July 24, 2023

Bill Folks, Planner
Ferry County Planning Department
147 N Clark, Suite 7
PO Box 305
Republic, WA 99166

Dear Mr. Folks:

Subject: Comments on the update to Section 9 of the Development Regulations Ordinance #2016-04 and the designation of agricultural lands of long-term commercial significance.
Send via email to: plan@co.ferry.wa.us

Thank you for the opportunity to comment on the draft update to Section 9 of the Development Regulations Ordinance #2016-04 and the designation of agricultural lands of long-term commercial significance. We appreciate the substantial improvements over previous versions. We do have a request for clarification and a couple of suggestions. The comments in this letter are from Futurewise and the Concerned Friends of Ferry County.

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable and opportunity-rich communities, and that protect our most valuable farmlands, forests, and water resources. Futurewise has members and supporters throughout Washington State including Ferry County.

The Concerned Friends of Ferry County (CFOFC) is still monitoring Growth Management Act (GMA) compliance by Ferry County over the last thirty years and the County has failed once again to comply with state law to protect agricultural resource lands.

Please clarify the total acres of agricultural lands of long-term commercial significance being designated.

We appreciate that the staff report gives acreages for the land area designated as agricultural lands of long-term commercial significance. However, it is unclear whether there is overlap between the lands designated using the “AGofLTS criteria” and the parcels designated using the “AG Tax Designation” criterion. It
would helpful to understand if there is overlap and the total acres designated as agricultural lands of long-term commercial significance.

The property tax classification criterion should specify that it is the tax status on particular date, such as January 31, 2023, and if enrolled in the agriculture current use tax assessment after that date.

In *Manke Lumber Co. v. Diehl*, the Court of Appeals upheld Mason County’s use of property tax classification as a criterion for designating forest land of long-term commercial significance in part because the criterion used the property tax classification on a date, January 31, 1992, before the designation of forest land of long-term commercial significance in that case. “This precluded land owners’ circumvention of” long-term commercial significance designations by changing their tax classifications after the land is designated.  

For the same reason, the property tax classification criterion should be based on the tax status on particular date, such as January 31, 2023, and if enrolled in the agriculture current use tax assessment after that date. This is necessary to comply with the Growth Management Act.

The designation criteria should designate as agricultural lands of long-term agriculture (LTA) smaller parcels when they are contiguous with other agricultural lands as WAC 365-190-050(3)(c)(vi) provides.

WAC 365-190-050(3)(c) provides that “counties and cities should consider the following nonexclusive criteria, as applicable: ... (vi) Predominant parcel size, which may include smaller parcels if contiguous with other agricultural resource lands[.]

This is important because fields are often made up of more than one parcel. For example, Parcel 24015320001202, a 44.8-acre parcel, and Parcel 24015320001100, a 13.6-acre parcel, adjoin each other, are in common ownership, and are both used for agricultural and enrolled in the “Resource - Agriculture

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3 Id.
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Current Use” taxation program. They make up several fields. It makes no sense to split a field into two comprehensive plan designations and zones just because of the parcel sizes when they are all managed as contiguous fields.

The designated agricultural lands of long-term commercial significance must also be zoned Agriculture Land of Long-Term Commercial Significance.

Ferry County is required to designate and conserve agricultural lands of long-term commercial significance. So, the designated lands must also be properly zoned.

Thank you for considering our comments. If you require additional information, please contact me at telephone 206-343-0681 Ext. 102 and email tim@futurewise.org.

Very Truly Yours,

Tim Trohimovich, AICP
Director of Planning & Law

cc: Mr. Peter Scott w/enclosures via email peter@scott-law.com
Washington State Department of Commerce via email william.simpson@commerce.wa.gov

4 24015320001202 Parcel webpage enclosed in a separate email with the filename: “24015320001202 Parcel webpage.pdf;” 24015320001100 Parcel webpage enclosed in a separate email with the filename: “24015320001100 Parcel webpage.pdf.”
5 Id.
6 RCW 36.70A.170(1)(a); RCW 36.70A.060(1).