GROWTH MANAGEMENT HEARINGS BOARD
WESTERN WASHINGTON REGION
STATE OF WASHINGTON

FRIENDS OF CLARK COUNTY & FUTUREWISE, Petitioners, v. CLARK COUNTY, Respondent.	Case No.: **FRIENDS OF CLARK COUNTY'S & FUTUREWISE'S PETITION FOR REVIEW COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS UPDATE**

COMES NOW Petitioners Futurewise and Friends of Clark County to submit this Petition for Review to the Growth Management Hearings Board as authorized by Chapter 36.70A RCW.

I. PETITIONER

1. Petitioner Friends of Clark County is a Washington State nonprofit corporation whose mailing address is:

Friends of Clark County
PO Box 513
Vancouver, Washington 98666
Email: info@friendsofclarkcounty.org
Telephone: 360 887-7880

816 Second Avenue, Suite 200
Seattle, Washington 98104
206-343-0681 Ext. 118
tim@futurewise.org

2. Petitioner Futurewise is a Washington State nonprofit corporation whose mailing address is:

Futurewise
816 Second Avenue, Suite 200
Seattle, Washington 98104
Email: tim@futurewise.org
Telephone: 206 343-0681 Ext. 118

3. For purposes of this action all correspondence shall be served upon the following attorney for the Petitioners:

Tim Trohimovich, Director of Planning and Law
Futurewise
816 Second Avenue, Suite 200
Seattle, Washington 98104
Telephone: 206 343-0681 Ext. 118
Email: tim@futurewise.org

II. ACTION FOR WHICH REVIEW IS SOUGHT

1. On June 28, 2016, the Board of County Councilors for Clark County, Washington enacted Amended Ordinance No. 2016-06-12 adopting an updated Growth Management Comprehensive Land Use Plan, zoning maps, and certain development regulations. A true, correct, and complete copy of Ordinance No. 2016-06-12 with its exhibits is in Tab 2016-06-12 attached to this petition for review.

2. Clark County reports that on June 29, 2016, the County issued a notice of adoption of the comprehensive plan and development regulation update approved by Amended Ordinance 2016-06-12.

III. ISSUES PRESENTED FOR REVIEW

1. Did the adoption of Amended Ordinance 2016-06-12 expanding the Battleground, La Center, and Ridgefield urban growth areas violate RCW 36.70A.020(1), (2); RCW 36.70A.070

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(internal consistency); RCW 36.70A.110(1), (2), (3); RCW 36.70A.115; RCW 36.70A.130(1), (3), (5); RCW 36.70A.210(1); or RCW 36.70A.215(1)(b) because the expansions were not needed to accommodate the planned growth and reasonable measures were not adopted and implemented? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* pp. 11 –13, pp. 14 – 15, pp. 26 – 29, pp. 41 – 46, pp. 267 – 68, Figure 12, Figure 14, Figure 15, and Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

2. Did the adoption of Amended Ordinance 2016-06-12, including the de-designation of 57 acres of agricultural land of long-term commercial significance in the La Center urban growth area expansion and 111 acres in the Ridgefield urban growth area expansion, violate RCW 36.70A.020(8); RCW 36.70A.030(2), (10); RCW 36.70A.050(3); RCW 36.70A.060(1)(a); RCW 36.70A.070 (internal consistency); RCW 36.70A.130(1), (3), (5); RCW 36.70A.170; RCW 36.70A.210(1); WAC 365-190-040(10)(b); or WAC 365-190-050 or is the de-designation inconsistent with the Clark County comprehensive plan? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* pp. 10 – 12, pp. 14 – 15, pp. 43 – 44, pp. 84 – 86, pp. 94 – 95, Figure 14, Figure 15, Figure 22A, Figure 22B, and Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

3. Did Amended Ordinance 2016-06-12's amendments to the comprehensive plan including the land use, rural, and capital facility plan elements, amendments to the Agriculture 20 (AG-20) District to create the Agriculture 10 (AG-10) District, amendments to the Forest 40 (FR-40)

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District to create the Forest 20 (FR-20) District, related rural rezones, or the allowed uses, densities, or development standards applicable to the AG-10 or FR-40 districts, including but not limited to CCC 40.210.010B and E, violate RCW 36.70A.020(8), (10); RCW 36.70A.040(3); RCW 36.70A.050(3); RCW 36.70A.060(1)(a); RCW 36.70A.070 (internal consistency); RCW 36.70A.070(1), (3), (5); RCW 36.70A.130(1), (5), WAC 365-196-815; or WAC 365-196-825 because they fail to conserve farm and forest land, protect the quality and quantity of groundwater used for public water supplies, or are inconsistent with the comprehensive plan? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* pp. 18 – 19, Chapter 1 Land Use Element, Chapter 3 Rural and Natural Resource Element, Chapter 6 Capital Facilities and Utilities Element, Figure 22A, Figure 22B, and Figure 24A; Exhibit 3 County/UGA Zoning Clark County, Washington [map]; Exhibit 5; Exhibit 6; Exhibit 7; Exhibit 8; Exhibit 9; Exhibit 25; Exhibit 26; Exhibit 28; Exhibit 30; Exhibit 31; Exhibit 32; Exhibit 33; Exhibit 34; Exhibit 35; Exhibit 36; Exhibit 37; Exhibit 38; and Exhibit 39.

4. Did Amended Ordinance 2016-06-12's adoption of a single "Rural," comprehensive plan designation, excluding limited areas of more intense rural development and similar categories, in the land use and rural elements and on Exhibit 2 the "County/UGA Comprehensive Plan Clark County, Washington" map, the county's future land use map, violate RCW 36.70A.020(2), (9), (10); RCW 36.70A.070 (preamble), (1), (5); or RCW 36.70A.130(1), (5) because the rural element fails to provide for a variety of rural densities and rural uses? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* p. 10, pp. 14 –

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16, p. 31, pp. 36 – 45, Chapter 3 Rural and Natural Resource Element, and Figure 24A; and Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map].

5. Did Amended Ordinance 2016-06-12's adoption of the Urban Reserve Overlay and the Urban Reserve-10 (UR-10) and Urban Reserve-20 (UR-20) zoning districts, the repeal of the Urban Reserve-40 (UR-40) zoning district, and the application of the overlay and districts to rural and natural resource lands violate RCW 36.70A.020(2), (8), (10); RCW 36.70A.040(3); RCW 36.70A.050(3); RCW 36.70A.060(1)(a); RCW 36.70A.070 (preamble), (1), (5); RCW 36.70A.110(1); RCW 36.70A.115; RCW 36.70A.130(1), (3), (5); or WAC 365-196-815 because the land is not needed to accommodate planned urban growth and the overlay and zoning does not conserve natural resource lands or comply with the requirements for rural areas? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* pp. 12 – 13, pp. 36 – 38, pp. 96 – 97, p. 192, p. 228, p. 239, p. 265, p. 276, Figures 12 – 18, Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map]; Exhibit 5; Exhibit 6; Exhibit 8; and Exhibit 23.

6. Did Amended Ordinance 2016-06-12's adoption of the transportation element, including an admitted deficit of $158,104,000 for the 20-year transportation facility plan,[1] violate RCW 36.70A.020(3), (12); RCW 36.70A.070 (preamble), (1), (6); or RCW 36.70A.130(1), (3), (5)? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* Chapter 5 Transportation, Appendix A

[1] Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* Chapter 5 Transportation p. 160. Petitioners allege the deficit is larger than this figure from Chapter 5 Transportation.

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Transportation Issues, Appendix E Capital Facility Plans Review, Appendix G: Capital Facilities Financial Plan, and Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

7. Did Amended Ordinance 2016-06-12's adoption of the capital facilities plan element violate RCW 36.70A.020(1), (12); RCW 36.70A.070 (preamble), (1), (3); or RCW 36.70A.130(1), (3), (5) because it does not comply with the requirements for capital facility plan elements? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* Chapter 6 Capital Facilities and Utilities Element, Appendix E Capital Facility Plans Review and Analysis, Appendix G: Capital Facilities Financial Plan, and Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

8. Did Amended Ordinance 2016-06-12's adoption of the comprehensive plan's Chapter 4 Environmental Element and the failure to review and if necessary revise Subtitle 40.4 Clark County Code (CCC), Critical Areas and Shorelines, violate RCW 36.70A.020(9), (10); RCW 36.70A.040(3); RCW 36.70A.050(3); RCW 36.70A.060(2), (3); RCW 36.70A.130(1), (5), (7); RCW 36.70A.170; RCW 36.70A.172(1); WAC 365-190-080; WAC 365-190-090; WAC 365-190-100; WAC 365-190-110; WAC 365-190-120; WAC 365-190-130; Chapter 365-195 WAC; WAC 365-196-485; or WAC 365-196-830 because they fail to adequately designate and protect critical areas. See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* Chapter 4 Environmental Element and Figures 7 and 8.

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9. Did the adoption of Amended Ordinance 2016-06-12 violate RCW 36.70A.367(6) and RCW 36.70A.130(1)(d) because the industrial land banks were designated after the deadline in RCW 36.70A.367(6) and RCW 36.70A.130(4)? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* p. 31, pp. 36 – 37, p. 97, p. 228, p. 402, and Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

10. Did the adoption of Amended Ordinance 2016-06-12 violate RCW 36.70A.020(8); RCW 36.70A.030(2), (10); RCW 36.70A.050(3); RCW 36.70A.060(1)(a); RCW 36.70A.070 (internal consistency); RCW 36.70A.130(1), (5); RCW 36.70A.170; WAC 365-190-040(10)(b); WAC 365-190-050; or is the ordinance inconsistent the Clark County comprehensive plan because it de-designated approximately 602.4 acres of agricultural lands of long-term commercial significance? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* pp. 10 – 12, pp. 14 – 15, p. 31, pp. 36 – 37, pp. 43 – 44, pp. 84 – 86, pp. 94 – 95, p. 97, p. 228, p. 402, Figure 22A, Figure 22B, and Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

11. Did the adoption of Amended Ordinance 2016-06-12 violate RCW 36.70A.130(1), (3), (5); RCW 36.70A.210(2), (3); the applicable provisions of RCW 36.70A.365(2); or RCW 36.70A.367(1), (2), (3), (4), (7) by failing to comply with the procedural and substantive requirements for industrial land banks? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* p.

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31, pp. 36 – 37, p. 97, p. 228, p. 402, Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

12. Does the annexation of land within an urban growth area expansion under appeal violate RCW 36.70A.020(1), (2), (8); RCW 36.70A.060(1)(a); RCW 36.70A.070 (internal consistency), (1); RCW 36.70A.110; RCW 36.70A.115; RCW 36.70A.130(1), (3), (5); RCW 36.70A.170; RCW 36.70A.215(1), (2), (3), (4); or any other applicable provision of state law? See Amended Ordinance 2016-06-12 and Exhibit 1 *Clark County, Washington 20 Year Comprehensive Growth Management Plan 2015-2035* pp. 11 –13, pp. 14 – 15, pp. 26 – 29, pp. 41 – 46, pp. 267 – 68, and Figure 24A; Exhibit 2 County/UGA Comprehensive Plan Clark County, Washington [map]; and Exhibit 3 County/UGA Zoning Clark County, Washington [map].

IV. STANDING

1. Petitioner Friends of Clark County is a Washington State non-profit corporation that works with community partners and policy makers to keep Clark County a beautiful and healthy place to live, work, and play. The organization has members and supporters that are landowners and residents of Clark County and who are aggrieved and adversely affected by the County's adoption of Amended Ordinance 2016-06-12 and the matters at issue in this petition. Friends of Clark County staff and its supporters and members participated in the public process writing emails, letters, and testifying at public hearings concerning all matters at issue in this petition. The Friends of Clark County therefore assert that, in addition to other forms of standing, it has participation standing to challenge the actions at issue pursuant to RCW 36.70A.280.

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2. Petitioner Futurewise is a Washington State non-profit corporation and a statewide organization devoted to ensuring compliance with the Growth Management Act (GMA). The organization has members and supporters that are landowners and residents of Clark County and who are aggrieved and adversely affected by the County's adoption of Amended Ordinance 2016-06-12 and the matters at issue in this petition. Futurewise staff and its supporters and members participated in the public process writing emails, letters, and testifying at public hearings concerning all matters at issue in this petition. Futurewise therefore asserts that, in addition to other forms of standing, it has participation standing to challenge the actions at issue pursuant to RCW 36.70A.280.

V. ESTIMATED LENGTH OF HEARING

The Petitioners estimate that the Hearing on the Merits for this matter will last one day.

VI. RELIEF SOUGHT

1. The Friends of Clark County and Futurewise respectfully request that the Board find that Amended Ordinance 2016-06-12 violates the goals and requirements of the Growth Management Act.

2. The Friends of Clark County and Futurewise respectfully request that the Board issue a Final Decision and Order directing the County to properly review and revised its comprehensive plan and development regulations and to remand the matter back to Clark County for action consistent with the Growth Management Act.

3. The Friends of Clark County and Futurewise request that the Board make a determination of invalidity for the comprehensive plan and development regulations on the grounds that the challenged provisions substantially interfere with the fulfillment of the goals of the Growth Management Act.

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4. In addition, the Friends of Clark County and Futurewise request that the Board conclude that any annexation of the urban growth area expansions challenged in this appeal violated state law and must be remedied.

The Petitioners, the Friends of Clark County and Futurewise, have read this Petition for Review and believe the contents to be true.

DATED this 22nd day of July, 2016, and respectfully submitted,

Tim Trohimovich, WSBA No. 22367
Attorney for Petitioners Futurewise and
Friends of Clark County

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VII. DECLARATION OF SERVICE

I, Tim Trohimovich, declare under penalty of perjury and the laws of the State of Washington that, on July 22, 2016, I caused the following document to be served on the persons listed below in the manner shown: The Friends of Clark County's and Futurewise's Petition for Review and attachment.

Growth Management Hearings Board
PO Box 40953
Olympia, WA 98504-0953
Tel: 360-664-9170
Original and three copies

X	By United States Mail, postage prepaid and properly addressed
	By Legal Messenger or Hand Delivery
	By Facsimile
	By Federal Express or Overnight Mail prepaid
X	By Email: western@eluho.wa.gov

The Honorable Greg Kimsey
Clark County Auditor
P.O. Box 5000
Vancouver, WA 98666-5000

X	By United States Mail, postage prepaid and properly addressed
	By Legal Messenger or Hand Delivery
	By Facsimile
	By Federal Express or Overnight Mail prepaid
X	By Email: auditor@clark.wa.gov

Ms. Christine M. Cook
Sr. Deputy Prosecuting Attorney
Clark County Prosecuting Attorney's Office
Civil Division
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Attorneys for Clark County

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