

An ordinance amending the Sequim- Dungeness Regional Comprehensive Plan (Ordinance No. 574, 1995) by designating Agricultural Lands of Long Term Commercial Significance.

Section 31.03.220

Agricultural Land -- Inventory and Analysis

GMA Goals: Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.

Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

Definition: The Growth Management Act defines agricultural land as 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.

The Growth Management Act defines long-term commercial significance to include the growing capacity, productivity, and soil composition of the land for sustained commercial production, in consideration of the land's proximity to population areas, and the possibility of more intense uses of the land.

Resource Base: The agricultural resource base in Clallam County, and particularly the Sequim-Dungeness region, is at a crucial turning point. During the period of time from 1955 to 1978, the Census of Agriculture shows a loss of over 47,000 acres of farmland in the county, the vast majority of which was located in the Sequim-Dungeness region. Additional losses of agricultural land have occurred since that time.

In 1992, Clallam County adopted interim designation and conservation regulations to conserve agricultural lands. These regulations designated approximately 7,500 acres of land as Agricultural. Development within these designations was allowed if developed in a cluster pattern (30% development/70% farm). These interim measures were successful in discouraging additional loss of agricultural lands to non-agricultural use.

As the total resource base declines for agricultural use, the viability of the remaining agricultural lands for long-term commercial production also declines. With less land being farmed, equipment suppliers, and other support services also decline. The days where the Sequim-Dungeness Valley was a major agricultural base, with numerous dairies and other agricultural business, is now unfortunately only a part of our history.

Development Pressures: The remaining agricultural land in the Sequim-Dungeness region continues to be subject to development pressures, even with the interim regulations adopted in 1992. Despite regulations, existing agricultural land can be converted, either by selling existing "vested" five acre survey developments, or clustering the development and converting at least 30% of the land.

Before 1993, Clallam County did not regulate divisions of land over five acres in size. As a result of several planning and zoning initiatives, many of the agricultural landowners legally divided their land into five acre parcels ("vested" lots). These five acre parcels may be sold at any time despite the land being zoned for agricultural uses. Thus, it is impossible to ensure long-term commercial agricultural production on these lands. It is estimated that 50% of the lands designated for agricultural land use in 1992 have already been legally divided into five acre parcels.

Interim cluster development regulations required large density incentives to encourage landowners to cluster development rather than sell five acre parcels. Issues relating to the densities allowed in agricultural cluster developments and the viability of farming the remaining open space have been raised by the public and the agricultural community. If cluster development patterns are to succeed, the density in the cluster cannot cause a drastic change in the character of the surrounding area and the remaining farmland has to be large enough to be commercially viable.

There have been other non-residential pressures for agricultural land, most notably active recreation such as golf courses. With the increase in population and the recent closure of some private golf courses to the public, there has been increased pressure to allow golf courses on agricultural land.

Open Space: Although it is recognized that agricultural lands do play a significant role in our local economy and lifestyle, these lands may play a greater role as open space for the enjoyment of the public, preservation of the remaining rural character of the Sequim-Dungeness valley, and as wildlife habitat. If the agricultural lands are viewed as open space, then consideration to other open space uses like golf courses might be made.

Public Interest: During the regional planning process, citizens of the Sequim-Dungeness region have indicated a strong interest in conserving agricultural lands, open space and the quality of the environment. This issue has, and will continue to be a very emotional discussion between property owners and the general public. It is unquestionable that the remaining agricultural lands in the area play a vital component in maintaining the rural character of the valley. However, the interest of the general public over the interest of the private property owner, must be carefully considered. This plan cannot diminish the goal to protect property rights.

Conservation Alternatives: Conservation of agricultural lands could be accomplished through several alternatives:

- Public acquisition or transfer of development rights; and/or
- Regulation of property, restricting land to agricultural uses or cluster developments; and/or
- Incentives, such as taxes, flexible zoning techniques, technical assistance.

Development Rights: There are several ways to acquire the development rights, purchase those rights or transfer the rights to other properties. ~~((Because there does not appear to be a market for transfer of development rights, t))~~ This plan pursues the concept of purchasing those rights.

The purchase of development rights occurs when the public acquires the rights held by the property owner to develop the land while the owner maintains the right to utilize the land for agricultural purposes. Once the public has purchased the development rights of the property, title to those rights no longer remains with the property owner and the agricultural nature of the land is preserved. The public purchase of development rights should provide more assurance that agricultural lands will be conserved forever than the use of traditional regulatory measures.

((A program in the Sequim-Dungeness region to purchase the development rights of all agricultural lands would require a vote by all residents of the County, as the funds would be obtained through "general obligation" bonds of County government. If the purchase program were not designed to offer all voters in the County opportunities for conservation of open space or recreation, it is likely that the bond measure would not receive wide public support, as the residents in the Port Angeles, Straits, and Forks regions would be unlikely to vote to maintain agricultural lands primarily found in the Sequim-Dungeness region.))

Other options available to local governments for conservation of agricultural lands and open space are special property tax laws (Conservation Futures) or real estate excise tax. Conservation Futures authorizes an assessment of 6.25 cents per \$1,000 of assessed valuation, which would have generated \$133,800 in revenue in 1994. This tax does not require voter approval and could be used as the source for issuance of bonds approved by the Board of Clallam County Commissioners. Real estate excise taxes include an option for a voter approved 1% tax on the transfer of property for the purpose of acquiring conservation areas, which would have resulted in 1.2 million dollars in revenue in 1993.

Finfish Hatcheries: In 1994 the State amended the definition of agricultural land to include finfish in upland hatcheries. This planning area has finfish hatcheries at Hurd Creek and the Dungeness River. The Hurd Creek hatchery is susceptible to incompatible adjacent residential land uses which might affect water quality, and the Dungeness hatchery might be susceptible to upper watershed disturbances from sedimentation, siltation and other water quality problems.

Section 31.03.230

Agricultural Land Conservation -- Policies

Findings:

1. ((Based solely on growing capacity, productivity, and soil composition of the land within many parts of the Sequim-Dungeness planning area, t)) There are agricultural lands of long-term commercial significance in many parts of the Sequim Dungeness Planning Area. -- ((However, considering the land's proximity to population areas (rural and urban lands), and the possibility of more intense uses of the land (conversion of five-acre surveys), this plan finds that there are not any agricultural lands of long-term commercial significance unless the development rights of those landowners are either conserved through long-term tax incentive programs or purchase of development rights.))

Conservation Strategy:

2. Maintain, enhance and conserve productive agricultural lands through the following means:
 - Continue to provide tax incentives (Open Space or Current Use assessments);
 - Continue to provide technical assistance, such as resource conservation plans prepared by the Clallam Conservation District or Soil Conservation Service;
 - Allow and encourage small-scale agricultural uses within both rural and urban areas;
 - Provide incentives to cluster development on the least productive soils and conserve remaining land for continued agricultural use;
 - Discourage incompatible uses on adjacent lands, through increased setbacks, limits on utility extensions in agricultural areas, right-to-practice agriculture ordinances, and notification to residential landowners of potential incompatible uses; and
 - Work towards long-term (i.e. permanent) conservation through public purchase of development rights.

~~((Interim))~~Final Regulation:

3. Land meeting the following criteria ~~should be~~ is designated as Agricultural on ~~((an interim))~~ the land use map utilizing an Agricultural Overlay with underlying densities shown and as an Agricultural Overlay zone on the zoning map:
 - a. Soil Criteria;
 - i. The soil capability class is I, II, and includes the Agnew Soil Series which is a Class III; or
 - ii. The soil capability class is III and IVs if within an irrigation district or if irrigated; or
 - iii. The soil capability class is Vw (if drained) or VIw (if drained), subject to the critical area regulations;
 - b. The property does not now have access (hookup rights) to municipal sewers;
 - c. The property has a minimum net farmable parcel size of fifteen (15) acres, including land under contiguous ownership (such as five acre survey parcels);
 - d. The property is found in a large contiguous block of agricultural use (minimum of 40 acres);
 - e. The property is not within a designated urban growth area;
 - f. The property is currently being used for agricultural purposes.
4. The existing ~~((interim))~~ regulations allowing cluster development should ~~((be))~~ continue((d)) with the following changes and considerations:
 - a. Conserve agricultural lands through land use regulations utilizing cluster developments (30% development/70% farm). The following changes to the ~~1992 interim~~ current regulations should be made:
 - i. Residential base density in agricultural zones should be one dwelling unit per 5 acres or one dwelling unit per 2.4 acres depending on the underlying density.
 - ii. A 70% density bonus should be provided for landowners pursuing a cluster development pattern.
 - iii. Allow golf courses in agricultural zones, both in the development portion and agricultural reserve portion of a cluster development. All structures and residential components of a golf course shall locate in the development portion (30%) of the site.
 - b. The raising of crops and livestock and associated agricultural activities shall be the principal land use within areas designated as Agricultural. Agricultural land uses on the portion of a parcel set aside for agriculture would include, but not be limited to, a farm residence, farm buildings, and direct marketing farm stands. These uses shall not disrupt agricultural land use within the district.
 - c. Residential developments in Agricultural lands should be clustered on the least productive portion of the parcel and should be designed to accommodate adjacent agricultural uses.
 - d. Lands designated as Agricultural shall provide for the retention of large parcels and ownership patterns conducive to agriculture. The minimum

parcel size of agricultural resource lands should be fifteen (15) net farmable acres. When clustered subdivisions are used in areas designated for Agricultural, the clusters should be arranged to protect and combine large tracts for productive farming, minimize conflicts with continued agriculture and be consistent with public facility and service requirements.

~~((e. The interim designation and regulation of agricultural lands shall sunset on November 7, 1995, unless a purchase of development rights program has been approved by the Board of Clallam County Commissioners and voters of Clallam County.))~~

5. ~~((The interim designation and regulation of agricultural lands should continue beyond November 7, 1995, if the voters approve a purchase of development rights program, PROVIDED, however, that the County continues to put forth efforts and voter approved measures to acquire additional agricultural lands through purchase of development rights.))~~ Land designated as Agricultural will remain in this classification unless it can be shown that:
 - a. An error was made in application of the criteria establishing the zone; or
 - b. Commercial farming is no longer a viable option for this area due to loss of all irrigation potential or other significant physical loss of agricultural potential; or
 - c. After giving careful consideration, the Board of County Commissioners finds that no entity will purchase or lease the land for agricultural use at a fair market value; and
 - d. Growth could not be directed to non-agricultural lands.
6. Land with an approved cluster development site should remain in the Agricultural designation.
7. Agricultural lands with 15 net farmable acres that do not meet the criteria listed in Section 31.03.230 (3) may be designated as Agricultural if the land is capable of agricultural production and the owner desires to have it designated.

Land Use Maps:

8. Lands designated as interim Agricultural lands shall also be designated on the comprehensive plan land use map with the rural residential density most appropriate for the surrounding area. ~~((If the interim Agricultural designations sunset as identified in (4)(e) above, the rural residential land use designation shall be in effect and a comprehensive plan amendment not required.))~~

Purchase of Development Rights:

9. Develop a program for lasting, long-term conservation of agricultural lands based on public financial support.
 - a. Focus the program on purchase of development rights in order to keep lands in private ownership. Once development rights are purchased, future development shall be restricted through such legal instruments as necessary to ensure permanent conservation of lands for the benefit of future generations.
 - b. Work with the public and landowners to set priorities for the purchase of development rights. Priorities may be set based on development pressures, open space value, or environmental values.

- c. Development rights to agricultural lands should be acquired through innovative financing mechanisms. ~~((voter approval of a general obligation bond for the purchase of development rights. Pursue voter approval based on priorities set forth in (9)(b) above.))~~

Incompatible Development:

10. Public services and utilities within and adjacent to areas designated as Agricultural shall be designed to prevent negative impacts on agriculture and to maintain total farmland acreage, as follows:
 - a. Water lines, sewer lines, and other public facilities should avoid crossing areas designated as Agricultural unless their purpose is to provide service necessary for agriculture and they can be installed at times which minimize negative impacts on seasonal agricultural practices;
 - b. Roads that cross areas designated as Agricultural should be aligned, designed and maintained to minimize negative impacts on agriculture and support farm traffic; and
 - c. In rare cases when facilities meeting urban needs intrude into areas designated as Agricultural, they should be located to prevent disruption of agricultural activity.
11. Land located adjacent to designated Agricultural lands should be compatible with the agricultural use through the following measures:
 - a. Increased setbacks to agricultural areas.
 - b. Implementation of the Right to Practice Agriculture Ordinance, an ordinance designed to minimize nuisance complaints regarding agricultural activities that follow best management practices.

Incentives:

12. Agricultural reserves in approved agricultural cluster developments should be exempt from taxation originating from special purpose taxing districts, local improvement districts, and local utility districts unless they directly benefit agricultural land use.
13. Continue to conserve all agricultural lands, whether designated for long-term commercial significance or not, through property tax reductions (current use assessments).

Finfish Hatcheries:

14. Ensure that land uses adjacent to finfish hatcheries are compatible with the long-term commercial production of those hatcheries. Consideration shall be given to appropriate land use densities, land use practices, and maintenance of water quality standards.

PASSED AND ADOPTED this 9th day of July, 1996.

BOARD OF CLALLAM COUNTY COMMISSIONERS

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Phillip Kitchel, Chair

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