rural-regional-services-section/agriculture-program/farmland-preservation-program.aspx>); and

WHEREAS, the average price of high-quality farmland in Washington has increased 25 percent in the last year, and nearly 50 percent in the last four years (*Seattle Times*, "Latest Washington real-estate gold rush: farms," July 20, 2016, <https://www.seattletimes.com/business/real-estate/latest-washington-real-estate-gold-rush-farms/>); and

WHEREAS, Washington has lost more than a million acres of farmland between 1997 and 2012 (https://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_1_State_Level/Washington/st53_1_001_001.pdf); and

WHEREAS, development has already made some Sammamish Valley agricultural acreage too wet to farm (*Attachment 2*); and

WHEREAS, King County has protections such as SO-120 (the Agricultural Production Buffer Special District Overlay, KCC 21A.38.130) to prevent upslope development from harming agricultural land but these protections have proven inadequate (*Attachment 3*); and

WHEREAS, Washington's Growth Management Act Goal 8, RCW 36.70A.020(8), encourages conservation of agricultural lands and discourages incompatible uses (*Attachment 4*); and

WHEREAS, King County's Countywide Planning Policy DP-57 discourages incompatible land uses adjacent to designated Resource Lands including agricultural land (*Attachment 5*); and

WHEREAS, The Washington Supreme Court has held that agricultural land must be protected under the Growth Management Act, *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543 (2000), recognizing that "allowing incompatible uses nearby impairs the viability of the resource industry" (referring to agriculture), *City of Redmond v. Central Puget Sound Growth Management Hearings Board*, 136 Wn.2d 38 (1998); and

WHEREAS, King County's Countywide Planning Policy DP-50 requires that new nonresidential uses in the Rural Area be limited to uses that are demonstrated to serve the Rural Area (*Attachment 6*); and

WHEREAS, the sprawling style of illegal uses can cause environmental harm to nearby agricultural land, and availability of suitable land inside the Woodinville city limits for such uses mean that expansion of the Urban Growth Boundary in order to accommodate such uses is unnecessary and contrary to the criteria identified in Countywide Planning Policies DP-16 and DP-17 (*Attachment 7*); and

WHEREAS, the Vision Statement in Woodinville's Comprehensive Plan recognizes the economic and cultural importance of healthy farmland and a healthy agricultural industry in the Sammamish Valley (*Attachment 9*); and

WHEREAS, the presence of approximately 100 wineries and tasting rooms, plus numerous breweries, distilleries, and cideries inside the Woodinville city limits demonstrates that wineries and tasting rooms can thrive while complying with GMA-mandated zoning and permitting requirements; and

WHEREAS, parking is insufficient during peak tourism hours in the City's wine districts;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, HEREBY REPEALS RESOLUTION NO. 483 AND RESOLVES AS FOLLOWS:

Section 1. The Woodinville City Council respectfully requests that the King County Council take actions that will ensure enforcement of current code in and around the Sammamish Valley.

The Woodinville City Council respectfully requests that code enforcement shift its standards closer to both the letter and spirit of the codes.

The Woodinville City Council regards code enforcement as a necessity for the continued existence of agriculture in the Sammamish River Valley. We regard any discussion of relaxing code as compounding what is already a very real threat to the continued viability of Sammamish River Valley agriculture.

Section 2. The Woodinville City Council respectfully requests that King County Council not only preserve all Agricultural zoning, but also increase the protections on upslope Rural land, because the current protections have proved inadequate.

Agriculture has value in its own right, as affirmed by King County voters when they approved the Farmland Preservation Program in 1979. It is also the basis for Woodinville wine country tourism: without the country aesthetic that the farmland provides, there is no Woodinville wine country.

Preserving Agricultural zoning is necessary, but not sufficient. Upslope development has already made some Agricultural acreage too wet to farm (*Attachment 2*). This indicates that the existing protections that apply to nearby Rural land, such as SO-120, are insufficient and should be strengthened, broadened in the scope of development and permitted uses covered, and extended to cover more geographic area. Preserving farmland, agriculture, and farmers means that current proposals for Rural land, including retail overlays, relaxed permitted uses, Urban Growth Boundary amendments, rezones, relaxed definitions, relaxed standards, and any other changes that allow urban activities upslope of Agricultural zoning should be rejected by the King County Council on the grounds that they have already harmed, and are likely to further harm, agriculture and farmers in the Sammamish Valley.

Section 3. The Woodinville City Council respectfully requests that the King County Council preserve views of working agricultural land from the roadways in the Sammamish River Valley.

Unobstructed views of productive farmland are essential to the ability of the Sammamish Valley to draw tourists; places like Seattle already have numerous production wineries much closer to the homes or lodgings of wine tourists. Therefore, developing the parcels along the roadside between Woodinville and Redmond not only damages the feasibility of using the land for agricultural uses by increasing runoff, but also erases tourism value of the Sammamish River Valley by obscuring the views that attract tourists.

Section 4. The Woodinville City Council respectfully requests that the King County Council set a higher bar for initiating consideration of relaxation of existing protections for the Sammamish River Valley every four years, as even such studies destabilize agricultural land prices, thereby jeopardizing agriculture in the Valley (*Attachment 1*).

Section 5. The Woodinville City Council commits to continuing to make Woodinville a hospitable host for manufacturing and sale of alcoholic beverages.

The City of Woodinville hosts approximately 100 wineries, breweries, distilleries, and tasting rooms inside its city limits – a strong indication that its land use codes are a good fit for the industry. The City is currently reviewing its zoning code, permitted uses, and permitting processes to identify opportunities for making the area inside the city limits (inside the Urban Growth Boundary) even more inviting to the wine and beverage industries.

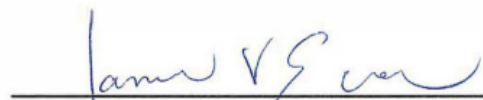
The overwhelming majority of the wineries and tasting rooms in Woodinville wine country operate successfully within the Woodinville city limits. With nearly 190 acres of vacant and redevelopable commercial land inside the city limits, there is ample space for every winery in the state of Washington to have a tasting room inside the Woodinville city limits (*Attachment 8*).

The commercial or industrial-scale manufacture and sale of wine, as with any other product being manufactured and sold at such a scale and at a location other than where the raw materials are grown, are fundamentally urban activities. The fact that so many wineries are conducting these urban activities successfully in Woodinville is proof that the industry can not only survive, but thrive in an urban setting.


Section 6. The Woodinville City Council respectfully requests that the King County Council explore ways to provide public transit and alleviate parking shortages in Woodinville's wine districts.

No public transit serves Woodinville's wine districts. This forces tourists to visit by private vehicles, causing even more demand for parking than most commercial districts experience. Woodinville receives many requests by tourist-oriented business owners for transit service. We are grateful for Metro's current Alternative Services study. We ask that the King County Council also consider adding fixed-route service serving Woodinville's Park & Ride and covering Woodinville's downtown, Hollywood, West Valley, and North Industrial wine districts. This fixed route service would complement King County's ongoing efforts to better utilize existing park & ride facilities by transporting tourists, local employees, citizens, and transit-dependent individuals from available remote parking to their destinations throughout the City.

RESOLVED this 15th day of January 2019.


James Evans, Mayor

ATTEST/AUTHENTICATED:


Katie Hanke, City Clerk

Passed by the City Council: 01-15-2019
Resolution No. 532

Summary of Available/Recently Sold Property
In Woodinville Wine Country

Current Owner	Property Address	Parcel Number	Acres	Assessor's Appraised Value	Asking Price	Asking Price Differential	Listing Price Source	Sale Price
Walker	13229 Woodinville Redmond Rd NE	2326059024	4.00	\$557,000	\$10,000,000	1695.33%	Annie McKenzie-Mutch (Agent)	
Carlson	15132 148 th Ave NE	3407700011	4.15	\$371,000	\$2,600,000	600.81%	Windemere Real Estate	
Brown	16725 140 th Ave NE	1026059031	7.98	\$715,000	\$3,000,000	319.58%	North Pacific Properties	\$1,850,000
Zante	13425 NE 171 st St	1026059030	14.90	\$1,022,000	\$7,000,000	684.93%	Zante family comments to Woodinville Planning Commission	
Leone	14701 148 th Ave NE	1526059051	1.48	\$445,000				\$995,000

Comment originally submitted to the King County Council for the 2012 Comprehensive Plan update:

THE ROOT CONNECTION CSA
13607 Woodinville-Redmond Rd NE
PO Box 267
Woodinville Wa 98072
rootconnection.net

December 18, 2011

Re: Proposal to move the Urban Growth Boundary in the Sammamish Valley

I have been a farmer and farm manager in the Sammamish Valley for over 26 years. There are specific reasons why I am opposed to moving of the UGB, which I will address here.

Any change in density of lands surrounding farmlands to farms has an immediate and detrimental effect on farming production:

A number of years ago, new houses were built on the hill directly across from the Root Connection property, along with a new road leading up to those houses. The buildings, roads and driveways have been the direct cause of an extreme increase in runoff from the hill, which flows via piping underneath the Wood-Red Rd. and empties directly onto our farmland. This has resulted in appx. one-fourth of our acreage now being too wet to farm. ***Since our average annual production of vegetables on this farm is 11,250 lbs per acre, this means that 45,000 lbs (22.5 tons) of much needed food production has been lost – forever.***

Since the land this farm is on is in the Farmland Preservation Program, this loss is not only the farmer's loss, but a loss to all the citizens of King County who voted to tax themselves so that food could be produced here.

Similar problems have occurred at another property I manage, a 47 acre piece on the corner of the Wood-Red Rd. and NE 124th St. (commonly referred to as the "South 47"). Citizens formed an LLC to purchase this property, which was then put into the Farmland Preservation Program. The motivation was to make sure this property would always be farmed. **Unfortunately, due to increased building and commercial activities surrounding this farm, 9 acres are now too wet to farm, and drainage of the whole parcel has been affected.**

When will we stop using the lands that are needed to feed our population as a dumping ground for water run-off and the resulting contamination that results? Moving the UGB will destroy the surrounding farmlands, and it will not take long. We cannot keep nipping at the ends of the valley and expect the middle to survive. A healthy ecosystem has to maintain a certain size in order to function. Some of these properties considered in this ill-advised plan have wetlands or are adjacent to wetlands. I'm sure that proposals for dealing with that would be to push that water and runoff from increased building and pavement onto the neighboring farms, which would then cause flooding and pollution. Anyone who says this won't happen is not a farmer and really doesn't know what they are talking about. This would also leave the door open for these properties to be annexed to Woodinville, and we can see how well that worked out for the farmlands that used to exist in the valley.

Yes, yes, most folks who are wary of encroachment on farmland areas would bemoan the loss of "open space", "quality of life", "rural atmosphere", etc. And while these reasons are important for citizens who live in the area, as well as businesses such as some wineries and restaurants that depend on a somewhat picturesque landscape, the most important reason of all is to protect our food security in local food production. (As in "Agricultural Production District".)

If we can stop infringing on the APD, we will be able to protect the lands that remain. ***There is enough farmland available in the Sammamish Valley to produce over 12 million pounds of vegetables annually, enough to provide more than 80,000 people with 150 lbs each year.*** We just need some patience. We almost lost all our farmers 30 years ago, and it's taken that long for new farmers to make some of these lands productive again. It may take another 30 years before the majority of the parcels are actively farmed. Do we have to go the way of all those other valleys where the farmlands have been destroyed? That's how it happens – little by little – can we have the wisdom to learn from the past and be different?

Respectfully,

Claire Thomas
President, Roots of Our Times Cooperative

King County agricultural buffer

SO-120: Agricultural Production Buffer SDO

Summary

An agricultural production buffer special district overlay provides a buffer between agricultural and upslope residential land uses.

Story

Amended by Ord. 15028, 10/11/2004 (Map)

Amended by Ord. 15032, 10/11/2004 (Language)

Amended by Ord. 15326, 11/25/2005 (Map)

Description

Agricultural Production Buffer SDO

Development Condition Text

21A.38.130 Special district overlay - agricultural production buffer.

A. The purpose of the agricultural production buffer special district overlay is to provide a buffer between agricultural and upslope residential land uses. An agricultural production buffer special district overlay shall only be established in areas adjacent to an agricultural production district and zoned RA.

B. The following development standard shall apply to residential subdivisions locating in an agricultural production buffer special district overlay: Lots shall be clustered in accordance with K.C.C. 21A.14.040 and at least seventy-five percent of a site shall remain as open space, unless greater lot area is required by the Seattle-King County department of public health. (Ord. 15032 § 50, 2004: Ord. 12823 § 8, 1997).

https://www.kingcounty.gov/council/legislation/kc_code/24_30_Title_21A.aspx

Washington Growth Management Act

RCW 36.70A.020

Planning goals.

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW [36.70A.040](#). The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

. . .

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

King County Countywide Planning Policies

DP-57 Discourage incompatible land uses adjacent to designated Resource Lands to prevent interference with their continued use for the production of agricultural, mining, or forest products.

King County Countywide Planning Policies

DP-50 Except as provided in Appendix 5 (March 31, 2012 School Siting Task Force Report), limit new nonresidential uses located in the Rural Area to those that are demonstrated to serve the Rural Area, unless the use is dependent upon a rural location. Such uses shall be of a size, scale, and nature that is consistent with rural character.

King County Countywide Planning Policies

DP-16 Allow expansion of the Urban Growth Area only if at least one of the following criteria is met:

- a) A countywide analysis determines that the current Urban Growth Area is insufficient in size and additional land is needed to accommodate the housing and employment growth targets, including institutional and other non-residential uses, and there are no other reasonable measures, such as increasing density or rezoning existing urban land, that would avoid the need to expand the Urban Growth Area; or
- b) A proposed expansion of the Urban Growth Area is accompanied by dedication of permanent open space to the King County Open Space System, where the acreage of the proposed open space
 - 1) is at least four times the acreage of the land added to the Urban Growth Area;
 - 2) is contiguous with the Urban Growth Area with at least a portion of the dedicated open space surrounding the proposed Urban Growth Area expansion; and
 - 3) Preserves high quality habitat, critical areas, or unique features that contribute to the band of permanent open space along the edge of the Urban Growth Area; or
- c) The area is currently a King County park being transferred to a city to be maintained as a park in perpetuity or is park land that has been owned by a city since 1994 and is less than thirty acres in size.

DP-17 If expansion of the Urban Growth Area is warranted based on the criteria in DP-16(a) or DP-16(b), add land to the Urban Growth Area only if it meets all of the following criteria:

- a) Is adjacent to the existing Urban Growth Area;
- b) For expansions based on DP-16(a) only, is no larger than necessary to promote compact development that accommodates anticipated growth needs;
- c) Can be efficiently provided with urban services and does not require supportive facilities located in the Rural Area;
- d) Follows topographical features that form natural boundaries, such as rivers and ridge lines and does not extend beyond natural boundaries, such as watersheds, that impede the provision of urban services;
- e) Is not currently designated as Resource Land;
- f) Is sufficiently free of environmental constraints to be able to support urban development without significant adverse environmental impacts, unless the area is designated as an Urban Separator by interlocal agreement between King County and the annexing city; and
- g) Is subject to an agreement between King County and the city or town adjacent to the area that the area will be added to the city's Potential Annexation Area. Upon ratification of the amendment, the Countywide Planning Policies will reflect both the Urban Growth Area change and Potential Annexation Area Change.

Woodinville Buildable Lands Inventory

WOODINVILLE COMPREHENSIVE PLAN UPDATE | EXISTING CONDITIONS INVENTORY

Exhibit 2.4-17
Commercial Buildable Land by Zone, 2014 Analysis

Zone	Gross Acres		Net Acres	
	Vacant	Redevelopable	Vacant	Redevelopable
CBD	6.9	120.2	2.8	68.8
GB	16.3	38.9	7.9	23.9
NB	0.2	1.0	0.1	0.8
O	0.5	0.0	0.5	0.0
R-48/O	0.0	0.0	0.0	0.0
TBD	2.0	1.6	0.4	0.6
I	39.0	51.7	25.2	37.7
Total	64.9	213.4	36.8	131.8

Source: City of Woodinville, 2013; BERK, 2014

Net buildable acres represent the amount of land available for actual development after critical areas, market factors, right-of-way needs, and other factors are considered. Applying these factors nets the City 36.8 acres of vacant buildable land and 131.8 acres of buildable land in its commercial and industrial zones. Net buildable acres are used to determine the amount of additional building square feet and employment capacity a parcel can support given the current zoning.

Note #1: On December 31, 2015, a Development Agreement in Woodinville's Tourist Business District lapsed. This adds roughly 20 acres to the vacant land area in the Tourist Business District, for a total of 22 vacant acres in the heart of the Sammamish River Valley.

Note #2: Removing the acres unavailable for wineries or tasting rooms (NB, O, & R-48/O districts) and adding the 22 vacant acres described in Note #1, the total vacant and developable land for these type of uses within Woodinville City Limits is approximately 187.3 acres.

Woodinville Comprehensive Plan, Vision Statement

In the year 2035, Woodinville is a safe, welcoming, family-friendly, and diverse community that supports a successful balance of neighborhoods, parks and recreation, businesses, and tourism. We have preserved our Northwest woodland character, our open space, and our clean environment. Woodinville is a vibrant community in which to live, work, play, and visit. We have cultivated a compact, inviting downtown in which locally owned businesses can successfully establish and thrive. We have enhanced our ability to move about the community by all modes of travel. We have strengthened the agricultural and wine industries in Woodinville, the Sammamish Valley, and throughout the state by transforming locally sourced food, libations, and hospitality into an internationally renowned tourism experience.

September 5, 2023

Susan Boundy-Sanders
17859 149th Ave NE
Woodinville, WA 98072



RE: City of Woodinville Resolution No. 532: Preservation of the Sammamish Valley

Dear Mrs. Boundy-Sanders,

Resolution No. 532, adopted by the City Council of the City of Woodinville on January 15th, 2019 (attached) represents the Council's opinion that preservation of the Sammamish Valley is of vital public interest to our community for a number of reasons. This adopted position remains intact to this day.

Sincerely,

A handwritten signature in black ink, appearing to be "BR" with a flourish.

Brandon Buchanan
City Manager

CERTIFICATE OF COMPLIANCE

This document uses Times New Roman 14-point font. It contains 2,500 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 8th day of September, 2023.

/s/ _____
Jeffrey M. Eustis, WSBA #9262

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the state of Washington that on this 8th day of September, 2023, I caused to be served a copy of the Memorandum of *Amici Curiae* Susan Boundy-Sanders and Paula Waters in Support of Review in the above-captioned matter upon the parties herein via the Washington Appellate Courts e-filing and e-service system as indicated below:

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DATED this 8th day of September, 2023, at Seattle,
Washington.

/s/ _____
Jeffrey M. Eustis, WSBA #9262

LAW OFFICES OF JEFFREY M. EUSTIS, PLLC

September 08, 2023 - 2:54 PM

Transmittal Information

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Appellate Court Case Number: 102,177-1
Appellate Court Case Title: King County v. Friends of Sammamish Valley, et al.

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