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CLARK COUNTY
WASHINGTON

COMMUNITY PLANNING

STAFF REPORT

TO: Clark County Planning Commission

FROM: Oliver Orjiako, Director
Gordy Euler, Program Manager II

DATE: May 18, 2017

SUBJECT: CPZ 2017-00023 Comprehensive Growth Management Plan 2015-2035 response to GMHB decision.

Background

The Comprehensive Growth Management Plan 2015-2035 was adopted by the Board of County Councilors (Board) on June 28, 2016, and the update took effect on July 8, 2016. The plan was appealed to the Growth Management Hearings Board (GMHB) by Futurewise and the Friends of Clark County and by Clark County Citizens United. The GMHB heard the parties' oral arguments on 24 issues at its hearing on February 8, 2017.

The GMHB issued its final decision and order (FDO) on March 23, 2017. The FDO found that the County had violated the Growth Management Act in the following respects:

1. By expanding the urban growth areas of Battle Ground, Ridgefield, and La Center, when the expansions were not needed, which was also found to be invalid under the Growth Management Act;
2. By changing the plan designations of lands brought into the Ridgefield and La Center urban growth areas from agriculture to urban;
3. By changing the plan designation of lands on which a rural industrial land bank would be located from agriculture to light industrial;
4. By failing to specify the maximum size of the rural industrial land bank;
5. By adopting an Urban Reserve overlay that allowed urban uses outside urban areas;
6. By having only a single Rural plan designation on Rural lands; and
7. By changing the AG-20 zone to AG-10, and the FR-40 zone to FR-20.

The FDO held that with respect to the other 17 issues disputed in the appeal, the County had complied with the Growth Management Act.

After reviewing the FDO, the Board decided to appeal the FDO's ruling regarding the urban growth boundary expansions for Ridgefield and La Center and the resulting order of invalidity as well as the de-designation holding for the rural industrial land bank. By

the appeal deadline of April 24, 2017, Clark County, La Center, Ridgefield, the owners of property taken into those cities, and Clark County Citizens United had all appealed the FDO to Clark County Superior Court.

On April 25, 2017, the Board adopted a moratorium prohibiting the filing or acceptance of applications or pre-applications to divide lands in the AG-10, FR-20, R-20 or R-10 districts, except to the extent that the division would have been permissible under the prior comprehensive plan and code. Zone changes from R-20 or R-10 to districts with smaller lot sizes are also prohibited. Vested or contingently vested applications or pre-applications are not affected by the moratorium.

The Board adopted the moratorium as an immediately effective interim ordinance under RCW 35.63.200 and the County Charter, at a public meeting, and must readopt it in a public hearing by June 24, to prevent its expiration.

The County has until September 19, 2017 to come into compliance with the FDO, however, earlier compliance would benefit the County. This involves amendments to the comprehensive plan map and text, and CCC Title 40, the County's unified development code and zoning map. The purpose of this staff report is to provide the Planning Commission with proposed amendments for review and recommendation to the Board.

Summary of Proposed Actions

Comprehensive Plan Map Changes

- Resource Lands. As part of the update, all parcels zoned FR-40 were changed to FR-20 and all parcels zoned AG-20 were changed to AG-10. To comply with the ruling, FR-20 parcels are proposed to be changed back to FR-40 zoning, and AG-10 parcels are proposed to be changed back to AG-20 zoning, as they were before the update.
- Rural Lands. The County has been implementing Rural zoning with one Rural designation and three zoning districts. To comply with the ruling, three Rural comprehensive plan designations are proposed (R-5, R-10, and R-20), each implemented with its own zone. Any future site-specific plan map and zone changes will be processed through Type IV legislative decisions and not through Type III quasi-judicial processes.

As part of the update, 283 parcels were changed from R-20 to R-10 in conjunction with the resource lands upzoning. Though this change was not challenged, the R-10 parcels that have not been further subdivided are proposed to be changed back to R-20, because the original R-20 designation was itself part of an action taken on remand from the GMHB, by which the lands were to act as buffers to Natural Resource designated lands.

- Urban Reserve. As part of the update, the urban reserve (UR) zoning district which implemented both a zoning district and an overlay was changed to an

urban reserve overlay. To comply with the ruling, rather than recreate the UR zoning district, it is proposed that the use list be eliminated and that allowable uses and development standards be dictated by the underlying zone.

- **Battle Ground UGA**. The city of Battle Ground added 80 acres to its UGA in the comprehensive plan update. The GMHB ruled that the city did not need the land. To comply with the ruling, the 17 parcels comprising the 80 acres are proposed to be removed from Battle Ground’s UGA and given a comprehensive plan designation and zoning of R-5 as it was prior to the update.

Comprehensive Plan Text Changes

(page numbers refer to the current comprehensive plan)

Chapter 1 – Land Use Element (page 31)

Table 1.4 Rural Lands Plan Designation to Zone Consistency Chart.

Comprehensive Plan	Zoning
<u>Rural 5 (R-5)</u>	Rural <u>5</u> (R-5)
<u>Rural 10 (R-10)</u>	Rural <u>10</u> (R-10)
<u>Rural 20 (R-20)</u>	Rural <u>20</u> (R-20)
<u>Rural (R)</u>	Airport (A)
Rural Center (RC)	Rural Center (RC-1) Rural Center (RC-2.5) <u>Rural 5 (R-5)</u>
Rural Commercial (CR)	Rural Commercial (CR-1) Rural Commercial (CR-2)
Rural Industrial (RI)	Heavy Industrial (IH) Airport (A)
Public Facility (PF)	Public Facility (PF) Airport (A)
Rural Industrial Land Bank (RILB)	Light Industrial (IL)

Table 1.5 Resource Lands Plan Designation to Zone Consistency Chart.

Comprehensive Plan	Zoning
Agriculture (AG)	Agriculture (AG- 40 20)
Agri-Wildlife (AG/WL)	Agri-Wildlife (AG/WL)
Forest Tier II	Forest (FR- 20 40)
Forest Tier I	Forest (FR-80)
Airport (A)	Airport (A)

Rural Lands (pages 36-37)

The Rural (R) designations are intended to provide lands for residential living in the rural area. Natural resource activities such as farming and forestry are allowed and encouraged to occur as small scale activities in conjunction with the residential uses in the area. These areas are subject to normal and accepted forestry and farming practices. The Rural 5, 10 and 20 comprehensive plan designations are implemented with corresponding Rural 5, 10, and 20 base zones. ~~implement this designation.~~ A Rural 10 designation is ~~are~~ applied within the rural area to prevent premature subdivision of future urban areas where the lands are adjacent to designated Urban Reserves, and where the predominant size is ~~are~~ equal or greater than 10 acres. Rural 10 parcels act as a buffer to Natural Resource lands and protects environmentally critical areas consistent with applicable county ordinance and related regulations. This allows for efficient urban development when land is added to the urban growth areas. A Rural 20 map designation applies to rural areas where the lands act as a buffer to Natural Resource designated lands, are used for small scale forest or farm production, and contain significant environmentally constrained areas as defined by applicable county code and related regulations.

Resource Lands (page 37)

Agriculture Lands (AG)

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) (~~AG-40~~) base zone.

Forest Tier II

This designation is applied to those lands which have the physical characteristics that are capable of management for the long-term production of commercially significant

forest products and other natural resources, such as minerals. The Forest-40 (FR-40) Forest-20 (FR-20) base zone implements this designation.

Chapter 3 - Rural and Natural Resource Element

Rural Land Distribution (page 82)

Table 3.1 Acreage Totals Based on 1994, 2007 and 2016 Zoning Categories.

Zoning	Acres 1994	Acres 2007	Acres 2016
R-5, R-10, R-20	105,102	100,117	102,213
AG-20, AG-10 ⁺ , AG-WL	39,802	35,760	37,460
FR-40, FR-20 ⁺ , FR-80	157,516	158,068	158,099

Zoning changed from AG-20 and FR-40 in the 2016 plan update.

Rural Lands (page 91)

Policy 3.2.3 Those areas with a Rural Comprehensive Plan designation of Rural 5, Rural 10, and Rural 20 shall have a residential density of one dwelling unit per 5, 10, and 20 acres (R-5, R-10, and R-20), respectively).

Forest Lands (page 93)

Policy 3.4.3 Those areas with Forest Tier I and Forest Tier II Comprehensive Plan designations shall have a residential density of one dwelling unit per 80 and 40 ~~20~~ acres (FR-80 and FR-40 ~~FR-20~~) respectively).

Agriculture Lands (page 94)

Policy 3.5.3 Those areas with Agriculture Comprehensive Plan designations shall have a residential density of one dwelling unit per 20 ~~10~~ acres (AG-20 ~~AG-10~~).

Rural Industrial Land Bank (page 97)

(The Hearings Board ruled the county violated the GMA by not specifying a maximum parcel size for its rural industrial land bank sites. To comply with the ruling, staff proposes the following:)

Policy 3.8.1. Designate a rural industrial land bank that is compatible with surrounding land uses and that creates long term value for both the community and the industrial users. The maximum size of industrial land bank sites shall be 700 acres.

Comprehensive Plan Code Changes

The majority of the code changes required for compliance have to do with eliminating references to FR-20 and AG-10, and replacing them with FR-40 and AG-20. The following sections have more extensive proposed changes.

40.210 RESOURCE AND RURAL DISTRICTS

40.210.010 FOREST, AGRICULTURE AND AGRICULTURAL-WILDLIFE DISTRICTS (FR-80, FR-40, ~~FR-20~~, AG-20, ~~AG-10~~, AG-WL)

A. Purpose.

1. Forest 80 District. The purpose of the Forest 80 district is to maintain and enhance resource-based industries, encourage the conservation of productive forest lands and discourage incompatible uses consistent with the Forest I policies of the comprehensive plan. The Forest 80 district applies to lands which have been designated as Forest Tier 1 on the comprehensive plan. Nothing in this chapter shall be construed in a manner inconsistent with the Washington Forest Practices Act.
2. Forest 40 20 District. The purpose of the Forest 40 20 district is to encourage the conservation of lands which have the physical characteristics that are capable of management for the long-term production of commercially significant forest products and other natural resources, such as minerals.
3. Agriculture 20 40 District. The purpose of the Agriculture 20 40 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.
4. Agricultural-Wildlife. The purpose of the AG-WL district is to encourage the preservation of agricultural and wildlife use on land which is suited for agricultural production, and to protect agricultural areas that are highly valuable seasonal wildlife habitat from incompatible uses. The district provides for activities which can be considered accessory only to agricultural, game, or wildlife habitat management, or recreational uses. Nothing in this chapter shall be construed to restrict normal agricultural practices.

B. Uses.

The uses set out in Table 40.210.010-1 are examples of uses allowable in the various resource zone districts. The appropriate review authority is mandatory.

- “P” – Uses allowed subject to approval of applicable permits.
- “R/A” – Uses permitted upon review and approval as set forth in Section 40.520.020.
- “C” – Conditional uses which may be permitted subject to the approval of a conditional use permit as set forth in Section 40.520.030.
- “X” – Uses specifically prohibited.

Where there are special use standards or restrictions for a listed use, the applicable code section(s) in Chapter 40.260, Special Uses and Standards, or other applicable chapter is noted in the “Special Standards” column.

Table 40.210.010-1. Uses.					
	FR-80	FR- 4020	AG- 2040	AG-WL	Special Standards
1. Residential.					
a. Single-family dwellings and accessory buildings	P ¹	P ¹	P ¹	P	40.260.010
b. Guest house	C ²	C ²	C ²	C ²	40.260.010
c. Family day care centers	P	P	P	P	40.260.160
d. Adult family homes	P	P	P	P	40.260.190
e. Home business – Type I	P	P	P	P	40.260.100
f. Home business – Type II	R/A	R/A	R/A	R/A	40.260.100
g. Bed and breakfast establishments (up to 2 guest bedrooms)	R/A	R/A	R/A	R/A	40.260.050
h. Bed and breakfast establishments (3 or more guest bedrooms)	C	C	C	C	40.260.050
i. Garage sales	P	P	P	P	40.260.090
j. Temporary dwellings	P	P	P	X	40.260.210
2. Services, Business.					
a. Commercial nurseries predominantly marketing locally produced plants and associated landscaping materials	R/A	R/A	R/A	C	
b. Roadside farm stand	P	P	P	P	40.260.025
c. Agricultural market	P	P	P	X	40.260.025
d. Commercial kennels on a parcel or parcels 5 acres or more	R/A	R/A	R/A	X	40.260.110
e. Private kennels	P	P	P	P	40.260.110
f. Animal boarding and day use facilities	P	P	P	X	40.260.040
3. Services, Amusement. ¹⁰					
a. Public recreation, scenic and park use ¹⁰	P	P	P	C ³	
b. Public interpretive/educational uses ¹⁰	P	P	P	P	
c. Dispersed recreation and recreational facilities such as primitive campsites, trails, trailheads, snowparks and warming huts ¹⁰	P	P	P	X	
d. Public recreation accessways, trails, viewpoints, and associated parking ¹⁰	P	P	P	P	

Table 40.210.010-1. Uses.					
e. Regional recreational facilities designed and developed through a public master planning process ¹⁰	P	P	P	P	
f. Private recreation facilities, including retreats, but excluding such intensive uses as country clubs and golf courses	C	C	C	C ³	
g. Country club and golf courses	X	X	C	X	
h. Equestrian facility	P	P	P	X	40.260.040
i. Equestrian events center	C	C	C	X	
j. Circuses, carnivals or amusement rides	R/A	R/A	R/A	R/A	
4. Services – General.					
a. Event facilities < 5,000 sq. ft.	X	C	C	X	
b. Tasting room and event facilities in conjunction with a winery	P	P	P	X	40.260.245
5. Services, Membership Organization.					
a. Churches	X	C	C	X	
6. Services, Educational. ¹⁰					
a. Public and private elementary and middle schools serving a student population primarily outside of urban growth boundaries	C	C	C	X	40.260.160
7. Public Service and Facilities. ¹⁰					
a. Ambulance dispatch facilities ¹⁰	C	C	C	C	40.260.030
b. Government facilities ¹⁰	C ⁴	C ⁴	C ⁴	C ⁵	
c. Public corrections facilities ¹⁰	C	C	C	X	
8. Resource Activities.					
a. Agricultural	P ⁶	P ⁶	P ⁶	P	
b. The growing, harvesting and transport of timber, forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974 as amended, and regulations adopted pursuant thereto	P	P	P	X	
c. Wildlife game management	P	P	P	P	
d. Plant nurseries	P	P	P	P	
e. Removal, harvesting, wholesaling and retailing of vegetation from forest lands including but not	P	P	P	C	Chapter 40.440

Table 40.210.010-1. Uses.					
limited to fuel wood, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs and mushrooms					
f. Silviculture	P	P	P	C	40.260.080
g. Aggregate extraction and processing for the purposes of construction and maintenance of a timber or agricultural management road system	P ⁷	P ⁷	P ⁷	X	40.260.120
h. Exploration for rock, gravel, oil, gas, mineral and geothermal resources	P	P	P	X	40.260.120
i. Extraction of oil, gas and geothermal resources, in accordance with all applicable local, state and federal regulations	R/A	R/A	R/A	X	40.260.120
j. Commercial uses supporting resource uses	P ⁸	P ⁸	P ⁸	X	
k. Accessory buildings	P	P	P	P	40.260.010
l. Housing for temporary workers	P	P	P	P	40.260.105
m. Sawmills greater than ten thousand (10,000) board feet per day, and other products from wood residues, drying kilns and equipment	C	C	C	X	
n. Forestry, environmental and natural resource research and facilities	P	P	P	C	
o. The processing of oil, gas and geothermal resources	C	C	C	X	
p. Heliports, helipads and helispots used in conjunction with the resource activity	P	P	C	X	40.260.170
9. Other.					
a. Signs	P	P	P	P	Chapter 40.310
b. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	P	C	40.260.240
c. Wireless communications facilities	P/C ⁹	P/C ⁹	P/C ⁹	P/C ⁹	40.260.250
d. Dams for flood control and hydroelectric generating facilities	C	C	C	C	
e. Solid waste handling and disposal sites	C	C	C	C	40.260.200
f. Private use landing strips for aircraft	C	C	C	X	40.260.170
g. New cemeteries and mausoleums, crematoria,	X	X	X	C	

Table 40.210.010-1. Uses.					
columbaria, and mortuaries within cemeteries; provided, that no crematoria is within two hundred (200) feet of a lot in a residential district					
h. Expansion of existing cemeteries	P	P	P	P	
i. Temporary uses	P	P	P	P	40.260.220
j. Electric vehicle infrastructure	P	P	P	P	40.260.075
k. Marijuana-related facilities	X	X	X	X	

¹ One (1) single-family dwelling on legal lot or legal nonconforming lot of record.

² One (1) guesthouse in conjunction with a single-family dwelling or mobile home.

³ Public, where no public master planning process has been completed or private outdoor recreational facilities requiring limited physical improvements which are oriented to the appreciation, protection, study or enjoyment of the fragile resources of this area. In addition to those findings as specified by Section 40.520.030 (Conditional Use Permits), such uses shall be approved only upon the applicant establishing both of the following:

- There will be no significant environmental impact, especially as it relates to wildlife, resulting from the proposed use; and
- The subject site cannot be put to any reasonable economic use which is provided for in this section.

⁴ Government facilities necessary to serve the area outside urban growth boundaries, including fire stations, ambulance dispatch facilities and storage yards, warehouses, or similar uses.

⁵ Limited to fire stations only.

⁶ Agriculture including: floriculture, horticulture, general farming, dairy, the raising, feeding and sale or production of poultry, livestock, furbearing animals, and honeybees including feedlot operations, animal sales yards, Christmas trees, nursery stock and floral vegetation and other agricultural activities and structures accessory to farming or animal husbandry.

⁷ Additional surface mining and associated activities subject to zone change to add the surface mining overlay district, Section 40.250.020.

⁸ Commercial uses supporting resource uses, such as packing, first stage processing and processing which provides value added to resource products. Chippers, pole yards, log sorting and storage, temporary structures for debarking, accessory uses including but not limited to scaling and weigh operations, temporary crew quarters, storage and maintenance facilities, disposal areas, saw mills producing ten thousand (10,000) board feet per day or less, and other uses involved in the harvesting of forest products.

⁹ See Table 40.260.250-1.

¹⁰ Once a property has been developed as a public facility, a docket is required to change the comprehensive plan designation from the current zone to the Public Facility zone.

C. Development Standards.

1. New lots and structures and additions to structures subject to this section shall comply with the applicable standards for lots and building height, and setbacks in Tables 40.210.010-2 and 40.210.010-3, subject to the provisions of Chapter 40.200 and Section 40.550.020.

Table 40.210.010-2. Lot Requirements.

Zoning District	Use/Activity	Minimum Lot Area (acres)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)
FR-80	All Uses	80 ¹ or legally described as one-eighth (1/8) of a section	660 ²	None
FR- 4020	All Uses	20 ¹ 40 ¹ or legally described as one- thirty-second (1/32) <u>sixteenth (1/16)</u> of a section	660 ²	None
AG- 2010	All Uses	40 ¹ 20 ¹ or legally described as one- sixth-fourth (1/64) <u>thirty-second (1/32)</u> of a section	660 ²	None
AG-WL	Agricultural	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Wildlife game management	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Public interpretive/educational uses	N/A	None	None
	Single-family dwellings	160 or legally described as one-fourth (1/4) of a section	None	None
	Plant nurseries	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Silviculture	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Public recreation accessways and associated parking and trails	N/A	None	None

¹ The following uses may be permitted on newly approved lots of less than the minimum parcel size:

a. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines and telecommunication facilities.

b. Dams for flood control and hydroelectric generating facilities.

² Minimum lot width – One hundred forty (140) feet for legal lots created under Section 40.210.010(D).

Table 40.210.010-3. Setbacks, Lot Coverage and Building Height.						
Zoning District	Minimum Setbacks ¹				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)		
		Street (feet)	Interior (feet)			
FR-80	50 ²	25	50 ³	50 ³	N/A	35 ⁴
FR-4020	50 ²	25	50 ³	50 ³	N/A	35 ⁴
AG-2040	50 ²	25	50 ³	50 ³	N/A	35 ⁴
AG-WL	None	None	None	None	N/A	None

¹ See Section 40.530.010(D)(2) for nonconforming lots.
² From public road right-of-way or private road easement.
³ All structures.
⁴ Residential buildings only.

2. Signs. Signs shall be permitted according to the provisions of Chapter 40.310.
3. Previous Land Divisions.
 - a. Within the FR-80, ~~FR-4020~~ and ~~AG-2040~~ districts, until the affected property is included within an urban growth boundary, no remainder lot of a previously approved agriculture or forest district “cluster” land division or lot reconfiguration shall be:
 - (1) Further subdivided or reduced in size below seventy percent (70%) of the total developable area of the original parent parcel constituting the cluster subdivision; or
 - (2) Reduced by a total of more than one (1) acre.
 - b. Applications for reduction in remainder lot size consistent with this provision shall be processed as a plat alteration pursuant to Section 40.540.120.
 - c. Exceptions to Subsections (C)(3)(a) and (b) of this Section. A remainder lot with an existing residence may be short platted further to contain the residence on its own lot, subject to the following:
 - (1) Process. Creation of the new lot is subject to the requirements of Section 40.540.030.
 - (2) Lot Size. The new lot shall be sized to require the minimum reduction in the remainder lot, but still meet minimum requirements of this section and for on-site sewage disposal as required by the Clark County Public Health.
 - (3) The new lot may not include critical areas unless no other alternative exists. If no alternative is available, encroachment into these areas shall be limited to the least amount possible consistent with applicable critical areas ordinances.
 - (4) A building envelope containing the existing residence and accessory buildings shall be established within the new lot, subject to the following:
 - (a) A minimum one hundred (100) foot setback between the envelope and the remainder parcel is maintained, unless it can be shown that a lesser setback with existing or proposed landscaping or existing

vegetation will provide the same or greater buffering. In no case shall a setback less than fifty (50) feet be approved.

(b) A minimum twenty (20) foot setback between the envelope and other cluster lots is maintained.

(5) A note shall be placed on the plat stating the following:

The residential property is adjacent to agricultural or forest lands on which a variety of resource-related activities may occur that are not compatible with residential development. Potential discomforts or inconvenience may include, but are not limited to: Noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

(6) An open space, farm or forest management plan is required for the remainder parcel, which shall prohibit additional residential development. The plan shall be submitted and approved with the preliminary application. The plan shall identify permitted uses and management of the parcel so that it maintains its open space or other designated functions and provides for the protection of all critical areas. The management plan shall identify the responsibility for maintaining the remainder parcel. The plan shall also include any construction activities (trails, fencing, agricultural buildings) and vegetation clearing that may occur on site. All subsequent activities must be conducted in conformance with the approved management plan. Management plans may be modified through a Type II process. A note shall be placed on the plat and a restrictive covenant shall be recorded that clearly states that only the above uses are permitted on the remainder parcel. The note and covenant shall also incorporate the management plan, as described above.

4. Nonconforming lots may be reconfigured pursuant to Section 40.530.020(B).

D. Nonconforming Lots – Lot Reconfiguration Standards.

1. Purpose. It is in the public interest to encourage the protection of sensitive lands, expand the amount of commercially viable resource land under single ownership, reduce the amount of road and utility construction and, within the FR-80, FR-~~4020~~ and AG-~~4020~~ districts, to protect and buffer designated resource lands.
2. Lot Reconfiguration. Except for previously approved agricultural or forest zoned clusters or rural residential planned unit developments, these substandard lots may be modified where consistent with the following criteria. Parcels which meet all of the following criteria are eligible for reconfiguration and reduction in size subject to a Type II review:
 - a. Existing parcel(s) is:
 - (1) smaller than the minimum lot size established for new lots in the applicable zoning district. Parcels which meet the minimum lot size may be adjusted as a part of this process, but may not be decreased below the established minimum lot size.
 - (2) determined to be legally created, and be reasonably buildable. Within the FR-80, FR-~~2040~~ and AG-~~4020~~ districts, this section authorizes lot

reconfiguration only where existing divisions are determined to have a reasonable probability of developing. For the purposes of this section the review authority shall determine whether the existing lots are reasonably buildable by considering the following: road access, septic suitability, topography, costs of providing infrastructure and the presence of sensitive land.

- b. Proposed parcel(s) results in the following:
 - (1) No additional parcels;
 - (2) Have septic suitability approval;
 - (3) Have adequate potable water at the time of occupancy, subject to Section 40.370.020;
 - (4) Each resulting legal nonconforming parcel shall be at least one (1) acre in size with a minimum width of at least one hundred forty (140) feet; and
 - (5) In addition, within the FR-80, FR-~~2040~~ and AG-~~4020~~ districts:
 - (a) The location of the resulting reconfigured lots shall have the least impact on sensitive and resource lands;
 - (b) Access to reconfigured lots shall meet the minimum standards necessary to obtain a building permit;
 - (c) The remainder lot shall not be further subdivided or reduced in size unless the affected property is included within an urban growth boundary;
 - (d) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.
- c. Reconfigured lots shall result in achieving one (1) or more of the identified public interest issues in Section 40.210.010(D)(1).
- 3. Lot Requirements. The setback, dimensional, use and height standards for these lots shall be as established for the Rural-5 (R-5) district except that reductions in side and rear setbacks shall be granted where necessary to permit construction of a dwelling on the parcel; providing, when the parcel is abutting, or surrounded by, property zoned for resource uses, the minimum setback from those property lines shall be fifty (50) feet for all structures.
- 4. The review authority may impose conditions on the lot reconfiguration to further the purposes of this section.
- 5. Lot reconfigurations shall be finalized upon the filing of a record of survey or covenant.

~~E. Land Divisions in the AG-10 and FR-20 Zones.~~

~~1. Purpose.~~

~~a. The purpose of subsection 40.210.010(E) is to provide for smaller lot residential development in the resource zoning districts (AG-10 and FR-20) which maintains and conserves larger remainder parcels or open space for agricultural and forest uses, protects and/or enhances sensitive environmental and wildlife habitat areas, and minimizes impacts to necessary public services. These goals are achieved by allowing the placement of homes on a small portion of the property while maintaining the majority of the site for agricultural and forestry uses. This is consistent with the goals and policies of the Growth Management Act, especially the provisions for innovative development techniques to conserve resource lands.~~

~~b. The provisions of this subsection shall apply to all land divisions in the AG-10 and FR-20 zoning districts after July 1, 2016.~~

- c. Available options for land division are authorized:
- (1) Pursuant to Chapter 40.540 and Section 40.210.010(E)(3); or
 - (2) Pursuant to Chapter 40.540 and by using the cluster provisions in Section 40.210.010(E)(4).
- d. In the AG-10 zoning district:
- (1) Land divisions that result in parcels twenty (20) acres (or lots capable of being described as 1/32 of a section) in size or larger are allowed under the exemption provisions of Section 40.540.020(B)(4)(b).
 - (2) Land divisions that result in parcels less than (20) acres in size must be platted and meet the additional requirements of this chapter.
- e. In the FR-20 zoning district, land divisions that result in parcels less than (40) acres in size must be platted and meet the additional requirements of this chapter.
- f. Previously approved cluster or lot reconfiguration remainder lots are not eligible to use the provisions of this section.

2. Definitions. For the purposes of this subsection, the following definitions shall apply:

Building envelope	"Building envelope" means that buildable portion of a lot or parcel (the area outside of setbacks and easements) which is designated on the final plat for the location of a structure and utilities.
Critical lands	"Critical lands" mean those lands classified by Chapter 40.440 as habitat areas, by Chapter 40.450 as any wetland category and associated buffers, by Chapter 40.430 as landslide hazard areas, all lands subject to Shoreline Management Act jurisdiction by Chapter 40.460, and all lands within a designated one hundred (100) year floodplain or floodway by Chapter 40.420.
Remainder parcel	"Remainder parcel" means the remainder parcel of the cluster subdivision that contains the majority of the land within the development and is devoted to resource or open space use.

3. Development standards for subdivisions or short plats.
- a. A subdivision or short subdivision is allowed at a maximum density equivalent to that which would be permitted by applying the otherwise applicable minimum lot size requirements of this section. The density shall be based on one hundred percent (100%) of the gross area of the site.
- b. Building envelopes shall be shown on the plat and shall be located, as follows:
- (1) to include the dwelling, utilities, and all non-agricultural and non-forest structures;
 - (2) be limited to one (1) acre in size, unless a larger size is required by Clark County Public Health. In no case shall building envelopes exceed one and a half (1.5) acres in size;

- (3) — to minimize conflicts between housing and agricultural or forest uses;
- (4) — as close as possible along parent property boundary lines and existing roads, to minimize the need for new roads and driveways;
- (5) to avoid critical areas, including fish and wildlife habitat areas, riparian corridors, geologic hazard areas, areas of significant natural vegetation, wetlands, prominent hillsides, meadows, ridges, and any buffers associated with the above areas;
- (6) — if located on agriculturally zoned land, and to the extent not precluded by other provisions of this subsection, to be limited to lands with poor soils or soils otherwise unsuitable for agriculture purposes; and
- (7) — to allow for a buffer from abutting resource uses.

c. — Remainder parcel.

(1) — The remainder parcel shall be contiguous. Fragmentation of the parcel by public or private road easements and/or building sites shall not occur unless no other reasonable alternative exists. Remainder parcels shall also be located adjacent to other bordering remainder parcels or public parks and open space, if practical.

(2) — The remainder parcel shall be non-buildable and used for the agriculture and forestry uses as listed in Table 40.210.010-1(8)(a), (b) and (d), or as open space.

(3) — A farm or forest management plan is required for the remainder parcel. The plan shall be submitted and approved with the preliminary application. The plan shall:

- (a) — identify permitted uses and management of the parcel so that it maintains designated agricultural or forest functions and provides for the protection of all critical areas;
- (b) — identify the responsibility for maintaining agriculture or forest uses on the parcels; and
- (c) — include any construction activities (for example, fencing or agricultural buildings) and vegetation clearing that may occur on-site.

If in current use, the plan submitted for the current use taxation program shall suffice for meeting this requirement.

(4) — A note shall be placed on the plat that the remainder parcel shall not be further subdivided or reduced in size unless brought into an urban growth area. In addition, a restrictive covenant shall be recorded that clearly state that only the above uses are permitted on the parcel. The note and covenant shall also incorporate the management plan, as described above

d. — Lot Requirements. New lots and structures and additions to structures subject to this section shall comply with the applicable standards for lots and building height, and setbacks in Tables 40.210.010-4 and 40.210.010-5, subject to the provisions of Chapter 40.200 and Section 40.550.020.

Table 40.210.010-4. Lot Requirements -- FR-20 and AG-10 Cluster Developments			
Lot Type	Lot Size	Minimum Lot Width (feet)	Minimum Lot Depth (feet)
Cluster Lot	1 acre ¹	140	140
Remainder Lot	85% or greater of the parent parcel ²	None	None

¹ ~~Unless a larger size is required by Clark County Public Health. In no case shall a cluster lot exceed one and a half (1.5) acres in size. Cluster lots can use right-of-way to meet the minimum lot size as permitted by Section 40.200.040(C)(1).~~

² ~~The minimum standard for remainder parcels controls the maximum size of cluster lots.~~

Table 40.210.010-5. Setbacks, Lot Coverage and Building Height -- FR-20 and AG-10 Cluster Development						
Zoning District and Lot Type	Location or Structure Type	Minimum Setbacks			Maximum Lot Coverage	Maximum Building Height (feet)
		Front (feet)	Side (feet)	Rear (feet)		
FR-20 and AG-10 Cluster Lots	Residential or agricultural structures abutting a cluster lot	20	20	20	N/A	35 ²
	Residential structures abutting a resource district	50 ¹	50 ¹	50 ¹		
	Agricultural structures	20	20	20		
	Vehicle entry gates	20	20	20		
	All other situations	50	20	50		

¹ ~~Except in cases where it can be shown that requiring the normal setback will result in the location of the building sites within inappropriate areas such as wildlife habitat or wetland areas or the dimensions of the development site render it unbuildable.~~

² ~~Residential buildings only.~~

e. ~~Design Requirements. The design requirements for cluster developments are listed below. These requirements shall be recorded on the plat.~~

(1) ~~No entryway treatments, monument or other permanent development signs are permitted. This shall not be construed to prohibit landscaping.~~

(2) ~~To the maximum practicable extent, existing historic rural features shall be preserved as part of the cluster development. These features include but are not limited to rock walls, fences, functional and structurally safe farm buildings, monuments and landscape features.~~

f. ~~Landscaping Standards. Cluster developments shall be landscaped within the cluster lots to reduce views of the development from public right(s) of way, so that a filtered view is provided of the cluster and the cluster does not dominate the landscape.~~

(1) ~~At a minimum, proposed or existing landscaping and vegetation shall be of sufficient size and type to provide a buffer of vegetation six (6) feet in height and fifty percent (50%) opaque year round within three (3) years of planting. New landscaping materials shall consist of native vegetation as provided on the Clark County plant list (see the Standard Details Manual). A combination of trees and shrubs must be used.~~

~~(2) All landscaping shall be installed prior to final plat unless financial guarantees are made for its installation prior to any building permit activity. Any required landscaping materials that fail to survive within the first two (2) years shall be promptly replaced.~~

~~g. Notice of Resource Activities. For any areas abutting property zoned for agricultural or forestry uses, the following notice shall be recorded as part of the Developer Covenants to Clark County for each parcel within the cluster:~~

~~“The subject property is adjacent to commercial agricultural or forest lands on which a variety of commercial activities may occur that are not compatible with residential development. Potential discomforts or inconvenience may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.”~~

40.250 OVERLAY DISTRICTS

40.250.100 URBAN RESERVE OVERLAY (UR-10, UR-20)

A. Purpose.

~~Urban reserve~~ These lands are identified as being possible future additions to Urban Growth Areas and may only be changed added to the urban area as necessary through amendments to during the Comprehensive Plan periodic review and update process. These lands are outside of but adjacent to ~~on the fringe of~~ Urban Growth Boundaries. The purpose of the Urban Reserve Overlay is to protect areas from premature land division and development that would preclude efficient transition to urban development. The Urban Reserve Overlay is implemented by Urban Reserve-10 (UR-10) ~~for future residential development~~ and Urban Reserve-20 (UR-20) ~~for all other types of future urban development~~.

- ~~1. Urban Reserve-10 (UR-10). The urban reserve-10 district is to protect identified land adjacent to ~~identified on the fringe of~~ urban growth boundaries from premature land division and development that would preclude efficient transition to urban development.~~
- ~~2. Urban Reserve-20 (UR-20). The urban reserve-20 overlay is to protect identified rural land adjacent to ~~on the fringe of~~ urban growth boundaries from premature land division and development that would preclude efficient transition to large-scale non-residential development.~~

B. Uses.

- ~~1. The uses allowed in the underlying district set out in Table 40.210.041-1 are examples of uses allowable in the urban reserve overlay district.~~
- ~~2. The appropriate review authority is mandatory.~~
 - ~~• “P” – Uses allowed subject to approval of applicable permits.~~
 - ~~• “R/A” – Uses permitted upon review and approval as set forth in Section 40.520.020.~~
 - ~~• “C” – Conditional uses which may be permitted subject to the approval of~~

~~a conditional use permit as set forth in Section 40.520.030.~~

~~• “X” – Uses specifically prohibited.~~

~~2. 3.~~ In addition to the criteria in Section 40.520.030, in order to be approved, the following criteria shall be met by all conditional uses:

- a. Permanent structures or facilities shall be designed and located to provide for the orderly extension of public roads, water and sewer to the site and surrounding urban reserve properties.
- b. All necessary road, drainage and other rights-of-way or easements necessary to ensure that future urban development will occur in an orderly manner shall be identified and approved by the county engineer and dedicated or otherwise protected.
- c. The property owner shall submit with the conditional use application a signed agreement(s) between the property owner and the service provider(s) that obliges the property owner to connect to public sewer and water when each becomes available within three hundred (300) feet of the site. The agreements must be consistent with Section 40.370.010.

~~3. 4.~~ In addition to the criteria in Section 40.520.030, in order to be approved, the following criteria shall be met by all schools:

- a. The proponent shall demonstrate that the proposed site is more suitable than specific alternative sites within the existing urban growth area. The proponent shall address suitability criteria, which includes property size, topography, zoning, surrounding land uses, transportation (including adequacy of roads and transit services), environmental concerns and location within the area to be served.
- b. Schools shall be located within one-quarter (1/4) mile of the urban growth boundary unless the applicant demonstrates no suitable property is available.

~~5. Where there are special use standards or restrictions for a listed use, the applicable code section(s) in Chapter 40.260, Special Uses and Standards, or other applicable chapter is noted in the “Special Standards” column.~~

Table 40.210.041-1. Uses.			
	UR-20	UR-10	Special Standards
1. Residential:			
a. Single family dwellings and accessory buildings, including 1 guest house	P	P	40.260.010
b. Family day care centers	P	P	40.260.160
c. Adult family homes	P	P	40.260.190
d. Home business – Type I	P	P	40.260.100
e. Home business – Type II	R/A	R/A	40.260.100
f. Bed and breakfast establishments (up to 2 guest bedrooms)	R/A	R/A	40.260.050
g. Bed and breakfast establishments (3 or more guest bedrooms)	C	C	40.260.050

Table 40.210.041-1. Uses.			
	UR-20	UR-10	Special Standards
h. Garage sales	P	P	40.260.090
i. Residential care homes	G	G	40.260.180
j. Temporary dwellings	P	P	40.260.210
2. Services, Business.			
a. Commercial nurseries predominantly marketing locally produced plants and associated landscaping materials	R/A	R/A	
b. Roadside farm stand	P	P	40.260.025
c. Agricultural market	P	P	40.260.025
d. Veterinary clinics	G	G	
e. Commercial kennels on a parcel or parcels 5 acres or more	R/A	R/A	40.260.110
f. Private kennels	P	P	40.260.110
g. Animal boarding and day use facilities	P	P	40.260.040
3. Services, Amusement.³			
a. Publicly owned recreational facilities, services, parks and playgrounds³	P	P	40.260.157
b. Private recreation facilities, such as country clubs and golf courses, including such intensive commercial recreational uses as golf driving range, race track, amusement park, paintball facilities, or gun club³	G	G	
c. Golf courses	G	G	
d. Equestrian facility on parcels less than 5 acres	G	G	40.260.040
e. Equestrian facility on parcels 5 acres or greater	P	P	40.260.040
f. Equestrian events center	G	G	40.260.040
g. Outdoor public entertainments, amusements and assemblies	R/A	R/A	Chapter 5.32
4. Services, Membership Organization.			
a. Churches	G	G	
5. Services, Educational.³			
a. Public or private schools, but not	G	G	40.260.160

Table 40.210.041-1. Uses.			
	UR-20	UR-10	Special Standards
including business, dancing or technical schools³			
6. Public Service and Facilities.³			
a. Ambulance dispatch facilities³	G	G	40.260.030
b. Government facilities³	G¹	G¹	
7. Resource Activities.			
a. Agricultural and forestry, including any accessory buildings and activities	P	P	40.260.080
b. Silviculture	P	P	40.260.080
c. Housing for temporary workers	P	P	40.260.105
8. Other.			
a. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	40.260.240
b. Solid waste handling and disposal sites	G	G	40.260.200
c. Wireless communications facilities	P/G²	P/G²	40.260.250
d. Cemeteries and mausoleums, crematoria, columbaria, and mortuaries within cemeteries; provided, that no crematoria is within two hundred (200) feet of a lot in a residential district	G	G	
e. Temporary uses	P	P	40.260.220
f. Electric vehicle infrastructure	P	P	40.260.075
g. Medical marijuana collective gardens	X	X	
h. Marijuana-related facilities	X	X	

¹ ~~Government facilities necessary to predominantly serve the area outside urban growth boundaries, including fire stations, ambulance dispatch facilities and storage yards, warehouses, or similar uses.~~

² ~~See Table 40.260.250-1.~~

³ ~~Once a property has been developed as a public facility, a docket is required to change the comprehensive plan designation from the current zone to the Public Facility zone.~~

C. Development Standards.

1. New lots and structures and additions to structures subject to this section shall comply with the applicable standards for lots and building height, and setbacks in Tables 40.250.100-12 and 40.250.100-23, subject to the provisions of Chapter 40.200 and Section 40.550.020.

Table 40.250.100- <u>12</u> . Lot Requirements.			
	Minimum Lot Area (acres)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)
UR-20	20 ^{1,3}	350 ²	None
UR-10	10 ^{1,3}	350 ²	None

¹ Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines and telecommunication facilities may be permitted on newly approved lots of less than the minimum parcel size.

² Unless a greater width shall be required by the Clark County fire code.

³ Legal nonconforming lots are eligible for boundary line adjustments if each lot meets the minimum parcel size of the underlying zone and the lots are contiguous.

Table 40.210.041- <u>23</u> . Setbacks, Lot Coverage and Building Height.						
	Minimum Setbacks ⁴				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)		
		Street (feet)	Interior (feet)			
UR-20	50	<u>25</u> 20, 50 ¹	20, 50 ¹	20, 50 ²	N/A	35, 50 ³
UR-10	50	<u>25</u> 20, 50 ¹	20, 50 ¹	20, 50 ²	N/A	35, 50 ³

¹ Side Setback. Minimum side setback on each side of the residential dwelling and incidental buildings shall be twenty (20) feet, and fifty (50) feet for accessory buildings used for agricultural purposes. Side setbacks from abutting property zoned for natural resource or surface mining uses shall be a minimum of fifty (50) feet for all structures.

² Rear Setback. Minimum rear setback shall be fifty (50) feet when abutting property zoned for natural resource or surface mining uses.

³ Thirty-five (35) feet for residential structures, fifty (50) feet for nonresidential structures.

⁴ Nonconforming lots subject to the provisions of Section 40.530.010(D)(2).

2. Signs. Signs shall be permitted according to the provisions of Chapter 40.310.

3. Off-Street Parking. Off-street parking shall be provided as required in Chapter 40.340.

40.560 PLAN AND CODE AMENDMENTS

40.560.010 PLAN AMENDMENT PROCEDURES

I. Additional Criteria for Rural Map Changes.

1. Amendments to the plan map for (a) changing a natural resource land designation to either a smaller lot size natural resource land designation or to a rural designation, or (b) creating or expanding a rural center, shall demonstrate that the following criteria have been met:

a. The requested change shall not impact the character of the area to the extent that further plan map amendments will be warranted in future annual reviews; and

- b. The site does not meet the criteria for the existing resource plan designation; and
- c. The amendment shall meet the locational criteria for the requested designation.
- 2. a. The creation of, expansion of, or change of land use within a rural center shall be considered and evaluated by the county through the annual review process under Chapter 40.560.
- b. Before the county considers establishing a new rural center, the proponent(s) shall submit to the county a petition signed by at least sixty percent (60%) of the property owners of the land within the boundaries of the proposed new rural center.
- 3. Changes to the Urban Reserve Overlay will only be considered during a comprehensive plan update.

J. Additional Criteria for Rural Major Industrial Map Changes.

This section governs designations outside of UGAs for major industrial developments under RCW 36.70A.365 and major industrial land banks under RCW 36.70A.367.

- 1. Application. Rural industrial development sites pursuant to RCW 36.70A.365 or 36.70A.367 require a comprehensive plan and zone change, and shall be processed as a Type IV process pursuant to Section 40.510.040 and this chapter.
- 2. Rural industrial designations shall require a minimum of one hundred (100) acres and a maximum of seven hundred (700) acres in size, and shall be designated as follows:
 - a. Comprehensive Plan.
 - (1) Major industrial developments (light industrial).
 - (2) Major industrial land banks (light industrial).
 - b. Zoning.
 - (1) Major industrial developments (IL).
 - (2) Major industrial land banks (IL).
- 3. Process. Prior to formally proposing a designation under this section, the county shall:
 - a. Undertake an inventory of available urban industrial land;
 - b. Consult with affected city(ies) regarding a proposed designation;
 - c. Make a preliminary assessment that the applicable statutory criteria are met and that the proposed location is superior to other potential rural sites;
 - d. Negotiate an appropriate or statutorily required interlocal agreement with affected city(ies); and
 - e. Complete a master plan for the development site as required pursuant to Section 40.520.075.
- 4. Approval Criteria.
 - a. In addition to the other applicable designation criteria under this chapter, major industrial developments or major industrial land banks may only be approved upon a finding that the requirement and criteria of RCW 36.70A.365 or 36.70A.367, respectively, are met.
 - b. Concomitant Rezone Agreement. No designation under this section shall be approved unless accompanied by a concomitant rezone agreement (or development agreement) which at a minimum assures compliance with statutory requirements and criteria, including the limitations on nonindustrial uses in RCW 36.70A.367(2)(k) for a major industrial land bank.
- 5. Adjacent Non-Urban Areas. A designation under this section shall not permit urban growth in adjacent non-urban areas.

APPLICABLE CRITERIA, EVALUATION AND FINDINGS

CONSIDERATION OF OUT-OF-CYCLE AMENDMENTS

40.560 PLAN AND CODE AMENDMENTS

40.560.010 PLAN AMENDMENT PROCEDURES

Q. Out-of-Cycle Amendments.

1. Revisions to the comprehensive plan may be considered more frequently than once per year under the following circumstances:
 - d. To resolve an appeal of a comprehensive plan filed with a Growth Management Hearings Board or from a court of competent jurisdiction.

Finding: The proposed revisions to the comprehensive plan and zoning map would resolve certain rulings of the Growth Board regarding the 2016 plan update by bringing the plan into compliance with the rulings.

RECOMMENDATION AND CONCLUSIONS

Based upon the information and the findings presented in this report and in the supporting documents, staff recommends that the Planning Commission forward a recommendation of **APPROVAL** to the Board of Clark County Councilors. This action will resolve several of the issues from the remand of the 2016 plan update.