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Sent: Thursday, May 19, 2016 5:07 PM
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Subject: APPEALABLE ISSUES

Written in the **Clark County Clark County Comprehensive Plan; Public Participation, Introduction, Pg 15**

The GMA requires the county and cities to conduct outreach to ensure early and continuous public participation in developing and amending comprehensive plans and development regulations. The county developed the Clark County Comprehensive Plan 2016 Update Public Participation Plan and Preliminary Scoping Schedule to satisfy these requirements.

At first glance, this introductory statement appears to follow GMA law. The county developed a public participation plan that appears extensive, but was actually very flawed. The plan was intentionally executed and managed in such a way as to directly lead to a previously established forgone conclusion. This act deems the county's public participation plan superficial, and renders the comprehensive plan meaningless. The county's public participation plan is wrought with errors and fails to comply with GMA law.

According to the **Department of Commerce's Guidelines on Citizen Participation and Coordination**

The term "public participation" implies that those who are affected by a decision have a right to be involved in the decision-making process, and an opportunity to influence the decision.

RCW 36.70A.140

Comprehensive plans – Ensure public participation.

Each county and city that is required or chooses to plan . . . shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations . . . The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, . . . and consideration of and response to public comments. . .

The flawed public participation process was supported by incorporating extreme measures. These measures targeted rural land owners and intentionally inhibited their opportunities to participate in the planning process. The rural landowners were singled out, and exclusivity practiced. Ultimately, this disadvantages rural concerns. Written in GMA Law, any group of citizens that are impacted by the county land use and zoning regulations are required to be active participants throughout the planning process. Because Clark County failed to include the rural landowners as participants in the planning process, their concerns suffered. Clark County citizens were not offered a range of alternative plans, let

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alone a broad range of optional plans that lent recognition to a rural perspective. This is not GMA compliant.

Written by the **Eastern Washington Growth Management Hearings Board** ([Dec. 5, 2002](#)):

A failure in the public participation process undermines the very core of the GMA and the legitimacy of adopted or amended comprehensive plan provisions and development regulations. The City must err on the side of involving the public in its GMA decisions.

Eight months prior to the planning staff's presentation of the 3 alternative plans, members of Clark County Citizens United had already established a broad work of public testimony contained in the public record of the update. CCCU members also participated in several work sessions with planning staff. CCCU's contributions in the public process were submitted early to ensure rural issues, including protections of private property rights, would be given prominence in this update. Planning staff were aware of landowner concerns. The resource lands had been ignored over 22 years. Issues had accumulated that demanded attention. Primarily, CCCU focused on:

1. **Complete compliance to the Superior Court Orders**
2. **The unabated advancement of the "unauthorized formula," (promotion of the cap on rural growth).**
3. **Balancing protections for private property rights equally with the other 13 GMA planning goals.**

Because of the extensive body of testimony in the public record, the rural landowners and their issues should have warranted attention. Recognition should have been readily apparent and land owner issues should have been incorporated into additional plans to show regard for the public record. Surprisingly, this did not happen. Instead of additional alternative plans that lent rural perspectives, the rural landowners were given apathy and left to fend for themselves in devising a rural alternative 4 plan. This is concrete evidence the planners totally disregarded the intentions of the public participation process. This means, the county's planning process was merely a superficial exercise. . .all fluff. The desired outcome had already been written. By all accounts, even the best plan will be suspect and not GMA compliant.

Time and again, Clark County has failed to make provisions for private property rights among the 14 GMA planning goals. In this update, there are entire chapters devoted to the environment, and community design. Two sentences address property rights protections. . .the 6th GMA planning goal. This fact alone should send off alarms that all planning goals are not granted equity. This is not GMA compliant.

For example, the proposed cluster development ordinance is a prime indicator of how environmental concerns are advanced at the degradation of property rights. Oftentimes, you see counties recognize property rights in how a land use or zoning regulation is carefully worded out of regard for property rights. This ordinance demands an excessively large (85%) remainder lot with a covenant in perpetuity, a staff-dictated building envelope (without regard for land-owner preference and topography), and a stipulation this is the methodology for all rural land divisions. Where is the recognition of private property rights as written in the proposed cluster division ordinance?

The plan goes on to list 12 reports that were used in this update. Aging Readiness, and the controversial Growing Healthier Report are included on the list. At a work session, July 15, 2015, planning and legal

staff were ordered, by a consensus of the Board, to not advance the reports to the Planning Commission. Despite the orders, the reports remain in the plan update and have an influential bearing on the direction of the plan. CCCU can not find where and when these reports were adopted by any BOCC. This is significant in that it questions the legitimacy of the plan's regimen, the definitive role of the BOCC as policy directors, and the integrity of the public participation process. One manner in which GMA grants local discretion is how a jurisdiction applies all 14 planning goals. Despite various elected officials of the BOCC coming and going, the county's basic comprehensive plan and the public process have realized little change.

Reports were excluded from the planning process that indicate support for change in the rural areas is long overdue. The U.S.D.A. Census of Agriculture, Clark County Profiles (1950-2012) support a trend indicating smaller intensely managed farms dominate county agriculture. The Globalwise Report supports the trend. Reports are excluded from the Clark County Executive Horse Council, the robust county 4-H communities, Master Gardeners, and the popular Living on the Land Program. Many reports indicate support for rural county lifestyles. . .but were excluded. There are no reports indicating lifestyle preferences, and rural housing affordability. Reports are absent concerning the limited available supply of rural parcels and the impacts to rural housing affordability. Absent is analysis of the substantial degradations to rural culture, society, economies and property rights that resulted from the 1994 comprehensive plan. There is no report discussing the intentions of the updates to the Dept. of Revenue Current Use Taxation Forestry Program. This program now allows a minimum 5-acres of trees to support small family owned woodlots.

The duties of the elected officials are severely compromised when they are fed a restrictive diet of information that leads them to a forgone conclusion. This action severely impairs the ability of the BOCC to conduct the important business of creating policy and making well-reasoned, balanced decisions. This action further degrades the entire public participation process.

It is evident, Clark County fails to equally apply the planning process to all citizens. Without question, rural landowners were singled out and exclusivity applied. This action results in exploitation of the rural landowners. A no-growth rural agenda is falsely justified, overwhelming non-conforming parcels are created that fail to conform to the county's rural character, excessively large (85%) remainder lots are set in place, restrictive covenants added in perpetuity, and staff dictates building envelopes without regard to land owner preference or topography (per the proposed cluster ordinance.) Since rural landowners were excluded in the process, their concerns slip off the radar of the elected officials. More importantly, this is a discriminatory act that discloses a fatal flaw in the county planning process. Without corrections, this flaw makes it impossible for Clark county to comply with GMA public participation law.

When viewed in combination, the evidence overwhelmingly indicates rural landowners are disadvantaged at every opportunity. The public participation plan for this update is working as it was intended to work. . .to exclude rural landowners from the process, and to maintain a cap on rural growth. This advances the "unauthorized formula." Judge Poyfair ruled this is not GMA compliant.

Respectfully submitted for the Public Record of the 2016 Clark County Comprehensive Plan Update,

**Susan Rasmussen for
Clark County Citizens United, Inc.**