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CLARK COUNTY  
WASHINGTON

## COMMUNITY PLANNING

### Planning Commission Recommendation to Board of County Commissioners

FROM: Oliver Orjiako, Director

PREPARED BY: Jose Alvarez

DATE: May 28, 2014

SUBJECT: CPZ2014-00007 Washougal UGA Removal

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**Proposed Action:** Amend the comprehensive plan and zoning maps to re-designate certain properties now in the Washougal Urban Growth Area as Agricultural (Ag-20), and to remove these properties from the urban growth area.

**Recommendation:** Planning Commission at a duly advertised public meeting on May 15, 2014 voted 5 to 0 to recommend approval of the proposal.

**Background:** For purposes of Clark County's 2007 comprehensive plan update, the properties subject to this proposal were known as Agriculture Viability Study Area WB. Prior to the update, both parcels were designated and zoned for agriculture (AG-20). As part of the 2007 update, Clark County brought the area within the Washougal Urban Growth Area, and re-designated the land for urban uses. The properties are currently designated Industrial (I) within an Urban Holding Overlay District (UH-40) and zoned Business Park (BP).

John Karpinski, Clark County Natural Resources Council and Futurewise appealed the 2007 plan update to the Western Washington Growth Management Hearings Board (Growth Board). On June 3, 2008, the Growth Board held that certain of the re-designations, including the re-designation of Area WB from agricultural to urban, had failed to comply with the Growth Management Act. Clark County and various other parties appealed the Growth Board's ruling to Clark County Superior Court.

In May of 2009, Superior Court Judge Harris reversed the Growth Board's ruling with respect to Area WB. Karpinski, et al., appealed the Superior Court decision to the Washington State Court of Appeals. In April of 2011, the Court of Appeals remanded the Growth Board's decision on Area WB for further consideration of all WAC factors.

On March 11, 2014, the Growth Board issued its order on remand, ruling that Area WB had been improperly removed from agricultural designation, and ordering Clark County to bring the plan designation into full compliance with GMA.

The effects of the proposal, if approved, will be to return the subject properties to their comprehensive plan designations and zoning as those existed immediately before the

2007 Plan update, to remove the properties from the Washougal UGA, and to bring the county into compliance with GMA.

**General information regarding subject property:**

Area WB is comprised of two parcels totaling 118 acres, 79 and 39 acres respectively.

Parcel number(s): 129825000 (79ac) and 130039000 (39 ac)

Location: South of SE 20<sup>th</sup> St and East of SE Jennings Road

Owners: Daley Dennis W & Hackett Carol et al.  
Hickey Diane M Trustee

**Existing land uses offsite:**

North: Large lot rural residential

South: Large lot residential in urban holding area

East: Large lot rural residential

West: Large lot residential in urban holding area

## **APPLICABLE CRITERIA, EVALUATION OF REQUEST AND FINDINGS**

### **CONSIDERATION OF OUT-OF-CYCLE AMENDMENTS**

Revisions to the comprehensive plan may be considered more frequently than once per year under the following circumstances:

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- d. **To resolve an appeal of a comprehensive plan filed with a Growth Management Hearings Board or from a court of competent jurisdiction. (40.560.010Q(1))**

Finding: The purpose of the proposed revisions to the comprehensive plan and zoning map is to finally resolve, the appeal of the 2007 plan update by coming into compliance with the ruling from the Growth Board. See discussion in Background, above. This proposal is properly considered at this time.

### **CRITERIA FOR ALL MAP CHANGES**

In order to comply with the Plan Amendment Procedures in the Clark County Unified Development Code (UDC 40.560.010), requests to amend the Comprehensive Plan land use map must meet **all** of the criteria in Section G, Criteria for all Map Changes. Requests to amend the zoning map must meet similar criteria (UDC 40.560.020G). For clarity, Criteria A-E, following, summarize all of the applicable criteria required for both plan and zoning map amendments.

- A. The proponent shall demonstrate that the proposed amendment is consistent with the Growth Management Act (GMA) and requirements, the countywide planning policies, the Community Framework Plan, Clark County 20-Year Comprehensive Plan, and other related plans. (See 40.560.010G(1) and 40.560.020G(2).)***

#### **Growth Management Act (GMA).**

##### **1. Compliance with the decision of the Growth Board.**

On remand from the Court of Appeals to further consider whether Area WB has long term commercial significance for agricultural production based on the factors set forth in former WAC 365-190-050-1, the Growth Board concluded that Area WB has long term commercial significance for agricultural production.

Finding: The proposed re-designation of Area WB would comply with the Growth Board's ruling that GMA requires agricultural designation of these properties.

##### **2. GMA definition of agricultural land.**

RCW 36.70A.030(2) defines agricultural land as follows:

*“Agricultural land” means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by \*RCW [84.33.100](#) through [84.33.140](#), finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.*

RCW 36.70A.030(10) states:

*“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.*

The Department of Commerce has adopted guidelines for classifying agricultural lands in keeping with statutory requirements. The guidelines, at WAC 365-190-050, provide as follows:

*(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:*

- (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 Growth Board held that the WB properties have prime soils, and are capable of being farmed; that the area is not characterized by urban growth, nor adjacent to land characterized by urban growth; and that the evidence did not show that the land no longer has long-term commercial significance, based on criteria from WAC 365-190-050(1).

Finding: The subject properties meet the definition of agricultural lands set forth in GMA, as implemented by the WAC guidelines, and construed by the Growth Board.

**Community Framework Plan and Countywide Planning Policies.**

The policies most applicable to this proposal are set forth in 3.0 Rural and Natural Resources Element. That element states that its policies “are to ensure the conservation of agricultural, forest, and mineral resource lands, and protect these lands from interference by adjacent uses which affect the continued use, in the accustomed manner, of these lands for production of food, agricultural products, or timber, or the extraction of minerals.”

*Policy 3.1.0 The county and its jurisdictions at a minimum are to consider agricultural land based on Washington Administrative Code (WAC) 365-190-050.*

Finding: The proposal to re-designate Area WB as agricultural lands will comply with the WAC guidelines set forth at section 365-190-050, in that the WB properties have prime soils, the area is not characterized by urban growth, nor adjacent to land characterized by urban growth; and that the evidence did not show that the land no longer has long-term commercial significance for agriculture.

*Policy 3.1.3 Identify agricultural land on parcels currently used or designated for agricultural use and provide these parcels special protection.*

Finding: This proposal will provide protection to that land to maintain and encourage the agricultural industry in that area as opposed to opening it to urban uses.

*Policy 3.1.5 Encourage the conservation of large parcels which have prime agricultural soils for agricultural use and provide these parcels special protection.*

Finding: Area WB is made up of two parcels that have prime soils, and are 38 acres and 79 acres. This proposal will protect that land by limiting land divisions and preventing development that is inconsistent with agriculture.

*Policy 3.1.7 Develop a range of programs (such as purchase of development rights, easements, preferential tax programs, etc.) to provide property owners incentives to maintain their land in natural resource uses.*

Finding: The current use tax deferral program for farmland provides an incentive to maintain the land in agricultural use.

**Clark County 20 Year Comprehensive Plan.** The Clark County Comprehensive Plan contains an agriculture goal and policies adopted pursuant to that goal.

**GOAL:** *To maintain and enhance productive agricultural lands and minimize incompatibilities with adjacent uses.*

### 3.4 Policies

3.4.2 *Minimum parcel size should be adequate to allow reasonable and economic agricultural use.*

3.4.3 *The primary uses in agricultural areas shall be commercial or non-commercial agriculture, forest management, mineral extraction, ancillary uses and other non-agricultural related economic activities relying on agricultural lands.*

Findings: Re-designating Area WB as agricultural land and removing it from the urban growth area will maintain a large minimum lot size, for more economic agricultural use. In addition, it will prevent incompatible uses on farmland, by prohibiting those uses which would ordinarily be allowed on urban lands. The proposal complies with the comprehensive plan goal to maintain and enhance productive agricultural lands.

Conclusion: This proposal complies with criterion A.

**B. *The proponent shall demonstrate that the designation is in conformance with the appropriate locational criteria identified in the Clark County Comprehensive Plan and the purpose statement of the zoning district. (See 40.560.010G(2) and 40.560.020G(2).)***

#### *Agriculture Lands*

*These lands have the growing capacity, productivity, soil composition, and surrounding land use to have long-term commercial significance for agriculture and associated resource production. This designation is implemented by the Agriculture (AG-20) base zone.*

*Purpose.*

*Agriculture 20 (AG-20) District. The purpose of the Agriculture 20 district is to encourage the conservation of lands which have the growing capacity, productivity, soil composition, and surrounding land use to have long-term commercial significance for agriculture and associated resource production.*

Finding: The Growth Board, on remand from the Court of Appeals, re-affirmed its prior order that these lands are properly characterized as agricultural, based on their soil characteristics and a lack of adjacent and surrounding urban development. The proposal satisfies the locational criteria and purpose statement, and satisfies Criterion B.

**C. *The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity. (See 40.560.010G(3).)***

Finding: The Growth Board's decision addressed Area WB directly, and did not indicate that the agricultural designation of any alternative site would substitute for returning Area WB to AG-20 classification. The proposal satisfies this criterion.

**D. *The plan map amendment either; (a) responds to a substantial change in conditions applicable to the area within which the subject property lies; (b) better implements applicable comprehensive plan policies than the current map designation; or (c) corrects an obvious mapping error. (See 40.560.010G(4)and 40.560.020G(3).)***

Finding: The Growth Board concluded that Area WB is agricultural land of long-term commercial significance under GMA, the proposed plan map amendment and zone change better implement the comprehensive plan policy requiring maintenance and enhancement of productive agricultural land than the current urban designation. Criterion D is satisfied.

**E. *Where applicable, the proponent shall demonstrate that the full range of urban public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools. Adequacy of services applies only to the specific change site. (See 40.560.010G(5)and 40.560.020G(4).)***

Finding: Criterion E is not applicable to this proposal, as it removes land from the UGA.

**RECOMMENDATION AND CONCLUSIONS**

The Planning Commission recommends **Approval** of this proposal to the Board of County Commissioners. Re-designating Area WB as agricultural land (AG-20) and returning these lands to appropriate zoning complies with the applicable state and county criteria. This action will finally resolve the appeal of the 2007 plan update and enable the property owners and the county to move forward with planning appropriate for the area and the circumstances.

<b>COMPLIANCE WITH APPLICABLE CRITERIA</b>		
	<b>Criteria Met?</b>	
	<b>Staff Report</b>	<b>Planning Commission Findings</b>
<b>Criteria for All Map Changes</b>		
<b>A.</b> Consistency with GMA & Countywide Policies	Yes	Yes
<b>B.</b> Conformance with Location Criteria	Yes	Yes
<b>C.</b> Site Suitability and Lack of Appropriately Designated Alternative Sites	Yes	Yes
<b>D.</b> Amendment Responds to Substantial Change in Conditions, Better Implements Policy, or Corrects Mapping Error	Yes	Yes
<b>E.</b> Adequacy/Timeliness of Public Facilities and Services	NA	NA
<b>Recommendation:</b>	<b>Approval</b>	<b>Approval</b>