



**TO:** Bill Vetter, Pierce County Council Performance Audit Committee  
Clark Worth, Barney & Worth Inc.

**FROM:** Eric Eisemann, E<sup>2</sup> Land Use Planning, LLC

**CC:** ARL Project Team

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**SUBJECT:** *A Fresh Look at Pierce County Agriculture*  
Technical Memorandum #3 – ARL Designation Criteria in Selected Counties

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## Introduction

A multi-disciplinary team led by Barney & Worth, Inc. is taking *A Fresh Look at Pierce County Agriculture*. Members of the team bring extensive agricultural, scientific, legal, and economic expertise to the project.

The Washington State Growth Management Act (GMA) requires counties to designate Agricultural Resource Lands (ARL), which “have long-term significance for the commercial production of food or other agricultural products”. Pierce County places a high priority on protecting commercially viable agricultural lands, and has established these criteria for ARL parcels:

- Located outside Urban Growth Areas (UGAs)
- Five acres or greater
- Contain 50% or more “prime farmland” soils
- Grass/legume production yield of 3.5 tons per acre or greater
- 50% of abutting parcels larger than 1 acre
- Landowner may request the designation

The consultant team is analyzing the current condition of Pierce County’s agriculture sector and evaluating the effectiveness of the County’s zoning regulations for protecting agricultural lands. The County’s current ARL criteria will be revisited, with consideration given to alternatives. A series of technical memoranda are being prepared to illuminate different aspects of farmland protections.

The purpose of this technical memorandum is to review the designation criteria various Washington counties use to designate agricultural resource lands.

## Highlights

Technical Memorandum #2 reviewed the statutory and case law basis for designating ARLs. Technical Memorandum #3 is a survey of the Agricultural Resource Lands designation criteria used by eighteen (18) Washington counties. Because Pierce County is located in Western Washington, the survey includes all Western Washington counties charged with fully planning under the Washington Growth Management Act (GMA).

Comparing the designation criteria used by eastern and western Washington counties is, in some ways, a false comparison. The types of soils, amount of rainfall, general climate, parcel sizes, road system, and intensity of development are vastly different. However, jurisdictions east and west of the Cascades are subject to the same statutory requirements and administrative rules the GMA establishes for use in the ARL designation process. Therefore, the survey considers a sampling of ARL designation criteria used by three Eastern Washington counties.

WAC 365-190-050 provides the foundational criteria for classifying or designating ARLs. Agricultural Resource Lands should:

- not be characterized by urban growth,
- be used or capable of being used for agriculture, and
- have long-term commercial significance for agriculture.<sup>1</sup>

All counties surveyed begin with this understanding. However, when counties consider the eleven factors WAC 365-190-050(3) recommends as minimum guidelines for characterizing long-term commercial significance there are few universal practices. Reliance on soil classification, however, is a necessary common thread.

Most counties promulgate one county-wide ARL land use designation. The GMA requires jurisdictions to conduct a county-wide or area-wide designation process (rather than parcel-specific). A few counties have developed area-specific ARL zones. Thurston County has a Nisqually Agricultural (NA) special district, Snohomish County has three Commercial Farmland Districts, while Clallam County applies an ARL designation to only one specific area of the county. Other jurisdictions, such as Clark and Walla Walla counties, have created a tiered approach to ARL designations based on larger parcel sizes or exclusivity of use.

The survey highlights that although counties identify lands of long-term commercial significance consistent with WAC 365-190-050, and that the designations are county- or area-wide rather than parcel specific, how the counties have applied the WAC guidelines varies as widely as the geography of the state itself.

## Factors for Considering Long-Term Significance

### Designation Criteria

The GMA establishes three threshold inquires when designating agricultural land:

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<sup>1</sup> WAC 365-190-050(3) - <http://apps.leg.wa.gov/wac/default.aspx?cite=365-190-050>

- Whether land is not already characterized by urban growth,
- Whether the land is used or capable for being used for agriculture, and
- Whether the land has long-term commercial significance for agriculture.<sup>2</sup>

To determine whether land has long-term commercial significance for agriculture, WAC 365-193-050(3)(c) provides a list of recommended (not-mandatory) nonexclusive criteria.<sup>3</sup> The list includes:

- i. Prime and unique farmland soils as mapped by the Natural Resources Conservation Service;
- ii. Public facilities availability, including roads used in transporting agricultural products;
- iii. Tax status, including the current use tax assessment, whether the optional public benefit rating system is used, and whether there is the ability to purchase or transfer land development rights;
- iv. Public services availability;
- v. Relationship or proximity to urban growth areas;
- vi. Predominant parcel size;
- vii. Land use settlement patterns and their compatibility with agricultural practices;
- viii. Intensity of nearby land uses;
- ix. History of land development permits issued nearby;
- x. Land values under alternative uses; and
- xi. Proximity to markets.

A jurisdiction may consider other issues, such as food scarcity and preserving heritage or artisanal foods. The designation process must accomplish two goals: (1) designation of an amount of agricultural resource lands “sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term”; and (2) retention of “supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.”<sup>4</sup> If the designation process is conducted area-by-area, the end result must still secure long-term county-wide economic viability.

Identifying agricultural lands of local importance is an additional classification layer.<sup>5</sup> The administrative code does not provide additional guidance for identifying locally important lands. Several jurisdictions surveyed use locally important lands in their calculus of how to secure long-term county-wide economic viability.

## County Designation Criteria Overview

The Growth Management Act requires the Washington Department of Commerce to adopt guidelines to inform the process of classifying agricultural lands.<sup>6</sup> The guidelines are the “minimum guidelines that

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2 WAC 365-190-050(3) - <http://apps.leg.wa.gov/wac/default.aspx?cite=365-190-050>, See also, *Lewis County v. Western Washington Growth Management Hearings Bd.*

3 WAC 365-193-050(3)(c) - <http://apps.leg.wa.gov/wac/default.aspx?cite=365-190-050>

4 WAC 365-190-050(5)

5 WAC 365-190-050(6)

6 RCW 36.70A.050(1) <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A.050>

apply to all jurisdictions.” They “shall allow for regional differences that exist in Washington State.”<sup>7</sup> WAC 365-190-050 provides the foundation guidelines for classifying or designating agricultural resource lands. The guidelines do not clearly define what the regions of the state are nor do they clarify what types of differences might occur between regions.

Jurisdictions are left to designate ARLs on a county-wide or area-wide basis. Whatcom County applies their designation criteria on an area-wide basis with the goal of “designating ARLs sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term, and to retain agricultural support businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.”<sup>8</sup> In Clallam County an area-wide analysis resulted in all ARLs being located in the Sequim-Dungeness area. Kitsap County is updating its comprehensive plan and proposes to “Re-examine and, if appropriate, adopt or amend criteria used to determine if land meeting Growth Management Act designation criteria as Agricultural Resource Land exists within the county.” (LU-55.) Kitsap County will “Explore creation of a “no-net-loss” policy for agricultural lands.” (LU-56.)

This section of Technical Memorandum #3 provides an overview of the ARL designation criteria used by jurisdictions planning under the GMA. Because Pierce County lies west of the Cascades the primary focus of the analysis is Western Washington counties.<sup>9</sup> However, this survey also considers a representative sampling of ARL designation criteria used east of the Cascades.<sup>10</sup>

Most counties identify their agricultural resource land designation in their comprehensive plan. Zoning codes, or unified development codes, established to implement the comprehensive plans, sometimes refine the designation criteria, generally in terms of minimum parcel size and nearby land uses. Most counties begin their discussion of designation criteria by referring to foundation criteria in WAC 365-190-050(1) though (3):

- Land not already characterized by urban growth,
- Whether the land is used or capable for being used for agriculture, and
- Whether the land has long-term commercial significance for agriculture.

The eleven factors WAC 365-190-050(3)(c) suggests using to determine long-term commercial significance factors are nonexclusive, they are not ranked and they are not weighted. Nearly all jurisdictions used soil suitability or type, current use tax status<sup>11</sup>, and parcel size to help determine whether land has long-term commercial significance for agriculture. Counties use the other WAC factors with much less consistency. Some counties adopt additional factors, such as crop yield, logical boundaries, avoiding islands within ARL, or avoiding floodplains and forests. A few jurisdictions, such as Thurston and Snohomish Counties, establish more than one type of ARL zone or special agricultural districts.

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7 RCW 36.70A.050(3) <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A.050>

8 Whatcom Policy 8A-3, <http://wa-whatcomcounty.civicplus.com/DocumentCenter/View/17292>

9 Agricultural designation criteria reviewed include: Whatcom, Skagit, San Juan, Island, Clallam, Jefferson, Mason, Kitsap, Thurston, Pierce, King, Snohomish, Lewis, Pacific and Clark counties in Western Washington.

10 Eastern Washington counties considered included: Chelan, Spokane and Walla Walla counties.

11 Open Space Taxation Act, RCW 84.34

## Soil Type or Suitability

All counties surveyed used soil type or suitability as a factor in determining long-term commercial significance.<sup>12</sup> Typically, to be considered agricultural land of long-term commercial significance, counties rely on the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) designations of “prime farmland” or “prime soils”.<sup>13</sup> However, Island County also recognizes that the county has a deep agricultural history of successful farming on non-prime soils.

Examples of soil suitability include:

- NRCS classifications I, II, and III Agnew Series, and class III-IV under certain circumstance (Clallam County);
- Lands containing prime agricultural spoils (Chelan County, King County);
- Parcel contains prime farmland soils (Mason County)
- Prime farmland soils as determined by the NRCS (Skagit County);
- Prime, prime if irrigated, prime if protected from flooding (Lewis County)
- Prime farmland as defined by the U.S. Soil Conservation Service (Snohomish County); or
- NRCS class I, II if drained, IV if irrigated, V if irrigated or protected from flooding, and VI if subsoiled (Whatcom County).

Counties also establish a ratio or percentage of prime soils a parcel must contain to be considered potentially of long-term commercial significance. Examples include:

- At least twenty five percent (25%) of the parcel contains prime soils (Island County);
- NRSC prime soils on one-third (1/3) or more of the parcel (Jefferson County);
- Fifty percent (50%) or more of the parcel contains prime soils (Island County and Pierce County);
- Predominantly prime soils (Thurston County)

It is rare for a county to ignore prime soils as one basis for designating lands of long-term commercial significance. However, there is no general consensus as to whether all or part of the parcel must contain prime soils. Also, there is little discussion, let alone consensus, that the larger geographic area must contain a percentage of prime soils to be considered of long-term commercial significance.

## Current Use

Tax status, including the current use tax assessment, the public benefit rating system, and the possibility to purchase/transfer development rights are factors a county may consider when designating ARLs. Whether an owner enrolls in the Open Space-Agriculture taxation program is not a determinative factor in the designation process. However, approximately half of the counties surveyed recognize tax status as one designation criterion.

Whether the property is currently in use for agriculture may or may not be a factor in the designation process. Approximately half of the counties surveyed did not address current use. Examples of those that do consider current use for agriculture include:

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<sup>12</sup> Kitsap County is an exception to the rule; it does not currently designate agricultural resource lands. However, Goal 14, policy #55 of the draft amended comprehensive plan directs the county to reevaluate its designation criteria.

<sup>13</sup> See, <http://soils.usda.gov/technical/handbook/contents/part622.html>

- Livestock present or products being produced (Clallam County);
- Currently in use (Jefferson County) or historic use can convert to current use; ‘active use’ (Island County)
- Historic use or current principal use (Mason County);
- Primary use with minimal non-farm investment (Skagit County);
- Devoted to agriculture and zoned (Snohomish County); or
- Primarily devoted or capable of production (Thurston County).

## Parcel Size

Counties generally consider the size of a parcel as a factor in the designation process. The range of parcel size observed in the survey was generally between 5 acre minimum to 20 acre minimum. Whatcom County uses 40 acres as a guideline, the largest minimum parcel size observed in Western Washington. Clark County is updating its comprehensive plan and is considering reducing its 20 acre minimum parcel size to 10 acres as the minimum ARL lot size. By contrast, Walla Walla County uses parcel size from 10 acres to 120 acres, depending on the ARL classification.

Walla Walla County follows the designation guidelines established in WAC 365-190.050. The County also established four agricultural zones, all of which are lands of long-term commercial significance. They are: Exclusive Agriculture, Primary Agriculture, General Agriculture, and Agriculture Residential. The latter, Agriculture Residential, is composed of lands of long-term commercial significance that are smaller size, currently used for agricultural purposes, and are close to population areas.

Examples of minimum parcel size include:

- 5 acres (Pierce and Skagit County);
- 10 acres (San Juan County and Mason County);
- 10 or more acres (Snohomish County in Upland and Local agricultural districts);
- 15 acres (Clallam County);
- 20 or more acres (Jefferson County, Thurston County and Whatcom County);
- 35 acres (King County for an Agriculture Production District [APD]);
- 40 acres or more if in single ownership (Island County- Draft, Spokane County); or
- 10 to 120 acres depending upon ARL zoning district (Walla County)

WAC 365-190-050(c) identifies parcel size as one factor to be used in designating ARLs. While most counties consider parcel size as one factor there is no consensus as to what the minimum parcel size should be.

## Other WAC 365-190-050(c) Factors

Around three-fourths of the counties surveyed consider whether urban services, such as sanitary sewer service, are available in the area. Clallam County considers whether a sewer ‘right’ is available. Water service is considered essential to agriculture and a few jurisdictions exclude availability of water service from the designation criteria.

A few counties consider settlement patterns and intensity of nearby uses as factors influencing the potential for long-term commercial use. Whatcom County looks at the pattern of investment in the area and what the majority of uses in the area are. Skagit County considers the pattern of investment in

agriculture in the area over a ten year period and the degree of non-farm investment nearby. Clallam County looks at whether there are parcels 40 acres or larger in the area. Thurston County considers whether there are mineral lands nearby and the pattern of Rural Lands in the area. Jefferson County evaluates the potential for conversion of non-farm lands back to farm use in the near future. Clark County considers proximity to markets and to UGAs.

Less commonly employed factors include:

- Proximity to floodplains (Skagit County and Jefferson County);
- Excluding lands in a forest zone or capable of forest production (Jefferson County);
- Creating 'logical' boundaries for ARL zones and avoiding creating islands of agricultural zoning (Skagit County);
- Measuring long-term significance based on specific crop yield (Pierce County and Spokane County); or
- Proximity to population areas (Clark County).

## Summary

The GMA statute and administrative rules relating to designation of ARLs carefully guide counties down a prescribed path. There is little deviation, in practice, from the over-arching rules. The designation process cannot be on a parcel-by-parcel basis, it must be on a county-wide or area basis and it must secure long-term county-wide agricultural economic viability.

Counties have demonstrated considerable discretion when they select factors influencing long-term commercial significance for agriculture. Soils class, parcel size, and current use are widely used. Other factors, such as proximity to market, transportation systems, or land values under alternative uses are used more sporadically. Regardless which factors a county uses, the end result must demonstrate that the lands designated ARL are sufficient to secure long-term county-wide agricultural economic viability.

The most interesting survey finding is that more robust ARL designation programs rely on one or more types of ARL land use designation or special use areas to achieve long-term county-wide economic security. Snohomish County has created three ARL classifications, Walla Walla County four. Jefferson County adopted two ARL classifications; AP-20 for prime land and AL-20 for locally important lands. Thurston County designated an area of special interest, the Nisqually Agriculture zone and an Agritourism Overlay, as well as other agricultural lands. Given the geographic and climatic diversity of Pierce County, an opportunity exists to narrowly tailor ARL classifications for specific areas of the county.

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