

COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON  
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NO. 39546-1-II

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**IN THE COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

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CLARK COUNTY WASHINGTON, CITY OF LA CENTER, GM  
CAMAS LLC, MACDONALD LIVING TRUST, & RENAISSANCE  
HOMES,

Respondents,

v.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS  
BOARD, JOHN KARPINSKI, CLARK COUNTY NATURAL  
RESOURCES COUNCIL, & FUTUREWISE,

Appellants.

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**BRIEF OF APPELLANTS  
KARPINSKI, CCNRC & FUTUREWISE**

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## I. INTRODUCTION

This appeal seeks review of the Clark County Superior Court's May 20, 2009, Decision which affirmed in part and reversed in part a decision by the Western Washington Growth Management Hearings Board ("GMHB" or "Board").<sup>1</sup>

Both the Board and Superior Court had considered whether Clark County's de-designation of 4,351 acres of agricultural resource land was consistent with the provisions of RCW 36.70A, Washington's Growth Management Act ("GMA"). After adoption of the County's de-designation, John Karpinski, Clark County Natural Resources, and Futurewise ("Futurewise"), filed a Petition for Review with the GMHB challenging the County's environmental review and public participation processes, the de-designation of agricultural land, and the addition of that de-designated land to the County's UGAs.

The Board found that the County's environmental review and public participation processes accorded with law. The Board also found that the de-designation of some of the agricultural lands complied with the GMA, but that others did not. Respondent before the Board, Clark County

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<sup>1</sup> The Final Order was entered June 12, 2009. CP 64.

Washington, and Intervenor-respondents, City of La Center, GM Camas LLC, MacDonald Living Trust, and Renaissance Homes, sought judicial review of the Board's decision before the Clark County Superior Court. The Court affirmed the Board in part and reversed in part. Appellants defended the decision of the Board at the Superior Court and continue to do so here.

## **II. ASSIGNMENT OF ERROR**

1. The Superior Court erred in reversing the Western Washington Growth Management Hearings Board decision with respect to de-designation of approximately four thousand acres of agricultural resource lands identified as areas WB, CB, LB-1, LB-2, LE, VA, and VA-2.

## **III. STATEMENT OF THE CASE**

Two years after its adoption of Clark County's 2004 Growth Management Act (GMA) comprehensive plan update, Clark County adopted Ordinance 2007-09-13 which de-designated 19 areas which Clark County had previously designated agricultural lands of long-term commercial significance. The de-designated areas consisted of 4,351 acres which were added to Clark County's Urban Growth Areas (UGAs). Appellants John Karpinski, Clark County Natural Resources, and Futurewise, filed a Petition for Review with the Western Washington Growth Management Hearings Board ("GMHB" or "Board") challenging

the County's environmental review and public participation processes, the de-designation of agricultural land, and the addition of that same land to the County's UGAs.

As indicated above, the Board found that the County's environmental review and public participation processes accorded with law. The Board also found that the de-designation of some of the agricultural lands complied with the GMA, but that de-designation of the areas was non-compliant. The areas found non-compliant were identified by area and an abbreviation by the County, Board, Superior Court, and Parties; to wit, Battleground – BC, Camas – CA-1, Camas – CB, La Center – LB-1, La Center – LB-2, La Center – LE, Ridgefield – RB-2, Vancouver – VA, Vancouver – VA-2, Vancouver – VB, and Washougal – WB.

Clark County Washington, City of La Center, GM Camas LLC, MacDonald Living Trust, and Renaissance Homes appealed the decision of the Board to the Superior Court. On review, the Superior Court found that the Board had erred in finding the County out of compliance with respect to the de-designation of areas WB, CB, LB-1, LB-2, LE, VA, and VA-2. The Superior Court affirmed the Board with respect to the remaining de-designated areas, BC, VB, and portions of RB-2.

Because there was no evidence before the Superior Court that the Board's Order was "not supported by evidence that is substantial when viewed in light of the whole record before the court,"<sup>2</sup> the Court erred in reversing the decision of the Board.

#### IV. ARGUMENT

##### A. STANDARD OF REVIEW

A Growth Management Hearings Board

is charged with adjudicating GMA compliance, and, when necessary, with invalidating noncompliant comprehensive plans and development regulations. The Board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of [the GMA]. To find an action "clearly erroneous," the board must be left with the firm and definite conviction that a mistake has been committed.

*King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 142

Wn.2d 543, 552, 14 P.3d 133, 138 (2000). (Hereinafter, "King County")

(internal citations and quotation marks omitted).

When reviewing a Board's decisions, this Court applies the standards of the Administrative Procedure Act, chapter 34.05 RCW.

*Swinomish Indian Tribal Cmty. v. W. Wash. Growth Mgmt. Hearings Bd.*,

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<sup>2</sup> RCW 34.05.570(3)(e).

161 Wn.2d 415, 424, 166 P.3d 1198 (2007) (citing RCW 34.05.570(3)). The Court reviews the Board's legal conclusions de novo, with deference to the Board's interpretation of the statute it administers. *Id.*, quoting *King County*, 142 Wn.2d at 553. The Board's findings of fact are reviewed for substantial evidence. *Id.* In reviewing the agency's findings of fact under RCW 34.05.570(3)(e), the test of substantial evidence is "a sufficient quantity of evidence to persuade a fair-minded person of the truth or correctness of the order." *Callecod v. Wash. State Patrol*, 84 Wn. App. 663, 673, 929 P.2d 510 (1997).

The Court of Appeals does not weigh the evidence or substitute its view of the facts for that of the Board. *Callecod*, 84 Wn. App. at 676, n.9. Futurewise, the prevailing party before the Board, may argue any ground to support the Board's order which is supported by the record. *Whidbey Env'tl. Action Network ("WEAN") v. Island County*, 122 Wn. App. 156, 168, 93 P.3d 885 (2004).

The Supreme Court has made clear that the reviewing court's analysis, while *de novo*, should be one "giving substantial weight to the Board's interpretation of the statute it administers." *Swinomish Indian Tribal Cmty v. W. Wash. Growth Mgmt. Hearings Bd.*, 161 Wn.2d 415, 424, 166 P.3d 1198 (2007). Similarly, review of issues involving mixed

questions of law and fact, courts determine the law independently, “giving substantial weight to the Boards’ interpretations,” then apply the law to the facts as found by the board. *Hamel v. Employment Sec. Dep’t*, 93 Wn. App. 140, 145, 966 P.2d 1282 (1998), review denied, 137 Wn.2d 1036, 980 P.2d 1283 (1999); *King County*, 142 Wn.2d at 552. The burden of demonstrating the invalidity of agency action is on the party asserting invalidity. RCW 34.05.570(1)(a). Thus the burden of demonstrating the Board’s decision was erroneous rests with the County and Intervenors.

**B. THERE IS SUBSTANTIAL EVIDENCE DEMONSTRATING CLARK COUNTY DID NOT SATISFY THE THREE-PRONG TEST FOR DE-DESIGNATING AGRICULTURAL LANDS.**

The GMA mandates conservation of agricultural land. *King County*, 142 Wn.2d at 562. The Board found that Clark County violated the GMA by de-designating a total of 4,532 acres of its agricultural land as part of the County’s attempt to expand UGA boundaries. The noncompliant de-designations were the following areas: Battleground – BC (68.16 acres), Camas – CA-1 (342.56 acres), Camas – CB (402.19 acres), La Center LB-1 (218.81 acres), La Center LB-2 (244.53 acres), La Center LE (112.47 acres), Ridgefield RB-2 (199.69 acres), Vancouver – VA (125.02 acres), Vancouver – VA-2 (22.89 acres), Vancouver – VB

(780.43 acres), Washougal – WB (116.06 acres). *Karpinski v. Clark County*, WWGMHB Case No. 07-2-0027, Final Decision and Order Amended for Clerical and Grammatical Errors (June 3, 2008) at 3 (hereinafter, “FDO”). All of the de-designated parcels continue to meet both the GMA and the County criteria for agricultural resource land designation and must remain designated and conserved. Furthermore, there is no GMA-compliant reason for the County to have chosen these agricultural lands for inclusion in the UGAs: as documented *infra*, adequate non-resource lands are available for any needed UGA expansions.

Under the GMA, the “land speaks first” and agricultural lands of long-term commercial significance must be conserved and excluded from urban growth areas. *Bremerton v. Kitsap County*, CPSGMHB No. 95-3-0039, Final Decision and Order (October 6, 1995); *King County*, 142 Wn.2d at 562. RCW 36.70A.020 provides the following mandatory<sup>3</sup> goal:

8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the

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<sup>3</sup> Counties must follow both GMA goals and specific requirements. *LIHI v. City of Lakewood*, 119 Wn. App. 110, 116, 77 P.3d 653 (2003).

conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

In order to maintain and enhance the agricultural industry, the

GMA requires local governments to identify:

Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products.

RCW 36.70A.170(1). The Supreme Court has explained the reason for the conservation mandate:

The GMA set aside special land it refers to as “natural resource lands,” which include agricultural, forest, and mineral resource lands. “Natural resource lands are protected not for the sake of their ecological role but to ensure the viability of the resource-based industries that depend on them. Allowing conversion of resource lands to other uses or allowing incompatible uses nearby impairs the viability of the resource industry.”

*City of Redmond*, 136 Wn.2d at 47, quoting Richard L. Settle & Charles G. Gavigan, *The Growth Management Revolution in Washington: Past, Present, and Future*, 16 *U. Puget Sound L. Rev.* 867, 907 (1993).

In short, agricultural resource lands must be conserved,<sup>4</sup> and the Supreme Court has identified a three part test for identifying agricultural land of long-term commercial significance:

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<sup>4</sup> RCW 36.70A.060.

agricultural land is land: (a) not already characterized by urban growth (b) that is primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used or capable of being used for production based on land characteristics, *and* (c) that has long-term commercial significance for agricultural production, as indicated by soil, growing capacity, productivity, and whether it is near population areas or vulnerable to more intense uses.

*Lewis County v. Western Washington Growth Mgmt. Hearings Bd.*,  
157 Wn.2d 488, 502, 139 P.3d 1096 (2006).

All of the areas in question were previously designated as agricultural lands by the County.<sup>5</sup> In designating these parcels, Clark County followed a reasoned process and considered the GMA's mandate and the tests set forth by the Supreme Court, and found that these lands

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<sup>5</sup> CP 24. The Record transmitted to the Superior Court by the Board and forwarded to this Court by the Superior Court is Clerks Papers 24. The Record uses the original exhibit numbers to reference the record. Accordingly, all references to the Exhibits herein reference CP 24 and the original Index Numbers; the Bates stamp number added by the Board is also referenced where available. The majority of exhibits cited herein are referenced at p. 6 of the Certified Index, CP 25. Clark County Comprehensive Plan 2004-2024, at 3-7 to 3-8, Tab 1 to Petition for Review (Board Bates Stamp pp 1-321), Index 6648 (attached to John Karpinski, Clark County Natural Resources Council and Futurewise's Prehearing Brief), Memo to the Board of County Commissioners for Clark County and Planning Commission from Community Planning, Re: Bringing Resource Lands into UGAs (May 21, 2007) Attachment B: Assessment of Resource Land in the Preferred Alternative pp. 1 –5. Hereinafter Attachment B: Assessment of Resource Land in the Preferred Alternative.

must be conserved.<sup>6</sup> There have been no substantive changes requiring reconsideration aside from the County's desire to expand its UGA boundaries into these lands.

The de-designated parcels continue to satisfy all three prongs of the GMA test for agricultural land of long-term commercial significance. All of the parcels at issue here are currently devoid of urban growth.<sup>7</sup> All of the parcels considered here are in areas used or capable of being used in agricultural production, and are thus "primarily devoted" to agriculture (as defined by *Lewis County*, 157 Wn.2d at 502), as they are either currently in agricultural production, have recently been used for agricultural production, or have soils that are suited to agriculture or are located in an area used or capable of being used for agriculture.<sup>8</sup> Also, they are adjacent to or surrounded by other lands currently in agricultural production, and appear to be indistinguishable from these neighboring

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<sup>6</sup> CP 24, Index 1, Clark County Comprehensive Plan 2004-2024, at 3-7 to 3-8, Tab 1 to Petition for Review (Board Bates Stamp pp 1-321).

<sup>7</sup> CP 24, Index 6634 A, Aerial Photos enclosed with 6/5/07 Futurewise Comment Letter; Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative. This Exhibit is repeatedly referenced throughout and is therefore attached hereto as Exhibit "B" for ease of reference.

<sup>8</sup> Exhibit B, i.e., CP 24, Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative pp. 1-5.

parcels.<sup>9</sup> The parcels have “long-term commercial significance” for agricultural production. This term is defined by the GMA in RCW 36.70A.030(10): “‘Long-term commercial significance’ includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of the land.” Local governments, in turn, are directed to consult and consider the guidelines provided by WAC 365-190-050 in determining whether land has long-term commercial significance.<sup>10</sup> WAC 365-190-050 provides

Agricultural lands. (1) In classifying agricultural lands of long-term significance for the production of food or other agricultural products, counties and cities shall use the land-capability classification system of the United States Department of Agriculture Soil Conservation Service as defined in Agriculture Handbook No. 210. These eight classes are incorporated by the United States Department of Agriculture into map units described in published soil surveys. These categories incorporate consideration of the growing capacity, productivity and soil composition of the land. Counties and cities shall also consider the combined effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

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<sup>9</sup> CP 24, Index 6634A, Aerial Photographs enclosed with 6/5/07 Futurewise Comment Letter.

<sup>10</sup> RCW 36.70A.170(1) and RCW 36.70A.050. The Supreme Court has held that local governments may consider the factors in WAC 365-190-050(1) in determining which lands have long-term commercial significance. *Lewis County*, 157 Wn.2d at 502, 139 P.3d at 1103.

- a) The availability of public facilities;
- b) Tax status;
- c) The availability of public services;
- d) Relationship or proximity to urban growth areas;
- e) Predominant parcel size;
- f) Land use settlement patterns and their compatibility with agricultural practices;
- g) Intensity of nearby land uses;
- h) History of land development permits issued nearby;
- i) Land values under alternative uses; and
- j) Proximity of markets.

The three statutory criteria are used both for the designation, re-designation, and de-designation of natural resource lands. *Yakima County v. Eastern Washington Growth Mgmt. Hearings Bd.*, 146 Wn. App. 679, 192 P.3d 12, (2008).

As discussed previously, the de-designated agricultural lands have large areas of prime farmland soils, and soil quality is the first long-term significance factor in RCW 36.70A.030(10). Proximity to population areas and the possibility of more intense use will now be discussed with the other WAC 365-190-050(1) factors, referred to as the “WAC” factors. The vast majority of the WAC factors suggesting continued designation is appropriate for these lands.

**(a) The availability of public facilities;**

None of the lands the Board found to continue to qualify as agricultural lands of long-term significance within the proposed UGA expansions are currently served by sewer service,<sup>11</sup> and only three areas<sup>12</sup> have sewer lines within 300 feet of their boundaries.<sup>13</sup> The WB subarea has no water/sewer lines,<sup>14</sup> the CA-1 area has no public water/sewer within the area,<sup>15</sup> VA, VA-2, and VB have no sewer lines and only VB has water lines,<sup>16</sup> and none of the LaCenter sections have water or sewer lines.<sup>17</sup> It is also important to note that, even for this small percentage of land within the UGA expansion that does have nearby sewer service, the

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<sup>11</sup> Exhibit B, i.e., CP 24, Index 6648, Attachment B: Bringing Resource Lands into UGAs, Assessment of Resource Land in the Preferred Alternative pp. 1 – 5.

<sup>12</sup> Clark County has included 19 “areas of interest” in the UGA expansions. Each area is a portion of one of the UGAs. CP 24, Index 6648, ID No. 6648, Attachment B: Bringing Resource Lands into UGAs, Assessment of Resource Land in the Preferred Alternative.

<sup>13</sup> CP 24, Index 6648, Memo to the Board of County Commissioners for Clark County and the Clark County Planning Commission from Marty Snell & Gordy Euler, Clark County Community Planning, Subject: Bringing Resource Lands into UGAs (May 21, 2007) Attachment E: Agricultural or Forest Zoned Properties In Preferred Plan Urban Growth Boundary Expansion p. 1. Hereinafter Attachment E: Agricultural or Forest Zoned Properties In Preferred Plan Urban Growth Boundary Expansion.

<sup>14</sup> CP 24, Index 6605, Issue Paper 7, Attachment A at p. 7. This Exhibit is repeatedly referenced throughout and is therefore attached hereto as Exhibit “A” for ease of reference.

<sup>15</sup> *Id.*, i.e. Exhibit A at 1.

<sup>16</sup> *Id.* at 5.

<sup>17</sup> *Id.* at 2-3.

sewer service is near the boundary of the areas and is not near all parcels within the areas.<sup>18</sup>

**(b) Tax status;**

Much of the lands the Board found to continue to qualify as agricultural lands of long-term significance are in the agriculture/farm current use taxation program.<sup>19</sup> This program taxes farmland not at its highest and best use, but at its value as farmland. RCW 84.34.065. The specific percentages are:

RB-2	85.59%
CA-1	44.09%
WB	100%
VA	39.99%
VA-2	0%
CB	85%
LB-1	83.79%
LB-2	12%
LE	0%

**(c) The availability of public services;**

The areas do not have an adequate availability of public services to allow for urban development. Clark County's own materials indicate

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<sup>18</sup> *Id.*

<sup>19</sup> Exhibit A, i.e. CP 24, Index 6605, Issue Paper 7, Attachment A.

that only 1 of the areas has nearby educational facilities.<sup>20</sup> Although that same area is near an airport and other facilities are near roads or are bordered by water lines, the materials make no mention of police, fire, or similar urban-level public services.<sup>21</sup>

**(d) Relationship or proximity to urban growth areas;**

Some of Clark County's UGA expansions, such as the expansion for La Center, are so large and narrow that although portions are adjacent to a UGA boundary, the majority of the expansion is distant from the UGA's boundaries.<sup>22</sup> Further, in some cases, no part of an area is adjacent to the UGA.<sup>23</sup> In one case, Camas, the UGA expansion is across a lake from the UGA.<sup>24</sup> Furthermore, Clark County's maps show that

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> CP 24, Index 6634 B, Maps on Data CD enclosed with Futurewise Comment Letter. The maps included in Index 6634 B were created by Futurewise by combining the County's zoning map from its website with Index 6634 E, the maps depicting the expanded Urban Growth Areas, originally obtained from the County's website.

<sup>23</sup> Exhibit B, i.e., CP 24, Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative pp. 1 –5.

<sup>24</sup> CP 24, Index 6648, Attachment B to May 21, 2007 letter entitled "Bringing Resource Lands into UGAs, Assessment of Resource Land in the Preferred Alternative."

there are areas in closer proximity to the UGAs than the lands chosen by the county for the expansion.<sup>25</sup>

**(e) Predominant parcel size;**

Median parcel sizes within the UGA expansions for the de-designations at issue range from 5.08<sup>26</sup> to 58.03.<sup>27</sup> All areas on appeal include parcels larger than 19 acres, with the largest being over 80 acres.<sup>28</sup> These parcel sizes are well within the range of Clark County's farm sizes. According to the Census of Agriculture, Clark County had 1,596 farms in 2002.<sup>29</sup> The Census reveals the following number of farms and their respective sizes:

Size of Farm	Number of Farms
1-9 acres	471
10-49 acres	793

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<sup>25</sup> CP 24, Index 6634 B, Maps on Data CD enclosed with Futurewise Comment Letter.

<sup>26</sup> Exhibit A at 5, i.e. CP 24, Index 6605, Issue Paper 7, Attachment A at 5 (VA-2).

<sup>27</sup> *Id.* at 7 (WB).

<sup>28</sup> *Id.* at 4 (RB-2).

<sup>29</sup> CP 24, Index 6634 C, *USDA Census of Agriculture – County Data*, 238 Washington, Table 8. Farms, Land in Farms, Value of Land and Buildings, and Land Use: 2002 and 1997, on Data CD enclosed with Futurewise Comment Letter 2002.

50-69 acres	98
70-99 acres	68
100-139 acres	63
140-179 acres	35
180-219 acres	27
220-259 acres	6
260-499 acres	18
500-999 acres	14
1000-1999 acres	1
2000 acres or more	1

In Clark County, 471 farms were between 1 and 9 acres in size, which is the second most predominant size range for the county.<sup>30</sup>

Therefore, all of the areas included in the UGA expansions have predominant parcel sizes consistent with farms in Clark County.

Furthermore, the range of parcel sizes in the de-designated areas is consistent with the range of agricultural parcels found in Clark County.

Additionally, while parcel size may correlate with a farm's possible annual revenue and issues of economies-of-scale, size alone is not determinative of long-term significance for agricultural production for several reasons. For example, farms are often composed of multiple

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<sup>30</sup> *Id.*

parcels of land. Thus, a single parcel is not likely to be a meaningful indicator of the annual revenue and financial success of any individual farm.

Finally, the GMA requires that Clark County preserve *areas* of productive farmland. In interpreting the GMA in the light of the mandate for the conservation of agricultural land, the Supreme Court wrote: “We hold land is ‘devoted to’ agricultural use under RCW 36.70A.030 if it is in an *area* where the land is actually used or capable of being used for agricultural production.” *City of Redmond v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 136 Wn.2d 38, 53, 959 P.2d 1091 (1998) (emphasis added). Thus, precedent is clearly against a parcel-by-parcel approach for designating agricultural land of long-term commercial significance for agricultural production. Instead, the county must use an area wide approach and because these parcels are located in an area of productive land with parcels suitable for farming, they must remain agricultural.

**(f) Land use settlement patterns and their compatibility with agricultural practices and**

**(g) Intensity of nearby land uses;**

This analysis addresses both WAC 365-190-050 factors (f) and (g). The majority of the areas are categorized by rural and agricultural

land uses.<sup>31</sup> The most intense use cited by Clark County is an occasional rural residential development contained in a few of the areas.<sup>32</sup> More intense land uses can be found in the corresponding UGAs; however, as noted above, the areas are often not in close proximity to the UGAs.

**(h) History of land development permits issued nearby;**

According to Clark County, there are no urban development permits issued within the vicinity of the areas currently at issue.<sup>33</sup> There was a permit in the VB area for a 150-unit condo development to the south of the area, within the pre-existing UGA,<sup>34</sup> but that area is not on appeal.

**(i) Land values under alternative uses;**

Generally, land values are higher in urban areas than in agricultural use.<sup>35</sup> The Supreme Court has noted that uses other than agriculture will always be more profitable and this alone does not justify the loss of natural resource land. *City of Redmond*, 136 Wn.2d at 52.

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<sup>31</sup> Exhibit B, i.e., CP 24, Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative pp. 1-5.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* p. 1 & p. 4.

<sup>35</sup> *Id.* pp. 1 – 5.

In the present case, there are numerous parcels that could be included in the UGAs without converting the agricultural land and land prices are not the steering factor in the UGA expansion decision.

**(j) Proximity of markets.**

All of the parcels are in agricultural areas, but quite close to urban markets and major roads and rail transportation.<sup>36</sup> Thus, each is ideally situated to market a wide variety of agricultural products.

Taking into account the Supreme Court's three criteria for agricultural resource lands, (a) not already being characterized by urban growth, (b) being primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used *or capable* of being used for production based on land characteristics, *and* (c) that has long-term commercial significance for agricultural production, the substantial evidence before the Board established that these areas qualify as agricultural lands of long term commercial significance. The Board was therefore correct in finding Clark County noncompliant with the GMA, having arrived at the opposite conclusion.

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<sup>36</sup> Exhibit B, i.e., CP 24, Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative pp. 1-5.

Clark County in adopting Ordinance 2007-09-13 did not spell out in detail how it applied the factors in WAC 365-190-050 and RCW 36.70A.030. There are only cryptic references to “proximity to urban areas,” “the lack of commercial agricultural production,” “presence of environmental constraints,” “the possibility of more intensive use,” the need to diversify the La Center economy, and similar short references. There is no evidence of the careful analysis of the factors in WAC 365-190-050 and RCW 36.70A.030 that *Lewis County* requires.

Moreover, there is evidence of the use of impermissible factors in these findings. For example, “unique economic development opportunities” was identified as a basis, but diversifying economies or school district tax bases and similar factors that the County uses to justify its agricultural de-designations are not GMA agricultural lands designation criteria. Nor are they Clark County agricultural lands designation criteria.<sup>37</sup> Consequently, their use by Clark County is clearly erroneous.

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<sup>37</sup> CP 24, Index 6512, *Clark County Comprehensive Plan 2004-2024: Chapter 3 Rural and Natural Resource Element* pp. 3-7 – 3-8.

**1. The VA subarea (Renaissance Homes and Birchwood Farms)**

Turning to the specific issues appealed by the parties to the Superior Court, Renaissance Homes and Birchwood farms challenged the decision of the Growth Board particularly with respect to the VA subarea.

The Board, referring to the County's Matrix,<sup>38</sup> observed that the "reasons for de-designating these areas are to utilize the build-out of 189<sup>th</sup> Street, when it occurs, the lack of existing farms on the site, and the proximity to the Vancouver UGA. Further examination of the Matrix show that the VA area is made up of 85% prime soil..."<sup>39</sup> The Board continued:

These areas are near the UGA but are not near areas characterized by urban growth or adjacent to areas characterized by urban growth. The Urban Reserve designation is an overlay on agricultural resource land. The fact that VA has been part of Urban Reserve since 1994 is not that unusual. Many times, in large UGAs, urban growth does not occur at the edges of the UGA even within the planning period, due to less than expected growth in the area or the inability to expand or extend capital facilities. The County notes that these are areas of prime soils. Prime soil areas are areas capable of being farmed. A road serving urban, rural, and agricultural residents that has potential to be improved does not constitute a public facility that detracts from the agricultural lands resource lands long-term commercial significance nor does the presence of a

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<sup>38</sup> Exhibit A.

<sup>39</sup> FDO at 56.

water line without sewer cause the potential for more intense uses. These areas are not characterized by urban growth or adjacent to areas characterized by urban growth. The area is comprised of a majority of prime soils. An evaluation of the WAC factors does not indicate the area is vulnerable to more intense uses. The area still meets the Court's three-part test.<sup>40</sup>

Renaissance Homes and Birchwood Farms argued to the Superior Court that the Board erred, largely because the Board failed to consider various issues, such as the presence of critical areas, in this subarea which make it more difficult to farm<sup>41</sup> and because the Board failed to acknowledge the "human factors" involved in the de-designation, including availability of public facilities (sewer and water) streets, and the presence of a college and hospital.<sup>42</sup>

There is no evidence, however, that the Board failed to consider the impact of critical areas within agricultural resource lands. The Board explicitly agreed with the County in resolving this issue that the GMA does not exempt critical areas in agricultural lands from protection and thus was an appropriate consideration for the County, but not "necessarily

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<sup>40</sup> *Id.* (footnotes omitted).

<sup>41</sup> CP 26, Opening Brief of Petitioners Renaissance Homes and Birchwood Farms at 16.

<sup>42</sup> *Id.* at 18-19

a reason to de-designate.”<sup>43</sup> Clark County critical areas regulations exempt agricultural uses that existed at the time the regulations were adopted from the wetland protection provision of the regulations. Clark County Code Section 40.450.010C.1.c.(1). Agricultural practices within the same footprint can be changed and modified and are still exempt from the wetlands regulations. Clark County Code Section 40.450.010C.1.c.(2). Existing agricultural uses within non-riparian wildlife habitats are also exempt from the critical areas. Clark County Code Table 40.440.010-1, Exempt and Reviewed Activities. The critical areas in VA are hydric soils (a wetland indicator), wetlands, and riparian habitat.<sup>44</sup> According to the county’s own data, 39.99 percent of the VA are in the agricultural current use taxation programs, which indicates they are currently be farmed.<sup>45</sup> And the aerial photographs show that a significant part of Area VA is farmed.<sup>46</sup> While existing agriculture is exempt from the wetland regulations, there is no such exemption for development so, if anything, the presence of critical areas argues in favor of maintaining the

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<sup>43</sup> FDO at 43.

<sup>44</sup> Exhibit A, i.e. CP 24, Index 6605, Issue Paper 7, Attachment A at 5.

<sup>45</sup> *Id.*

<sup>46</sup> CP 24, Index 6605, Issue Paper 7, Comprehensive Growth Management Plan NW Vancouver UGA – Map 2 Deliberation Components.

agricultural designations. Given these broad exemptions, the Clark County critical areas regulations do not present a barrier to agriculture, which is a further evidence supporting the Board's decision.

With respect to the specific facts identified in their appeal, however, unlike Snohomish County in the *Arlington*<sup>47</sup> case, Clark County made no explicit findings of fact in adopting Ordinance No. 2007-09-13. As a result, the Board had no option but to look at all the evidence before the County, apply the law, and determine if the County's de-designations conflicted with the goals and requirements of the GMA. There is substantial evidence supporting the Board's Conclusion. This is substantial evidence in support of the Board's Decision.

## **2. The CA-1 and WB subareas (GM Camas and MacDonald Living Trust)**

GM Camas supported the de-designation of its land before the Board and appealed the decision of the Board to the Superior Court. GM Camas argued to the Superior Court that the Board's discussion and finding was in error with respect to this subarea because it was based upon its erroneous conclusion that the County did not consider soil types. On

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<sup>47</sup> i.e., *City of Arlington v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 164 Wn.2d 768, 193 P.3d 1077 (2008).

the contrary, the Board's conclusion was not erroneous and was determinative. There was quite a lot of evidence in the record about the soil types. The Board considered the evidence available and made the discrete finding that the County's "decision not to consider the presence of such soils – approximately 66% of the site – makes the de-designation of the CA area clearly erroneous."<sup>48</sup> It was this exclusion from the County's consideration of one of the elements required by law to be considered that the Board found clearly erroneous. In this, the Board is supported by the record and did not err. It is also important to note that the County had not assumed while de-designating and argued at the Board against the legal conclusion that the "capable of being farmed" prong was satisfied in all the areas at issue because they all have prime soils according to the USDA/SCC soils classification system.<sup>49</sup> Thus the County had de-designated using a faulty legal standard.

The Trust went on to argue at the Superior Court that the Board erred because it failed to acknowledge the County's consideration of all of the statutorily mandated criteria for the second and third elements of the *Lewis County* test ("primarily devoted to" and "long term commercial

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<sup>48</sup> FDO at 50.

<sup>49</sup> *Id.* at 47.

significance”). MacDonald also urged that the Board erroneously found clear error based upon the soil types necessary to classify land as agricultural land.

The Board in resolving this issue pointed to the County’s Ordinance which states that this area was de-designated “because it no longer has long term commercial significance.”<sup>50</sup> The Board reiterated that the resource for identifying land productivity, and thus determining long term commercial significance, is the USDA soil characteristics and that this is what the Board relies upon. For the County to have failed to consider this criterion required by RCW 36.70A.030(10) was the clear error identified by the Board.

MacDonald also suggested error by the Board in its finding that the Washougal expansion area is not adjacent to the UGA. The expansion lies partially in Urban Reserve, and partially in designated agricultural land, ignoring an adjacent Urban Reserve section, as well as an area zoned Rural.<sup>51</sup> MacDonald argued that under the growth Board’s interpretation a county could only add parcels to a UGA that abut the existing UGA. This mixes apples and oranges a bit. The Board found the de-designation was

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<sup>50</sup> FDO at 64.

<sup>51</sup> CP 24, Index 6634 B at map entitled Washougal.

improper because the County suggested that it was being brought into the area to provide tax base for the School District.<sup>52</sup> Neither the GMA nor the Clark County comprehensive plan include providing tax base for school districts as one of the criteria for designating or de-designating agricultural lands of long-term commercial significance. Thus the key issue was whether that was a proper basis for de-designation. Since there was not a proper reason to de-designate the land, it was not properly included in a UGA because Clark County does not have a transfer or purchase of development rights program. Agricultural lands of long-term commercial significance can only be included in urban growth areas if the county or city has a transfer or purchase of development rights program. RCW 36.70A.060(4); *City of Redmond* 136 Wn.2d at 55-57.

Further, land outside a city can be included in urban growth areas only if it “is already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth.” RCW 36.70A.110(1). This land is neither characterized by urban growth nor adjacent to land characterized

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<sup>52</sup> FDO at 64.

by urban growth.<sup>53</sup> This is substantial evidence in support of the Board's Decision.

**3. The LB-1, LB-2, and LE subareas (City of LaCenter)**

The City of LaCenter's appeal to the Superior Court set off from the basic proposition that the Board wrongly assumed "all of these lands at issue are 'agricultural lands,' and that the County has a burden of proof to justify conversion (the de-designation) of this presumptively 'agricultural land' to something else."<sup>54</sup> There was no argument advanced to the Superior Court that these lands were not previously designated agricultural resource lands by the County and that this designation went unchallenged and therefore became conclusive. So as a matter of fact and as a matter of law they were agricultural resource lands before the actions by the County which gave rise to this challenge.

There was similarly no argument against the notion that in de-designating agricultural resource lands the County is obliged to follow the decision of the Supreme Court in *Lewis County*. Nowhere does the

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<sup>53</sup> CP 24, *See* Index 6634 A, Aerial Photos enclosed with 6/5/07 Futurewise Comment Letter; Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative.

<sup>54</sup> CP 27, LaCenter's Opening Brief at 10.

Board's Final Decision and Order suggest that there is a heightened burden for the County in de-designating these areas. The Board rather explicitly acknowledged that "nothing in the GMA suggests a city must present specific and rigorous evidence subject to heightened scrutiny when defending a land use designation."<sup>55</sup>

LaCenter argued to the Superior Court that according to the evidence and the County's analysis of that evidence, the de-designations and UGA expansions at issue here makes "the best sense and this is the most logical area for the expansion of LaCenter's UGA because of the other (non-soil based) factors in WAC 365-190-050."<sup>56</sup> But it was far from clear in the record that this was the most logical area for expansion taking into account the non-soil based factors. Indeed a review of the County's zoning maps demonstrates that it is not only feasible but easy to expand urban growth areas without converting agricultural land.<sup>57</sup> In La Center's North Section, for example, the County has opted to expand the UGA to the West and East of the city into predominantly agricultural land,

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<sup>55</sup> FDO at 45.

<sup>56</sup> CP 27, LaCenter's Opening Brief at 12.

<sup>57</sup> CP 24, *See* Index 6634 A, Maps on Data CD enclosed with Futurewise Comment Letter, and *cf.* outlined areas of UGA expansion into agricultural land (yellow or red lines) with adjacent or nearby land zoned rural or other non-resource use.

ignoring broad swathes of rural land to the immediate North and Northeast of the City center.<sup>58</sup>

The City argued to the court below that the Board “overruled the County based, not on a comprehensive evaluation of all applicable WAC factors, but its fixation on soil type and what it viewed as a lack of adjacent [*sic*] land characterized by urban development.”<sup>59</sup> The City had made the same argument to the Board that the County had evaluated all of the applicable WAC factors in the LaCenter de-designations. But far from fixating on soil type in the LB-1, LB-2, and LE subareas, the Board found that these areas while near the La Center UGA “are not areas of the UGA characterized by urban growth. In fact, the County’s Matrix describes all the areas as having rural land uses in and adjacent to the areas.”<sup>60</sup> In addition, all of the areas are capable of being farmed. This is substantial evidence in support of the Board’s Decision.

The Superior Court’s Decision in this case adopts the miscellaneous factors strewn about by the County and Intervenors, i.e. possibility of more intensive use, presence of golf courses, lands adjacent

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<sup>58</sup> CP 24, Index 6634 B at map entitled La Center, North Section.

<sup>59</sup> CP 27, LaCenter’s Opening Brief at 15.

<sup>60</sup> FDO at 66.

to UGAs, and alleged soil type fixations, and finds the County's arguments in de-designating resource land compelling. In this the court erred. Leaving aside the question of the validity of the criteria advanced by the County, the only question before the Superior Court, as with this Court, was whether there was substantial evidence supporting the Boards findings. As demonstrated above, the evidence in support of the Board's findings was overwhelming.

**C. CLARK COUNTY'S DE-DESIGNATIONS ARE INCONSISTENT WITH THE COUNTY'S COMPREHENSIVE PLAN AND THE GMA'S REQUIREMENT FOR INTERNAL CONSISTENCY.**

In addition to the substantial evidence demonstrating Clark County's clearly erroneous violation of the GMA requirements described above, these de-designations are inconsistent with the County's own criteria for designating agricultural lands of long-term commercial significance. The County's criteria clearly incorporate the CTED factors.<sup>61</sup>

Additionally, the County's analysis of the soils criterion is unclear. The comprehensive plan references USDA Soil Conservation

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<sup>61</sup> CP 24, Index 6512, *Clark County Comprehensive Plan 2004-2024: Chapter 3 Rural and Natural Resource Element* p. 3-7.

Service land capability classification classes 1 through 8 as soils classes that must be protected.<sup>62</sup> Elsewhere it says the county mapped prime and unique soils.<sup>63</sup> The county's analysis and findings regarding de-designation do not even address USDA Soil Conservation Service land capability classification classes 1 through 8.<sup>64</sup> RCW 36.70A.070 requires that "[t]he plan shall be an internally consistent document and all elements shall be consistent with the future land use map." Given the county's comprehensive plan, the county's failure to analyze land capability classification classes 1 through 8 is clearly erroneous.

**D. THERE IS SUBSTANTIAL EVIDENCE DEMONSTRATING CLARK COUNTY'S INCLUSION OF THE DE-DESIGNATED AGRICULTURAL LANDS OF LONG-TERM COMMERCIAL SIGNIFICANCE IN UGAS IS CONTRARY TO LAW, AS THOSE LANDS ARE NOT CHARACTERIZED BY URBAN GROWTH OR ADJACENT TO LAND CHARACTERIZED BY URBAN GROWTH**

There is substantial evidence supporting the Board's conclusion that, in addition to improperly de-designating agricultural land, Clark County violated the GMA by including land within the UGA expansions

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> Exhibit B, i.e., CP 24, Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative pp. 1 –5; Tab 1 Petitioners Petition for Review (Board Bates Stamp pp 1-321), Ordinance 2007-09-13 pp. 9-10.

that is not characterized by urban growth or adjacent to land characterized by urban growth.

RCW 36.70A.110(2) reads in relevant part:

An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

In defining urban growth, the Washington Supreme Court has written:

The GMA defines “[c]haracterized by urban growth” somewhat circularly as “land having urban growth located on it.” RCW 36.70A.030(17). It additionally defines “[u]rban growth” as

growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170.

*Quadrant Corp. v. State Growth Mgmt. Hearings Bd.*, 154 Wn.2d 224, 234, 110 P.3d 1132 (2005).

After analyzing this definition and the deference due to counties and cities, the Supreme Court concluded that a density “of approximately one unit per acre” met the definition of urban growth. *Id.* 154 Wn.2d at

233-41. The Court of Appeals has previously found densities of one dwelling unit per 2.5 acres to be urban density, and the Growth Boards have often found that densities of more than one dwelling unit per five acres are not rural densities.<sup>65</sup>

In this case, the land included within the Clark County expansions is clearly not characterized by urban growth. As discussed in detail above, the land is predominantly characterized by agriculture, with median lot sizes ranging from 5.62 to 58.03 acres. With one small exception, those few areas zoned for agriculture but not currently in production have scattered residential dwellings.<sup>66</sup> The aerial photographs show that the land is in an area characterized by agricultural uses and is adjacent to areas characterized by agricultural uses and cannot therefore comply with RCW 36.70A.110(2).<sup>67</sup> Furthermore, as discussed above,

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<sup>65</sup> *Diehl v. Mason County*, 94 Wn. App. 645, 655-57, 972 P.2d 543, 547-49 (1999); *City of Moses Lake v. Grant County*, EWGMHB Case No. 99-1-0016 Final Decision and Order pp. \*5 – 6 of 11, 2000 WL 772910 pp. \*4 – 5 (May 23, 2000); *Yanisch v. Lewis County*, Western WWGMHB Case No. 02-2-0007c, Final Decision and Order p. \*12 of 30, 2002 WL 31863235 pp. \*3 – 4 (December 11, 2002); *Sky Valley, et al., v. Snohomish County, et al.*, CPSGMHB Case No. 95-3-0068c Final Decision and Order p. \*46, 1996 WL 734917 pp. \*33 – 34, (March 12, 1996).

<sup>66</sup> CP 24, Index 6634 A, aerial photographs; Index 6648, ID No. 6648 Attachment B: Assessment of Resource Land in the Preferred Alternative pp. 1 –5.

<sup>67</sup> See FDO at 73-77 for findings of fact related to current agricultural use.

although some of these lands are adjacent to urban growth areas, not all are so located. Even those that do touch an urban growth area boundary are not necessarily adjacent to urban growth: some of Clark County's urban growth areas have substantial undeveloped parcels.<sup>68</sup>

These de-designations are especially unfortunate in that there are other lands that could be added to the UGAs rather than agricultural land of long-term commercial significance. According to the Census of Agriculture, Clark County had 70,694 acres of land in farms in 2002;<sup>69</sup> this represents only 17 percent of the county's land area. Forest land represents 38 percent of the County.<sup>70</sup> Prior to Ordinance 2007-09-13, the County had 81,034 acres within UGAs, or 19 percent of its land within UGAs<sup>71</sup>. This means that 26 percent of the county is not designated for agricultural and forest land, or already in UGAs, and thus available to accommodate UGA expansions. One of the requirements of the Growth

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<sup>68</sup> CP 24, Index 6634 B, maps, and 6634 A, aerial photographs.

<sup>69</sup> U.S. Department of Agriculture. *2002 Census of Agriculture Washington State and County Data Volume 1, Geographic Area Series Part 47 AC-02-A-47* p. 238 (June 2004). The Clark County Comprehensive Plan 2003-2023 reports that only 37,817 acres, 9 percent of the county, are designated or zoned for agricultural use. CP 24, Clark County Comprehensive Plan 2003-2023 p. 1-3, Table 1 in Tab 1 of Petitioners Petition for Review (Board Bates Stamp pp 1-321).

<sup>70</sup> CP 24, Tab 1 to Petition for Review (Board Bates Stamp pp 1-321), Clark County Comprehensive Plan 2003-2023 p. 1-3, Table 1.1.

<sup>71</sup> *Id.*

Management Act is to direct urban growth areas away from natural resource lands. *City of Redmond*, 136 Wn.2d at 47-48 (for agricultural resource lands); *See also* the planning sequence required by RCW 36.70A.040 (3), (4), and (5).

Given that 26 percent of the county is not in these designations and available, the urban growth areas need not have included agricultural land.

A review of the County's zoning maps demonstrates that it is not only feasible but easy to expand urban growth areas without converting agricultural land.<sup>72</sup> In La Center's North Section, for example, the County has opted to expand the UGA to the West and East of the city into predominantly agricultural land, ignoring broad swathes of rural land to the immediate North and Northeast of the City center.<sup>73</sup> Similarly, in Washougal, the proposed expansion lies partially in Urban Reserve, and partially in designated agricultural land, ignoring an adjacent Urban

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<sup>72</sup> CP 24, Index 6634 A, Maps on Data CD enclosed with Futurewise Comment Letter, and *cf.* outlined areas of UGA expansion into agricultural land (yellow or red lines) with adjacent or nearby land zoned rural or other non-resource use.

<sup>73</sup> CP 24, Index 6634 B at map entitled La Center, North Section.

Reserve section, as well as an area zoned Rural.<sup>74</sup> The other expansions generally have similar patterns, with irregular-shaped expansions into agricultural land which ignore adjacent or nearby rural or urban reserve lands.

Most of the land adjacent to these properties is active farmland and de-designation violates the County's obligation under RCW 36.70A.060(1) to *assure* that uses on adjacent lands "shall not interfere" with current use farming. As the record shows, allowing de-designation of these lands will lead to an ongoing loss of farmland in Clark County. The effect of de-designating large blocks of farmland has impacts beyond the areas targeted for UGA expansion. As urban growth extends into farmland, conflicts between the urban development and remaining agricultural operations are inevitable. Experts have analyzed the effects of burgeoning *rural* densities on agricultural lands. The record contains analysis by one such expert, Professor Tom Daniels, concerning the adverse impacts of residential development on farming and forestry uses:

Newcomers to the countryside often have little understanding of the business of farming or forestry. The conflicts between farmers and non-farm neighbors are well-known. Neighbors typically complain about farm odors, noise, dust, crop sprays,

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<sup>74</sup> CP 24, Index 6634 B at map entitled Washougal.

and slow moving farm machinery on local roads. Farmers point to crop theft, vandalism, trash dumping, and dogs and children trespassing and harassing livestock. In forested areas, the increase in residents brings a greater likelihood of fire. In short, farming and forestry are industrial uses. They should be kept as separate as possible from rural residential development.<sup>75</sup>

Professor Daniels' analysis focused on 2-10 acre lots. Even these rural densities next-door to large farming and forestry operations result in conflicts. Allowing incursions of *urban* densities into agricultural land will multiply the conflicts immeasurably. These conflicts can make a farm uneconomic shutting it down. *Tugwell v. Kittitas County*, 90 Wn. App. 1, 11, 951 P.2d 272 (1997) (conflicts with three acre residential lots contribute to a farm's loss).

Some of the UGA expansions are particularly problematic. In four of the six UGA expansions, "peninsulas" of urban land are extended into predominantly agricultural areas. These peninsulas are surrounded by agricultural land; farm equipment and produce will need to either move around or through them, and the "odors, noise, dust, crop sprays,

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<sup>75</sup> CP 24, Index 6652, Tom Daniels, *What to Do About Rural Sprawl?* (April 28, 1999) (Contained in data CD attached to comment letter)

and slow moving farm machinery” associated with farming will be in virtually constant contact with new urban neighbors.<sup>76</sup>

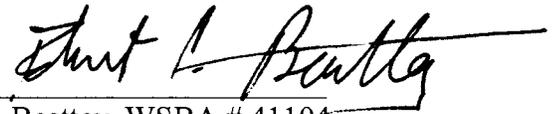
Allowing de-designation of agricultural land and expansions of UGAs into agricultural lands of long-term commercial significance is a virtually certain guarantee that the days of agricultural production in Clark County are numbered. These areas meet the GMA’s mandate for continued conservation as agricultural land and the County’s criteria for agricultural lands. Adequate alternative locations for the UGA expansions exist. Petitioners therefore met their burdens before the Board and demonstrated that the County’s action in de-designating these parcels for UGA expansion is clearly erroneous under the GMA. In contrast, the Superior Court made no finding that there was not substantial evidence to support the Board with respect to the de-designation of agricultural resource lands for UGA expansion.

## V. CONCLUSION

Respectfully submitted,

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<sup>76</sup> CP 24, Index 6634 B, at Ridgefield, South Section; Ridgefield, North Section; La Center, South Section; La Center, North Section; Northeast Vancouver, North Section; Northeast Vancouver, East Section; Camas.



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**CERTIFICATE OF SERVICE**

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The undersigned certifies that on this 18<sup>th</sup> day of November 2009

he caused the following documents to be served on the following parties

by regular U.S. Mail, postage prepaid: Brief of Appellants Karpinski,

CCNRC, & Futurewise.

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Dated: 18 November 2009.

  
Robert A. Beatley

# Exhibit A

CP 24, Index 6605, Issue Paper 7, Attachment A

# Exhibit B

CP 24, Index 6648, Attachment B: Assessment of Resource Land in the Preferred Alternative.



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**CLARK COUNTY**  
WASHINGTON

## COMMUNITY PLANNING

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**TO:** Board of County Commissioners  
Clark County Planning Commission

**FROM:** Marty Snell, Director, Community Planning  
Prepared by: Gordy Euler, Planner III

**DATE:** May 21, 2007

**SUBJECT:** Bringing Resource Lands into UGAs

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### Introduction

Clark County is in the process of updating its comprehensive plan. Part of the plan update includes a proposal to expand urban growth boundaries around each of the cities. The Preferred Alternative presented in the final EIS analyzes urban growth boundary expansions of 12,063 acres. Of this, 4,727 acres are designated as resource (agriculture and forest) lands. The purpose of this staff report is to present information to be used by the Planning Commission and the Board of County Commissioners (Board) in determining whether or not these resource lands should be brought into UGAs. Resource lands in each UGA are broken out by subarea and are shown in Attachment A.

### Background

The Growth Management Act (GMA) requires that each county shall designate where appropriate "agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production" (RCW 36.70A.170). RCW 36.70A.060 requires that counties "...develop regulations to assure the conservation of agriculture, forest, and mineral resource lands...", and that "such regulations shall assure that the use of lands adjacent to agriculture, forest, and mineral resource lands shall not interfere with the continued use." The county has designated resource lands and development regulations to assure their conservation in the current comprehensive plan.

The Planning Commission and Board were presented a staff report on commercially viable agriculture on May 4, 2007. The staff report cites the two recent court cases regarding the criteria used by counties in the designation and de-designation of resource lands, information that is relevant to this exercise. Also cited in that staff report and attached (Attachment D) is a study done by Bruce Pregelbauer of Globalwise entitled "An Analysis of the Agricultural Economic Trends and Conditions in Clark County, Washington". This document characterizes the current state of agricultural operations in the county and provides some conclusions about the future. Both the court cases and the report are summarized below.

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Court cases. The first decision, *Snohomish County v. Corinne Hensley et al.*, stated that soil types were the primary consideration in GMA when determining land's suitability for agricultural purposes. At this point it appeared that the courts were going to strictly interpret resource land suitability in terms of soil types.

Shortly after the *Snohomish County* decision, the State of Washington Supreme Court (Supreme Court hereafter) then issued the Lewis County decision (*Lewis County vs. Western Washington Growth Management Hearings Board*). The court stated that the designation of agricultural land need not be solely based on the physical character of the land (e.g., soil type). The Supreme Court further ruled that agricultural lands are those lands that:

- are not already characterized by urban growth;
- are primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used or capable of being used for production based on land characteristics; and
- have long-term commercial significance for agricultural production.

The last two criteria are also stated in the definition of "agricultural land" found at RCW 36.70A.030(2).

The Court emphasized the broad discretion counties have in making choices within the parameters set by the GMA and the implementing regulations issued by the Department of Community Trade and Economic Development. After the Supreme Court decided the *Lewis County* case, the Court of Appeals modified the *Snohomish County* decision to hold that soil types were a consideration but not the primary consideration in designating agricultural lands.

Globalwise Report Globalwise's report concludes that traditional agriculture is rapidly declining in Clark County, primarily due to increasing property values. "Niche agriculture," the growing of land-intensive specialty crops, has replaced land-extensive traditional row crops such as corn and wheat. The county has also seen a decline in other agricultural uses such as dairy farms.

## **Discussion**

In order to de-designate agricultural lands, the Board is required to make findings based upon the record that the lands do not meet one or more of the three bulleted criteria above. County staff prepared a matrix that includes information based on these criteria. The matrix is included as Attachment B.

- *Characterized by urban growth:*  
Staff used the plain reading of "land already characterized by urban growth" as lands parcelized to urban levels with water and or sewer lines within the boundaries. Also noted was whether the sub area is adjacent to an urban growth area, an urban reserve area, or a rural center.
- *Primarily devoted to commercial production of agricultural products or capable of production:*  
This criterion relates to whether or not the land is in production or is capable of being used. The matrix indicates whether the land is actually being farmed by referencing the maps included in the Globalwise Report regarding the 145 farms that were identified as commercial farms. The percentage of land in the County's agriculture/farm current use program is also provided. Regarding capability, percentage of prime agricultural soils is indicated, as well as environmental constraints.

- *Having long-term commercial significance:*

This criterion considers the potential long-term commercial significance of land for agriculture based on growing capacity, productivity, and soil composition as well as proximity to population areas and the possibility of more intense uses of the land (RCW 36.70A.030(10)). The matrix indicates the land's soil types. With respect to proximity to population areas and the possibility of more intense use, the rest of the columns reflect the WAC criteria (WAC 365-190-050) that address this issue:

- Availability of public facilities;
- Tax status;
- Availability of public services (combined with public facilities);
- Relationship or proximity to urban growth areas;
- Predominant parcel size;
- Land use settlement patterns and their compatibility with agricultural practices;
- Intensity of nearby land uses;
- History of Land development permits issued nearby;
- Land values under alternative uses; and
- Proximity to markets.

The Preferred Alternative includes 155 acres of forest lands proposed for inclusion in the Camas UGA (Subarea CA-2). In order to de-designate forest lands, a similar finding to that for agricultural land has to be made by the Board. Included in the matrix (Attachment B) is information based on the WAC criteria for these forest lands.

#### **Additional information**

Attachment C is data provided by the Department of Assessment and GIS indicating the assessed value of parcels per acre and per zone without deductions for current use or senior exemptions. Those values highlighted in green are specifically the zones that are proposed for the resource lands discussed in this staff report and are utilized to address the "Land Values under Alternative Uses" criteria.

Attachment E and F includes information that was presented to the Board and Planning Commission in the previous staff report. Attachment E is the technical environmental information that was provided by GIS. Attachment F is a letter from a rural property owner stating that their farm can no longer sustain even one family wage job in farming, and that the owners would like their property included in the UGB.

#### **Attachments:**

- A: Agriculture Viability Study Areas-Preferred Alternative Maps (by UGA)
- B: Assessment of Resource Lands in the Preferred Alternative
- C: Assessed Value without Tax Deductions by County Zoning Classification
- D: Analysis of the Agricultural Economic Trends and Conditions in Clark County, Washington
- E: Agricultural or Forest Zoned Properties in Preferred Plan Urban Growth Boundary Expansion
- F: Letter from Rural Property Owner

Assessment of Resource Land in the Preferred Alternative

AG SUB AREAS (See Attachment A for locations)	IS IT CHARACTERIZED BY URBAN GROWTH? <sup>1</sup>	IS IT PRIMARILY DEVOTED TO COMMERCIAL PRODUCTION OF AGRICULTURAL PRODUCTS OR CAPABLE OF BEING USED FOR PRODUCTION? <sup>2</sup>	DOES IT HAVE LONG TERM COMMERCIAL SIGNIFICANCE FOR AGRICULTURAL PRODUCTION? <sup>3</sup>									
			PUBLIC FACILITIES/SERVICES	TAX STATUS	UGA	PARCEL SIZE	LAND USE SETTLEMENT PATTERNS AND COMPATIBILITY	INTENSITY OF NEARBY LAND USES	HISTORY OF LAND DEVL.P. PERMITS	LAND VALUES UNDER ALT USES (\$ in thousands)	PROX. TO MARKETS	COMMENTS/NOTES
<b>BA</b> 76.90 acres (Battle Ground)	<ul style="list-style-type: none"> <li>The 3 parcels range in size from 19-38 acres</li> <li>No public water</li> <li>No public sewer</li> <li>Parcels are adjacent to UGA and Urban Reserve Overlay</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 3 parcels in this sub area were identified as commercial farms in the Globalwise report maps</li> <li>74.6% of the land is enrolled in the Current Use Program</li> <li><u>CAPABLE?</u></li> <li>26.15% of the land has prime agriculture soils</li> <li>41.12% critical land</li> <li>hydric soils, riparian habitat</li> </ul>	Directly north of an elementary and middle school.	74.6% of land area is in ag/farm current use program	Southern border is adjacent to UGA	Range: 19.4-38.04  Median parcel size: 25.63 acres	The three parcels are in the 20-40 acre range. They are currently surrounded by large parcels and open space. However, there is a residential subdivision 1,000 ft south and an elementary and middle school directly adjacent to the south.	Currently surrounded by large parcels and open space. There is an urban residential subdivision 1,000 ft south within the UGA and an elementary and middle school directly adjacent to the south within the UGA.	No urban development permits in process within vicinity.	AG-20: \$16/acre  Proposed zoning :  Business Park:  \$25/acre	It is directly adjacent to Battle Ground's UGA and City Limits.	
<b>BB</b> 345.40 acres (Battle Ground)	<ul style="list-style-type: none"> <li>The 35 parcels range in size from 0.8-42 acres</li> <li>Public water is within the sub area</li> <li>No public sewer</li> <li>Northern parcels are adjacent to UGA and Urban Reserve overlay</li> <li>Southern parcels are adjacent to Rural Center (public sewer &amp; water)</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 35 parcels in this sub area were identified as commercial farms in the Globalwise report maps</li> <li>55.9% of the land area is enrolled in current use program (northern parcels &amp; SW parcels)</li> <li><u>CAPABLE?</u></li> <li>52.9% of the land area has prime ag soils</li> <li>58.89% critical land</li> <li>Hydric soils, riparian habitat, wetland</li> </ul>	The Southern parcels are adjacent to a Rural Center which includes public water & sewer. It is also adjacent to rural residential areas zoned R-5 which have public water.  Northern parcels border SR 502	55.9% of land area is in ag/farm current use program	Northern parcels adjacent to UGA and 219 <sup>th</sup> Street (main highway to BG)  Southern parcels adjacent to Rural Center	Range: 0.88-42.04  Median parcel size: 9.87 acres	The sub area is and is surrounded by rural land uses (rural residential, open fields, farm buildings interspersed with residential structure).  Adjacent to Rural Center.	Rural Center adjacent. Includes rural residential >1 acre to 5 acre residential lots.	Const. 3.2 million gallon water reservoir – 2004 (Meadowglade)	AG-20: \$16/acre  Proposed zoning:  Limited Commercial: \$251/acre  R1-10: \$162/acre  Mixed Use: \$67/acre	In close proximity to Battle Ground City limits and Rural Center	
<b>CA-1</b> 474.49 acres (Camas)	<ul style="list-style-type: none"> <li>The 31 parcels range in size from 0.47 – 155 acres</li> <li>No public water/sewer within the sub area</li> <li>NW parcel is adjacent to public water and a 1-acre lots – rural residential subdivision</li> <li>In close proximity to FR-40 zoning</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 31 parcels in this sub area were identified as working farms in the Globalwise report maps</li> <li>31.28% in ag/farm current use program</li> <li><u>CAPABLE?</u></li> <li>50.21% prime ag soils</li> <li>61.78% critical land</li> <li>hydric soils, riparian and non-riparian habitat, floodplain, wetland</li> </ul>	Public water runs along the SW border of sub area along NE Goodwin Road.  Public water is also within the rural residential subdivision adjacent to NW parcel.	31% of land is in current use program (eastern parcels)	SW tip adjacent to UGA	Range .047-155.3 acres  Median parcel size: 15.31 acres	The 31 parcels range in size. There is some rural residential subdivisions; forest land; and open fields surrounding and nearby.  In close proximity to FR-40 zoning	Mostly rural land uses surrounding (open space/large parcels; forested land; and rural residential lots to NE and South).	No urban development permits in process within vicinity.	AG-20: \$16/acre  Proposed zoning:  Mixed Use: \$67/acre  R1-7.5: \$218/acre  R1-10: \$162/acre  Parks: \$28/acre	In close proximity to Camas, Vancouver, and Washougal markets.	

<sup>1</sup> Source: Information in this column for all sub areas was derived from the matrix (ATTACHMENT C titled "Agricultural or Forest Zoned Properties in Preferred Plan Urban Growth Boundary Expansion" and GIS maps.

<sup>2</sup> Source: Information in this column for all sub areas was derived from ATTACHMENT C and the Globalwise, Inc. Report titled "Analysis of the Agricultural Economic Trends and Conditions in Clark County, Washington (ATTACHMENT D).

<sup>3</sup> Source: Information for these columns was derived from ATTACHMENT C, ATTACHMENT D, ATTACHMENT E, and Clark County GIS maps.

Assessment of Resource Land in the Preferred Alternative

AG SUB AREAS (See Attachment A for locations)	IS IT CHARACTERIZED BY URBAN GROWTH?	IS IT PRIMARILY DEVOTED TO COMMERCIAL PRODUCTION OF AGRICULTURAL PRODUCTS OR CAPABLE OF BEING USED FOR PRODUCTION?	DOES IT HAVE LONG TERM COMMERCIAL SIGNIFICANCE FOR AGRICULTURAL PRODUCTION?									
			PUBLIC FACILITIES/SERVICES	TAX STATUS	UGA	PARCEL SIZE	LAND USE SETTLEMENT PATTERNS AND COMPATIBILITY	INTENSITY OF NEARBY LAND USES	HISTORY OF LAND DEVL.P. PERMITS	LAND VALUES UNDER ALT USES (\$ in thousands)	PROX. TO MARKETS	COMMENTS/NOTES
CA-2 154.24 acres (Camas)	<ul style="list-style-type: none"> <li>The 6 parcels range in size from 0.5 – 68.45, but are predominantly large parcels</li> <li>No sewer within sub area</li> <li>Water lines run partially through NW corner</li> <li>Rural residential lots within vicinity</li> <li>Mostly forested land</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 6 parcels in this sub area were identified as commercial farms in the Globalwise report maps</li> <li>0% of land is in the farm and ag current use program</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>26.59% prime ag soils</li> <li>12.12% prime forest soils</li> <li>82.03% critical land</li> <li>steep slopes, non-riparian habitat</li> </ul>	Water lines run from rural residential subdivision partially through NW corner of sub area.	0% in ag/farm current use program	Not adjacent to UGA	Range: 0.5-68.45  Median parcel size: 25.71 acres	This sub area is currently zoned FR-40. There is some rural residential subdivisions; mostly forested large parcels.	Mostly rural land uses surrounding (open space/large parcels; rural residential lots to NW and south; forested land)	No urban development permits in process within vicinity.	FR-40: \$6.730/acre  Proposed zoning: R1-7.5: \$218/acre	In close proximity to Camas, Vancouver and Washougal markets.	
CB 402.19 acres (Camas)	<ul style="list-style-type: none"> <li>The 17 parcels range in size from 0.2 – 80.56 acres, but are predominantly large parcels</li> <li>No sewer or water within sub area</li> <li>Mostly large parcels, open space, forested land</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 17 parcels in this sub area were identified as commercial farms in the Globalwise report maps</li> <li>85% is in the farm and ag current use program</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>73% prime ag soils</li> <li>55.11% critical land</li> <li>steep slopes, wetlands, riparian habitat, hydric soils</li> </ul>	The sub area is partially within the Airport Environs Overlay district	85% in ag/farm current use program	Across Lacamas Lake from UGA and City limit boundary	Range: 0.2-80.56 acres  Median parcel size: 23.66 acres	Mostly rural land use settlements including forested land, open fields and rural residential.  Across Lacamas Lake is small-lot urban residential lots – R1-15 (within UGA and city limits).	Rural land uses including open field, large parcels, rural residential and forested land.  Across Lake from urban residential lots.	No urban development permits proposed in the vicinity of the sub area.	AG-20: \$16/acre  Proposed zoning: Mixed Use: \$67/acre  Office Campus: \$39/acre  R1-6: \$242/acre	In close proximity to Camas, Vancouver, and Washougal markets.	
LA 6.85 acres (La Center)	<ul style="list-style-type: none"> <li>The 2 parcels range in size from 2.75-4.09 acres</li> <li>No water or sewer lines within sub area</li> <li>Water lines run along the southern border of sub area along NE North Fork Avenue</li> <li>Adjacent to UGA/City Limits (R1-7.5 - urban residential development)</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>Neither parcel in this sub area were identified as commercial farms in the Globalwise report maps.</li> <li>0% is in the farm and ag current use program</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>0.58% prime ag soils</li> <li>13.58% critical land</li> <li>steep slopes, riparian habitat</li> </ul>	Water lines runs along the southern boundary of the sub area.  Water and sewer lines are within the urban residential neighborhood to the South within UGA.	0% in ag/farm current use program	Southern boundary is adjacent to La Center's UGA.	Range: 2.75-4.09  Median parcel size: 6.85 acres	Rural land use to the North, west and east. Includes open fields, forested land and rural residential.  Borders urban dense residential neighborhood to the South.	Rural land uses including open fields, rural residential and forested land.  Dense urban residential to South.	No urban development permits proposed in the vicinity of the sub area.	AG-20: \$16/acre  Proposed zoning: R1-6 \$242/acre	Directly adjacent to La Center market.	
LB-1 459.45 acres (La Center)	<ul style="list-style-type: none"> <li>The 32 parcels range in size from 1-69 acres</li> <li>No water/sewer lines within sub area</li> <li>Part of the eastern boundary is adjacent to the UGA and adjacent to public sewer and water</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 32 parcels within the sub area were identified as commercial farms in the Globalwise report maps</li> <li>35% in farm/ag current use prg.</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>62% prime ag soils</li> <li>58.05% critical land</li> <li>hydric soils, riparian and non-riparian habitat, priority species, floodplain, wetland, steep slopes</li> </ul>	Water and sewer lines adjacent to eastern boundary bordering UGA.  Western parcels border 1-5	35% in ag/farm current use program	Eastern boundary is adjacent to La Center's UGA.	Range: 1-69 acres	Mostly rural land uses (open fields, forested land and rural residential).	Rural land uses including open fields, rural residential & forested land.  Urban res on eastern boundary (R1-7.5).	No urban development permits proposed in the vicinity of the sub area.	AG-20: \$16/acre  Proposed: Parks: \$27/acre Light Industrial: \$127/acre Community Comm: \$261/acre R-22: \$34/acre	In close proximity and partly adjacent to La Center market.	

Assessment of Resource Land in the Preferred Alternative

AG SUB AREAS (See Attachment A for locations)	IS IT CHARACTERIZED BY URBAN GROWTH?	IS IT PRIMARILY DEVOTED TO COMMERCIAL PRODUCTION OF AGRICULTURAL PRODUCTS OR CAPABLE OF BEING USED FOR PRODUCTION?	DOES IT HAVE LONG TERM COMMERCIAL SIGNIFICANCE FOR AGRICULTURAL PRODUCTION?									COMMENTS/NOTES
			PUBLIC FACILITIES/SERVICES	TAX STATUS	UGA	PARCEL SIZE	LAND USE SETTLEMENT PATTERNS AND COMPATIBILITY	INTENSITY OF NEARBY LAND USES	HISTORY OF LAND DEVL.P. PERMITS	LAND VALUES UNDER ALT USES (\$ in thousands)	PROX. TO MARKETS	
<b>LB-2</b> 244.63 acres (La Center)	<ul style="list-style-type: none"> <li>The 25 parcels range in size from 0.34-66 acres</li> <li>No water or sewer lines within the sub area.</li> <li>Surrounded by Ag-20 zoning on north, south and NE sides</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 25 parcels in this sub area were identified as commercial farms in the Globalwise report maps</li> <li>12% in ag/farm current use program <u>CAPABLE?</u></li> <li>80% prime ag soils</li> <li>50.14% critical land</li> <li>hydic soils, riparian habitat, wetland</li> </ul>	Eastern parcels border 1-3	12% in ag/farm current use program (Southern parcels)	Not adjacent to UGA	Range: 0.34-66.92 acres  Median parcel size: 9.79 acres	Rural land uses (open fields, forested land, rural residential)  Small parcel of rural commercial within sub area.  Industrial urban reserve overlay on sub area.	Rural land uses (open fields, forested land, rural residential)	No urban development permits proposed in the vicinity of the sub area.	AG-20: \$16/acre  Proposed zoning: Light Industrial: \$127/acre	Adjacent to 1-5.	
<b>LC</b> 69.57 acres (La Center)	<ul style="list-style-type: none"> <li>The 9 parcels range in size from 1.61-19.52 acres</li> <li>Water lines run through the sub area</li> <li>Adjacent to UGA</li> <li>Mostly surrounded by AG-20 zoning</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 9 parcels in this sub area were identified as commercial farms in the Globalwise report maps</li> <li>87% in ag/farm current use program <u>CAPABLE?</u></li> <li>35% prime ag soils</li> <li>76.99% critical land</li> <li>hydic soils, riparian habitat, wetland</li> </ul>	Water lines run through southern portion of sub area, along NE Lockwood Creek Road.  Water and sewer lines are on land adjacent within UGA.	87.7% in ag/farm current use program	Directly adjacent to La Center's UGA's eastern boundary	Range: 1.61-19.52 acres  Median parcel size: 7.73 acres	Rural land uses (open fields, rural residential, farm buildings)  Surrounded on three sides by AG-20 zoning.	Northern parcels are adjacent to UGA and urban residential neighborhood (R1-7.5).  Urban Reserve zoning to North.	No urban development permits proposed in the vicinity of the sub area.	AG-20: \$16/acre  Proposed zoning: R1-7.5 \$218/acre	Adjacent to La Center's UGA (market).	
<b>RA</b> 81.50 acres (Ridgefield)	<ul style="list-style-type: none"> <li>The 12 parcels range in size from 0.31-19.74 acres.</li> <li>No water or sewer lines within the sub area</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 12 parcels in this sub area were identified as commercial farms in the Globalwise report maps</li> <li>86% in ag/farm current use program <u>CAPABLE?</u></li> <li>47% prime ag soils</li> <li>47.19% critical land</li> <li>hydic soils, riparian habitat, wetland</li> </ul>		86% in ag/farm current use program	Directly adjacent to Ridgefield's Northern UGA boundary	Range: 0.31-19.74 acres  Median parcel size: 6.79 acres	Rural land uses (open fields, rural residential, forested land, farm buildings)	More intense land uses are located within Ridgefield's UGA, south and SW of sub area.  AG-20 zoning to the North and NE.	No urban development permits proposed in the vicinity of the sub area.	AG-20: \$16/acre  Proposed zoning: R-12: \$195/acre	Adjacent to Ridgefield UGA.	
<b>RB-1</b> 282.29 acres (Ridgefield)	<ul style="list-style-type: none"> <li>The 22 parcels range in size from 0.31-73 acres.</li> <li>No water/sewer lines within sub area.</li> <li>It is surrounded by and touches Ridgefield UGA on three sides</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>3 commercial farms are located within the sub area as identified in the Globalwise report maps</li> <li>69% of the parcels are in ag/farm current use program <u>CAPABLE?</u></li> <li>61% have prime ag soils</li> <li>35.48% critical land</li> <li>hydic soils, riparian habitat, wetland, steep slopes</li> </ul>	Education facilities borders SW tip within UGA.  South Boyle Road runs through sub area.	69.32% in ag/farm current use program	Northern parcels, eastern parcels and tip of south western parcel is adjacent to UGA.	Range: 0.31-73.17 acres  Median parcel size: 12.83 acres	Rural and agricultural related uses. (3 known farms: Christmas Tree farms and vegetable/fruit farm, open fields, farm buildings, rural residential, forested land)	More intense urban residential land uses located within the UGA to east of sub area (not adjacent).  Urban Reserve Zoning to West boundary. Urban Holding to NE.	No urban development permits proposed in the vicinity of the sub area.	AG-20: \$16/acre  Proposed zoning: R1-6: \$242/acre R1-7.5: \$218/acre	Surrounded by Ridgefield UGA on three sides of sub area.	

Assessment of Resource Land in the Preferred Alternative

AG SUB AREAS (See Attachment A for locations)	IS IT CHARACTERIZED BY URBAN GROWTH?	IS IT PRIMARILY DEVOTED TO COMMERCIAL PRODUCTION OF AGRICULTURAL PRODUCTS OR CAPABLE OF BEING USED FOR PRODUCTION?	DOES IT HAVE LONG TERM COMMERCIAL SIGNIFICANCE FOR AGRICULTURAL PRODUCTION?									
			PUBLIC FACILITIES/ SERVICES	TAX STATUS	UGA	PARCEL SIZE	LAND USE SETTLEMENT PATTERNS AND COMPATIBILITY	INTENSITY OF NEARBY LAND USES	HISTORY OF LAND DEVL'P. PERMITS	LAND VALUES UNDER ALT USES (\$ in thousands)	PROX. TO MARKET S	COMMENTS/NOTES
<b>RB-2</b> 199.69 acres (Ridgefield)	<ul style="list-style-type: none"> <li>The 11 parcels range in size from 0.88-80 acres</li> <li>No water/ sewer lines within sub area.</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>1 farm is located in the sub area as identified in the Globalwise report maps</li> <li>85% of the parcels: ag/farm current use program.</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>58% prime ag soils</li> <li>66.58% critical land</li> <li>hydric soils, riparian and non-riparian habitat, priority species, wetland</li> </ul>	NW Hillhurst Road runs through sub area.	85.59% in ag/farm current use program	Part of the sub area is adjacent to the most southern tip of UGA.	Range 0.88-80.38 acres  Median parcel size: 18.15 acres	Rural and agricultural land uses (open fields, farm, rural residential, forested land)  Farm within sub area is classified as livestock/dairy.	More intense land uses to the NW within the UGA (R1-8.5).  Land to the east, west and south all AG-20 zoning.	No urban development permits within the vicinity.	AG-20: \$16/acre  Proposed zoning: R1-10: \$162/acre	In close proximity to Ridgefield UGA.	
<b>RC</b> 306.07 acres (Ridgefield)	<ul style="list-style-type: none"> <li>The 54 parcels range in size from 0.59-104 acres</li> <li>Water lines within the sub area boundaries</li> <li>Rural Residential Subdivision within boundary -( ¼ to 1 acre lots)</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>1 farm is located in the sub area as identified in the Globalwise report maps</li> <li>68% in ag/farm current use program</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>70% prime ag soils</li> <li>56.33% critical land</li> <li>priority species buffer, riparian habitat, wetland, hydric soils</li> </ul>	Water lines within the sub area boundaries.  Sewer lines nearby within the UGA.  Borders NE 10 <sup>th</sup> Avenue	68.86% in ag/farm current use program	Adjacent to the UGA and eastern city limit boundary.	Range 0.88-80.38 acres  Median parcel size: 5.67 acres	Most of the sub area is rural and agricultural land uses (open fields, farm and farm buildings, rural residential development)  Farm within boundary is classified as livestock/dairy.	The rural residential development within the sub area is more intense than the rest of the surrounding area.  Industrial Zoning & Business Park/Urban Holding adjacent within UGA.	No urban development permits within the vicinity.	AG-20: \$16/acre  Proposed zoning: R1-10: \$162/acre R1-6: \$242/acre Neigh Com: \$126/acre	In close proximity/ adjacent to Ridgefield UGA.	
<b>VA</b> 125.02 acres (Three Creeks)	<ul style="list-style-type: none"> <li>The 4 parcels range in size from 11-75 acres</li> <li>Water lines run along the southern border of sub area (179<sup>th</sup> Street)</li> <li>No sewer lines within sub area.</li> <li>The sub area has an Urban Reserve Overlay</li> <li>The sub area is surrounded by parcels zoned Urban Reserve</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 4 parcels within this sub area were identified as commercial farms in the Globalwise report maps</li> <li>39% in ag/farm current use program</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>86% prime ag soils</li> <li>26.35% critical land</li> <li>hydric soils, riparian habitat, wetland</li> </ul>	Water lines border the southern sub area boundary along NE 179 <sup>th</sup> Street.	39.99% in ag/farm current use program	Not adjacent to the UGA	Range 11.04-75.02 acres  Median parcel size: 31.25 acres	The land within the sub area is mostly large parcels comprised of rural land uses (open fields, forested land, interspersed residential and farm buildings)	Surrounding area is rural land uses (rural residential, open fields, forested land)	No urban development permits within the vicinity.	AG-20: \$16/acre  Proposed zoning: R1-7.5: \$218/acre	In close proximity to Vancouver and Battle Ground UGAs.	
<b>VB</b> 784.72 acres (Vancouver)	<ul style="list-style-type: none"> <li>The 35 parcels range in size from 0.19-222 acres.</li> <li>Water lines are located within the sub area boundaries</li> <li>No sewer lines within the sub area.</li> <li>Sub area is within urban reserve overlay</li> <li>Surrounded by Urban Reserve zoning.</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>3 farms are located within the sub area as identified in the Globalwise report maps</li> <li>84% in ag/farm current use program</li> </ul> <p><u>CAPABLE?</u></p> <ul style="list-style-type: none"> <li>79% prime ag soils</li> <li>66.41% critical land</li> <li>hydric soils, wetland, priority species buffer</li> </ul>	Water lines are located within the sub area boundaries.  Education facilities adjacent.  Airport adjacent.  The sub area is split by SR 503	84.01% in ag/farm current use program	Southern tip of sub area boundary borders Vancouver's northern UGA boundary	Range 0.19-222.16 acres  Median parcel size: 22.42 acres	The land within the sub area boundary is characterized by rural land uses (open fields, farms, rural residential)  Farms are classified as: Livestock/Dairy; Vegetable/Fruit; and Specialty.	Surrounding area is comprised of open space, rural residential (R-5 zone) and there is a Rural Center to the North. Urban Holding overlay was recently lifted on parcels to the south of sub area.	150-unit condo project (Delyria) to south within UGA	AG-20: \$16/acre  Proposed zoning: Light Industrial: \$127/acre	In close proximity to Vancouver UGA market.	

Assessment of Resource Land in the Preferred Alternative

AG SUB AREAS (See Attachment A for locations)	IS IT CHARACTERIZED BY URBAN GROWTH?	IS IT PRIMARILY DEVOTED TO COMMERCIAL PRODUCTION OF AGRICULTURAL PRODUCTS OR CAPABLE OF BEING USED FOR PRODUCTION?	DOES IT HAVE LONG TERM COMMERCIAL SIGNIFICANCE FOR AGRICULTURAL PRODUCTION?									
			PUBLIC FACILITIES / SERVICES	TAX STATUSES	UGA	PARCEL SIZE	LAND USE SETTLEMENT PATTERNS AND COMPATIBILITY	INTENSITY OF NEARBY LAND USES	HISTORY OF LAND DEVL. PERMITS	LAND VALUES UNDER ALT USES (\$ in thousands)	PROX. TO MARKETS	COMMENTS/ NOTES
<b>VC</b> 38.76 acres (Vancouver)	<ul style="list-style-type: none"> <li>The 2 parcels are 18 &amp; 19 acres.</li> <li>No water or sewer lines within sub area boundary.</li> <li>Urban residential development to south. (R1-10)</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>Neither parcel in this sub area was identified as commercial farms in the Globalwise report maps</li> <li>51% in ag/farm current use program <u>CAPABLE?</u></li> <li>51% prime ag soils</li> <li>43.11% critical land</li> <li>Hydric soils</li> </ul>	Sewer lines adjacent to southern boundary of sub area.	51.16% ag/farm current use program	Directly adjacent to Vancouver UGA.	Range 18.92-19.83 acres  Median parcel size: 19.38 acres	The land within the sub area is two large parcels, one an open field, the other has residential and farm structures.  The surrounding area is open space/fields, forested land and rural residential development. Urban residential development to south.	More intense land use to the south of the southern parcel's boundary. (10,000 sq. ft. lots)  Urban Holding/Office Campus zoning adjacent to west	No urban development permits within the vicinity.	AG-20: \$16/acre  Proposed zoning:  R1-6: \$242/acre	Adjacent to Vancouver's UGA.	
<b>VE</b> 416.08 acres (Vancouver)	<ul style="list-style-type: none"> <li>The 74 parcels range in size from 0.62-60.81 acres.</li> <li>No sewer lines within sub area.</li> <li>Water lines run through part of sub area.</li> <li>Adjacent to dense urban residential area.</li> <li>Northern portion of sub area has an overlay of Urban Reserve.</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 74 parcels within the sub area were identified as commercial farms in the Globalwise report maps</li> <li>61% in farm/ag current use program <u>CAPABLE?</u></li> <li>78% prime ag soils</li> <li>31.20% critical land</li> <li>shoreline buffer, riparian habitat, hydric soils</li> </ul>	Sewer lines adjacent and water lines within sub area boundary.  Education facilities adjacent.	61.42% ag/farm current use program	Directly adjacent to Vancouver UGA.	Range 0.62-60.81 acres  Median parcel size: 5.62 acres	There is a variety of land use settlement patterns within and surrounding this sub area. The land uses consist of rural land uses (open fields, forested land, rural residential, farm buildings) and urban land uses (dense urban residential).  Part of area is Urban Reserve Overlay.	More intense land uses are adjacent to the sub area within the UGA. (R1-6)	No urban development permits within the vicinity.	AG-20: \$16/acre  Proposed zoning:  R1-7.5: \$218/acre  R-12: \$195/acre	Adjacent to Vancouver UGA.	
<b>WA</b> 260.60 acres (Wash)	<ul style="list-style-type: none"> <li>The 32 parcels range in size from 0.54-70.23 acres.</li> <li>No water/sewer lines within sub area.</li> <li>Western parcels are within Industrial Urban Reserve Overlay</li> <li>Eastern parcels are within Urban Reserve Overlay</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>None of the 32 parcels within the sub area were identified as commercial farms in the Globalwise report maps</li> <li>69% in farm/ag current use program <u>CAPABLE?</u></li> <li>36% prime ag soils</li> <li>34.12% critical land</li> <li>hydric soils, riparian habitat, wetland</li> </ul>	Water lines adjacent to south of sub area.	69.72% ag/farm current use program	Portion of sub area is adjacent to Washougal UGA.	Range 0.54-70.23 acres  Median parcel size: 8.14 acres	There is a variety of land use settlement patterns within this sub area. The land uses consist of rural land uses (open fields, rural residential-.75 acre lots).	More intense land uses are adjacent to the sub area within the UGA (R1-15 & R1-7.5 zoning)  Urban Reserve zoning adjacent. Urban Holding adjacent. South of Surface Mining Overlay District.	No urban development permits within the vicinity.	AG-20: \$16/acre  Proposed Zoning:  Office Campus: \$39/acre  R1-10: \$162/acre  R1-20: \$63/acre	Adjacent to Vancouver UGA.	
<b>WB</b> 116.06 acres (Wash)	<ul style="list-style-type: none"> <li>The 2 parcels are 37 &amp; 78 acres.</li> <li>No water/sewer lines within sub area.</li> </ul>	<p><u>IN COMMERCIAL PRODUCTION?</u></p> <ul style="list-style-type: none"> <li>Neither parcel within the sub area was identified as commercial farms in the Globalwise report maps</li> <li>100% in farm/ag current use program <u>CAPABLE?</u></li> <li>82% prime ag soils</li> <li>5.89% critical land</li> <li>steep slopes, riparian habitat</li> </ul>		100% ag/farm current use program	Not adjacent to Washougal UGA	Range 37.41-78.65 acres  Median parcel size: 58.03 acres	The two parcels comprising the sub area are open fields with a portion of forested land. No structures appear to be on these two parcels.  The surrounding land settlements include open fields, forested land & rural residential.	More intense land uses are within the UGA. However, these two parcels are not adjacent to the existing UGA.	No urban development permits within the vicinity	AG-20: \$16/acre  Proposed Zoning:  Office Campus: \$39/acre	In close proximity to Washougal UGA	

**AGRICULTURAL OR FOREST ZONED PROPERTIES IN PREFERRED PLAN URBAN GROWTH BOUNDARY EXPANSION**

AREA OF INTEREST	NUMBER OF PARCELS	RANGE OF PARCEL SIZE(ac.)	MEDIAN PARCEL SIZE	TOTAL ACRES	ZONING	% CRITICAL LAND (50%+ BOLD)	ENVIRONMENTAL CONSIDERATIONS	% PRIME AG SOILS	% PRIME FOREST SOILS	% FARM AND AG CURRENT USE	SEWER LINES WITHIN 300'
BA	3	19.4 - 38.04	25.63	76.90	AG-20	41.12%	Hydric soils, Riparian Habitat	26.15%	0.00%	74.69%	No
BB	35	0.88 - 42.04	9.87	345.40	AG-20	<b>58.89%</b>	Hydric soils, Riparian Habitat, Wetland	52.68%	14.71%	55.90%	Yes
CA-1	31	0.47 - 155.3	15.31	474.49	AG-20	<b>61.78%</b>	Hydric soils, Riparian and Non-riparian habitat, floodplain, Wetland	50.21%	11.48%	31.28%	No
CA-2	6	0.5 - 68.45	25.71	154.24	FR-40	<b>82.03%</b>	Steep slopes, Non-riparian habitat	26.59%	12.12%	0.00%	No
CB	17	0.2 - 80.56	23.66	402.19	AG-20	<b>55.11%</b>	Steep slopes, Wetlands, Riparian Habitat, Hydric soils	72.62%	13.29%	83.35%	No
LA	2	2.75 - 4.09	3.42	6.85	AG-20	13.58%	Steep slopes, Riparian Habitat	0.58%	0.58%	0.00%	Yes
LB-1	32	1.14 - 69.46	14.36	459.45	AG-20	<b>58.05%</b>	Hydric soils, Riparian and Non-riparian habitat, priority species, floodplain, Wetland, steep slopes	62.05%	31.37%	35.50%	No
LB-2	25	0.34 - 66.92	9.79	244.63	AG-20	<b>50.14%</b>	Hydric soils, Riparian Habitat, Wetland	80.46%	69.41%	12.26%	No
LC	9	1.61 - 19.52	7.73	69.57	AG-20	<b>76.99%</b>	Hydric soils, Riparian Habitat, Wetland	35.88%	35.88%	87.77%	No
RA	12	0.31 - 19.74	6.79	81.50	AG-20	47.19%	Hydric soils, Riparian Habitat, Wetland, Steep slopes	47.43%	47.43%	86.12%	No
RB-1	22	0.31 - 73.17	12.83	282.29	AG-20	35.48%	Hydric soils, Riparian Habitat, Wetland, Steep slopes	61.79%	55.04%	69.32%	No
RB-2	11	0.88 - 80.38	18.15	199.69	AG-20	<b>66.58%</b>	Hydric soils, Riparian and Non-Riparian Habitat, Priority species, Wetland	58.70%	58.70%	85.59%	No
RC	54	0.59 - 104.80	5.87	306.07	AG-20	<b>56.33%</b>	Priority species buffer, Riparian habitat, Wetland, Hydric soils	70.88%	70.88%	68.86%	No
VA	4	11.04 - 75.02	31.25	125.02	AG-20	26.35%	Hydric soils, Riparian Habitat, Wetland	86.60%	86.60%	39.99%	No
VB	35	0.19 - 222.16	22.42	784.72	AG-20	<b>66.41%</b>	Hydric soils, Wetland, Priority species buffer	79.55%	43.68%	84.01%	No
VC	2	18.92 - 19.83	19.38	38.76	AG-20	43.11%	Hydric soils	51.09%	0.00%	51.16%	No
VE	74	0.62 - 60.81	5.62	416.08	AG-20	31.20%	Shoreline buffer, Riparian habitat, Hydric soils	78.69%	18.11%	61.42%	Yes
WA	32	0.54 - 70.23	8.14	260.60	AG-20	34.12%	Hydric soils, Riparian habitat, Wetland	36.81%	9.26%	69.72%	No
WB	2	37.41 - 78.65	58.03	116.06	AG-20	5.89%	Steep slopes, Riparian habitat	82.54%	82.54%	100.00%	No