



**STATE OF WASHINGTON  
DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT**

**128 – 10<sup>th</sup> Avenue SW • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000**

June 30, 2004

The Honorable Hans Dunshee  
Washington State House of Representatives  
Post Office Box 40600  
Olympia, WA 98504-0600

Dear Representative Dunshee:

You have requested information on potential processes that could be used by a county to review the designation of property as agricultural land of long-term commercial significance under RCW 36.70A.170. The Growth Management Act (GMA) does not specifically address the review or “de-designation” of previously designated agricultural lands. However, some counties have undertaken such a review, using one of two general approaches.

The eighth goal of the GMA is to “maintain and enhance natural resource-based industries, including productive timber, agricultural and fisheries industries...encourage conservation of productive agricultural lands, and discourage incompatible uses.” (RCW 36.70A.020) To carry out this goal, the legislature directed local governments to designate agricultural lands that have long-term significance for the commercial production of food or other agricultural products and adopt development regulations to assure the conservation of designated agricultural lands (RCW 36.70A.170 and .060). Local governments were directed to complete this designation as one of their first planning tasks under the GMA. Therefore, conservation of agricultural lands is a primary imperative of the GMA.

RCW 36.70A.050 directed the Department of Community, Trade and Economic Development (CTED) to adopt guidelines to guide the classification of natural resource lands, such as agricultural lands, and critical areas. These guidelines are found in WAC 365-190 and have been used by most counties to designate and classify agricultural lands.

CTED recommends that, should a county choose to review its previous designation of agricultural lands, these guidelines be used as the basis for such a review. Yakima County is one example of a county that has completed a comprehensive review of all its agricultural lands, using the guidelines to establish an objective set of criteria that form the basis of the review. This process provides for a review of agricultural lands in light of any new information that may have become available since the initial designation process.

A review of agricultural lands designations could be included by a county, at its discretion, in its GMA update process required under RCW 36.70A.130(1). This update is underway in many jurisdictions--including 117 that are due by December 2004. The update process requires a county to review and, if necessary, revise its comprehensive plan and/or development regulations to maintain consistency with the GMA. In response to your specific question, the county's decisions as part of its GMA update process could be subject to an appeal to the Growth Management Hearings Board (GMHB). However, that is the case with the GMA update whether or not the county chooses to amend its agricultural lands designations.

A second process has also been used in some counties to review agricultural lands designation of specific properties. This process is not recommended by CTED, however, because it does not include a comprehensive review of agricultural lands to determine if the GMA definitions and criteria for designation are no longer met. Under this process, a proposed amendment to the comprehensive plan, and a concurrent amendment to the zoning designation, are reviewed by the planning commission and legislative body for specific parcels. Typically, the basis of a request for removal from designation as agricultural resource land is a claim that the subject properties have experienced some change in circumstances and that they no longer meet the designation criteria. Under RCW 36.70A.130(2), such a proposal must be considered concurrently with any other comprehensive plan amendments, and cannot be considered more than once per year.<sup>1</sup>

A county's legislative action to revise its designation of agricultural lands of long-term commercial significance under RCW 36.70A.170 is presumed valid regardless of which of the processes described above was used to arrive at that decision. However, any party that has standing may file a petition for review of such an action by the appropriate GMHB. Thus, before entering into such a review process, a county should carefully consider how such a process would further the goals and requirements of the GMA, and review relevant decisions by the GMHB and the courts.

One important case that should be reviewed is *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543, 14 P.3d 133 (Dec. 14, 2000). In this decision, the Washington Supreme Court construed the GMA's agricultural lands provisions to mandate meaningful conservation of designated agricultural lands. The GMA's agricultural lands provisions impose a mandatory duty to designate and conserve agricultural lands of long-term commercial significance. Nothing in the GMA permits recreational facilities (which were the subject of this case) to supplant agricultural uses on designated lands with prime soils for agriculture. Although the GMA encourages recreational uses of land, there is no conservation mandate for recreational use, as there is for agricultural use.

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<sup>1</sup> Several exceptions are included in RCW 36.70A.130(2), for adoption of or amendment to subarea plans, shoreline master programs, and capital facilities plans.

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A county or city considering amendments to its comprehensive plan or development regulations must provide notice to CTED at least 60 days prior to proposed adoption. This notice is forwarded to state agencies to provide an opportunity for their review and comment.

On a related note, CTED is assigned to complete a report on the designation of agricultural lands in King, Chelan, Lewis and Yakima Counties, as directed by SB 6488. The report is due to the Legislature by December 1, 2004, and may provide some additional information relevant to your question.

If you have further questions on this topic, please contact me at (360) 725-3055.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard Bauer". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Leonard Bauer, Managing Director  
Growth Management Services

cc: Juli Wilkerson, CTED Director  
Nancy K. Ousley, Assistant Director, Local Government Division, CTED  
Ron Shultz, Governor's Policy Office  
Aaron Reardon, Snohomish County Executive  
John Koster, Chair, Snohomish County Council