

**Comments on Motion 13475**  
**Sammamish Valley Area Comprehensive Plane Designation and Zoning Study**  
**December 12, 2011**

The following comments are submitted by the Hollywood Hill Association in support of the recommendation of the Executive to retain the current Comprehensive Plan (“CP”) land use designations and zoning on those parcels located in the Sammamish Valley referenced in Motion 13475.

Motion 13475 directed the Executive to conduct a study of ten parcels and two tracts located within the Sammamish Valley that are zoned Agricultural or Rural to determine whether they should be included in the Urban Growth Area for the purpose of annexation by the City of Woodinville. Testimony offered at the time of the County Council’s consideration of Motion 13475 was that the City of Woodinville wants to add these properties to the City to allow urban development that will generate sales tax revenue and promote economic development.

The City offered no analysis of how its proposal is consistent with the Growth Management Act, the Countywide Planning Policies or the King County Comprehensive Plan. As noted in the Executive’s recommendation, this proposal falls far short of the requirements that must be met to change the County’s Urban Growth Boundary. Retention of the existing CP designations and zoning of these Agricultural and Rural buffer properties is crucial to the preservation and protection of the valuable and irreplaceable Sammamish Valley farmlands.

**Description of Parcels Included In Study Area**

The study area includes ten parcels and two tracts (Map 1). The “Northern Parcels” (Map 3) consist of seven parcels located south of NE 171<sup>st</sup> Street and west of 140<sup>th</sup> Place NE. The largest parcel (Parcel 1026059031) is approximately 8 acres in size. The majority of this parcel is designated Agricultural in the CP and zoned Agricultural. The Agricultural zoned portion is located in the Sammamish Valley Agricultural Production District. The remainder of this parcel is designated Rural in the CP and is zoned Rural 2.5. About half of the parcel lies within a large wetland identified by the National Wetland Survey (Map 5). The remaining six Northern Parcels are designated Rural and zoned Rural-2.5. The northern five of these parcels are shown as wholly or partly within the large wetland area designated by the National Wetland Inventory Survey.

The “Southern Parcels” (Map 4) consist of the remaining three properties located just north of NE 145<sup>th</sup> Street on the west side of 148<sup>th</sup> Ave NE. The Southern Parcels are zoned Agricultural-10. Two of the three parcels are designated as having wetlands by the King County Wetlands Survey. Derby Creek, proposed for restoration by King County, runs through one of the Southern Parcels.

All of the properties in the study area are located in a category 2 Critical Aquifer Recharge Area (CARA) (Map 6). With the exception of two parcels, all of the Northern and Southern Parcels directly abut Agricultural zoned land located in the Sammamish Valley Agricultural Production District.

## Historical Background

There has been constant pressure over the years to allow urban development in the Sammamish Valley. Citizens' recognition of what was at risk in the absence of enforceable long term planning and protection was one of the factors that led to passage of the 1979 Farmland Preservation Program ("FPP"). The Sammamish Valley was then zoned General – a catch all zone that allowed most of the types of uses now seen in the Kent Valley. Implementation of the FPP in the Sammamish Valley took many years, including multiple King County purchases of development rights from owners of land on the Sammamish Valley floor (Map 2). However, several property owners chose not to sell their development rights and development pressures have continued. Because of the continued pressure and threats to the farmland, most of the west side of the Valley located in unincorporated King County south of SR 202 and the east side of the Sammamish Valley south of NE 171<sup>st</sup> St. was rezoned from General to Agricultural.

The pressure to urbanize the Valley continued with the third and successful incorporation effort of the City of Woodinville. The City of Woodinville and a small number of property owners and other interested parties have continued to propose expansion of Woodinville's boundaries to include more of the Sammamish Valley in an effort to develop Valley land for urban uses. Pressure to expand the urban area continues to the present day as evidenced by Motion 13475.

What follows is a brief summary of the conflict between attempts to urbanize the Sammamish Valley and farmland preservation efforts over the last 30+ years.

- **1979** – The Farmland Preservation Program is approved by King County voters.
- **1987** – A proposal to change the zoning code that would allow a large commercial development on the northeast corner of SR 202 and NE 124<sup>th</sup> (the Molbak greenhouse property) is withdrawn when the King County Hearing Examiner issues a decision requiring an Environmental Impact Statement for the proposed zoning change.
- **1990** – Washington adopts the Growth Management Act ("GMA") to preserve resource lands and prevent sprawl.
- **1991-1992** - The City of Woodinville's third attempt to incorporate includes the industrial portion of the Sammamish Valley and a large part of the agricultural and rural eastern portion of the Sammamish Valley (including the properties now at issue). King County, the Hollywood Hill Association, and many citizens opposed inclusion of these eastern Valley parcels. The Boundary Review Board ("BRB") removed the maximum land area allowed by statute (10%) from the proposed incorporation boundaries, including most of the area located within the eastern portion of the Sammamish Valley. All of the properties included within Motion 13475 were part of the original properties included within the proposed City boundaries and removed by the BRB in response to citizen pressure, as well as the County's opposition.
- **1992** – Attempts to re-designate property in the Sammamish Valley and adjacent properties to commercial and multi-family in the Northshore Community Plan (the Plan covering the Sammamish Valley prior to adoption of the County's GMA Comprehensive Plan), including the "Schiessl Property", now known as the South 47 Farm, were denied. The County subsequently acquired the development rights to the South 47 Farm which, after years of laying fallow, is very actively farmed today.

- **1993** – An amendment to Ordinance 91-346 was proposed to study inclusion of the Northern Properties now included within the present Motion 13475 within the Urban Growth Area (“UGA”). After reviewing the proposal the decision was made that these properties should not be included in the UGA.
- **1994** – The BRB denied the proposed annexation of 4 properties located on the Rural side of King County’s interim UGA. This was the first test of the application of the prohibition against annexation of properties located on the Rural side of the UGA line to an interim UGA boundary. The decision effectively killed annexation requests of 6 other King County properties located on the Rural side of the line. The proposed annexations included properties in the Rural Area near some of the Motion 13475 properties. Subsequently King County adopted the permanent Urban Growth Boundary excluding those properties from the UGA.
- **1997 – 2000** - Proposed amendments to the County’s Comprehensive Plan that would have allowed conversion of farmland located in the northeastern Sammamish Valley (in the APD) to a large active sports field complex that would be used by thousands of people were ultimately defeated by a decision of the State Supreme Court in King County v. Central Puget Sound Growth Management Hearings Board 142 Wn.2d 543 (2000). The Court in holding that the proposed uses would violate the GMA stated:

*In summary, the agricultural lands provisions (RCW 36.70A.020(8), .060, and .170) direct counties and cities (1) to designate agricultural lands of long-term commercial significance; (2) to assure the conservation of agricultural land; (3) to assure that the use of adjacent lands does not interfere with their continued use for agricultural purposes; (4) to conserve agricultural land in order to maintain and enhance the agricultural industry; and (5) to discourage incompatible uses. . . .*

*"Natural resource lands are protected not for the sake of their ecological role but to ensure the viability of the resource-based industries that depend on them. Allowing conversion of resource lands to other uses or allowing incompatible uses nearby impairs the viability of the resource industry." City of Redmond, 136 Wn.2d at 47 (quoting Richard L. Settle & Charles G. Gavigan, The Growth Management Revolution in Washington: Past, Present, and Future, 16 U. PUGET SOUND L. REV. 867, 907 (1993)).*

. . . .

**CONCLUSION**

*The soils of the Sammamish Valley APD have the unique characteristics of prime farmland. The APD includes some of the most productive agricultural land in the state, but it is also among the areas most impacted by rapid population growth and development. Even though the properties in this case lie in the APD, there is pressure to convert the land to nonagricultural uses.*

. . . .

*When read together, RCW 36.70A.020(8), .060(1), and .170 evidence a legislative mandate for the conservation of agricultural land.*

(Emphasis added).

- **2004** – A proposed amendment to allow large “Horticulture Centers” (commercial/retail feed, garden and florist sales building with no size limit, plus a 3,500 SF restaurant and 8,000 SF conference center) in the Rural Area and to exempt them from compliance with Rural area traffic concurrency standards was defeated. This proposal, if adopted, would have allowed a large commercial use attracting thousands of people to be located within the Rural Area on the Molbak greenhouse property (NE corner of SR 202 and NE 124<sup>th</sup> St.) which is directly adjacent to the APD.
- **2003-2005** – As part of the 2004 update to the Comprehensive Plan several property owners in the northeastern Sammamish Valley (including some owners of properties subject to Motion 13475) filed a comprehensive plan docket request to change property designations from Rural and Agricultural to Urban. These docket requests were consolidated and heard by a hearing examiner who did not support the proposed amendments. At approximately the same time, a challenge was filed with the Growth Management Hearings Board alleging Rural zoned properties should not be included in the Sammamish Valley APD. The Board’s 2005 decision agreed that properties located in the APD were required to have Agricultural zoning. A review of the 129 acres of Rural zoned properties included in the Sammamish Valley APD was conducted to determine whether any Rural zoned properties needed to be removed or whether they should remain in the APD and be zoned to Agricultural. The County conducted a thorough review of the affected properties, including all of the Northern Parcels. The County Council approved the removal of 35 acres from the APD that were developed with permanent non-agricultural structures and those parcels retained their Rural zoning. The other 94 acres were re-designated from Rural to Agricultural in the Comprehensive Plan, zoned to A-10 and remained in the APD.

In 2005 policies were adopted as amendments to the 2004 Comprehensive Plan to address the process of removal of the 35 acres from the APD. Policy-R 548 and 548A (subsequently re-numbered as Policy R-654 and 655) provided in part that “the land to be removed from the APD shall retain rural zoning and shall not be rezoned to urban zoning”. See Policies R-654 and R-655 cited and discussed below and in the Executive’s recommendation. The owners of these parcels now want to violate this policy by again asking for urban zoning.

- **2010-2011** – Woodinville proposes amending the Urban Growth Boundary and Motion 13475 is passed.

### **Threats to Agriculture**

These continued attempts to urbanize portions of the Valley are detrimental to the farming community on multiple levels. Urban uses are incompatible with farming. Stormwater run-off from impervious surfaces creates saturated soil conditions. Night lighting is detrimental to crops. Allowing urban uses causes land values to escalate because of speculation that further urban uses will be allowed. This causes property values to increase to a level that farmers cannot afford. The prospect of conversion of close-in Agricultural and Rural buffer land to urban uses dissuades owners from devoting their land to agricultural or low intensity uses. With hopes of high land sale prices on the horizon, owners will not sell or lease at market prices for agricultural or low intensity rural uses. Farmers and those engaged in rural uses in these bordering areas are not able to get long-term control of property through purchases or long-term leases. They are reluctant to make capital investments such as installation of drainage and irrigation systems, or to invest in purchases of equipment without long-term control of the land.

Farming is thriving in the Sammamish Valley, but the continued vitality of agriculture requires consistency and predictability that incompatible uses will not be allowed and that land values will remain at an affordable level. We believe it is time for the Council to end the continued efforts to urbanize the Valley once and for all by denying this proposal to move the Urban Growth Boundary and by establishing, as a prerequisite for Council consideration of any future proposal to move the UGA boundary, that the proponent demonstrate all requirements of the GMA, CPPs and CP for considering such action have been met.

### **Criteria for Moving Urban Growth Boundary**

The City of Woodinville has proposed moving the urban growth boundary in the Sammamish Valley to permit annexation of Rural and Agricultural lands. Its motivation is to generate more sales tax revenue and encourage economic development, including expansion of the Woodinville Tourist District. This proposal completely fails to address, and certainly does not satisfy, the criteria for moving the UGA boundary established by the GMA, Countywide Planning Policies (CPP) and the King County Comprehensive Plan (CP).

### **Growth Management Act**

The Washington State Growth Management Act (GMA) was adopted in response to widespread concerns over the effects of uncoordinated and unplanned growth, including loss of farmland and forests due to urban sprawl. The fundamental components of the law directed at stemming loss of these irreplaceable lands include: the mandate that agricultural and forest lands be permanently protected; the designation of Urban Growth Areas (UGAs) within which urban growth is encouraged; and designation of rural and natural resource areas where urban growth is prohibited. These are intended as long-term actions to provide permanent protection of natural resources, industries and the environment.

Planning and land use regulation on a state-wide and regional basis in order to protect broad public interests has replaced prior eras of uncoordinated land use decisions based solely on parochial political and economic interests. The GMA and regional planning efforts have put in place procedures, rules and criteria for considering changes to UGAs. These requirements are particularly important in the case of proposed changes to UGAs that would convert Agricultural and buffering Rural lands to urban. As held by the Washington State Supreme Court in King County v. Central Puget Sound Growth Management Hearings Board (more fully discussed in the Historical Background section):

*. . . the agricultural lands provisions (RCW 36.70A.020(8), .060, and .170) direct counties and cities (1) to designate agricultural lands of long-term commercial significance; (2) to assure the conservation of agricultural land; (3) to assure that the use of adjacent lands does not interfere with their continued use for agricultural purposes; (4) to conserve agricultural land in order to maintain and enhance the agricultural industry; and (5) to discourage incompatible uses. . . .*

*When read together, RCW 36.70A.020(8), .060(1), and .170 evidence a legislative mandate for the conservation of agricultural land.*

## Countywide Planning Policies

Countywide Planning Policy FW-1 establishes a multi-step process for countywide planning, including Step 8. a., which provides criteria for amending the Urban Growth Area:

Amendments shall be based on an evaluation of the following factors:

- The criteria in policies LU-26 and LU-27;
- The sufficiency of vacant, developable land and redevelopable land to meet projected needs;
- The actual and projected rate of development and land consumption by category of land use including both development on vacant land and redevelopment projects;
- The capacity of appropriate jurisdictions to provide infrastructure and service to the Urban Growth Areas;
- The actual and projected progress of jurisdictions in meeting their adopted 20-year goals and targets of number of households and employees per acre;
- The actual and projected rate of population and employment growth compared to adopted 20-year goals and target ranges, and compared to revised projections from the Washington State Office of Financial Management;
- The actual and projected trend of economic development and affordable housing indicators, as reported annually through the adopted monitoring and benchmarks program;
- Indicators of environmental conditions, such as air quality, water quality, and wildlife habitat, and others.

Woodinville has provided no analysis of these factors. The development scenarios cited in support of the proposal focus upon medical office uses for the northern parcels and wine tasting and/or wineries for the southern properties. Even without inquiry certain obvious factors show consideration of expanding the UGA based on lack of alternative sites for these uses is not warranted:

- The 24-acre “Woodinville Wine Village” located just south of the southern parcels inside Woodinville’s Tourist District has been approved for mixed-use winery related development for several years, but no development has occurred;
- Just north of the Northern Parcels across NE 171<sup>st</sup> Street, there are large areas of underutilized property zoned Central Business District and Office.
- The current City of Woodinville Comprehensive Plan, Appendix 3, page 11 states: “After deducting constraints, Woodinville has nearly 174 net acres of vacant and redevelopable commercial and industrial land. After adjusting for market factors, about 141 acres are potentially available for development during the planning period.”

## King County Comprehensive Plan

The King County Comprehensive Plan provides that the boundary between UGAs and Rural Areas is intended as a long-term boundary that can only be reviewed under tightly controlled conditions:

**RP-107** The line is considered long-term and can only be amended consistent with Countywide Planning Policy FW-1, and comprehensive plan policies contained in this plan.

**R-203** King County's Rural Area is considered to be permanent and shall not be redesignated to an Urban Growth Area until reviewed pursuant to the Growth Management Act (RCW 36.70A.1130(3)) and Countywide Planning Policy FW-1

The County is required by the GMA to preserve and protect resource lands. Policy R-650 recognizes this commitment.

**R-650** King County commits to preserve APD parcels in or near the Urban Growth Area because of their high production capabilities, their proximity to markets, and their value as open space. King County should work with cities adjacent to or near APDs to minimize the operational and environmental impacts of urban development on farming, and to promote activities and infrastructure, such as farmers' markets and agriculture processing businesses, that benefit both the cities and the farms by improving access to locally grown agricultural products.

The proposal to move the Urban Growth boundary would require the removal of the majority of Parcel 1026059170 from the Sammamish Valley APD for the purpose of annexing it to Woodinville. There is absolutely no basis for removing this Agricultural zoned land from the APD, placing it in the UGA and allowing annexation to Woodinville. Doing so would violate the following policies:

**R-613** Designated Forest and Agricultural Production District lands shall not be annexed by cities.

**R-654** Lands can be removed from the APDs, except as provided in R-655, only when it can be demonstrated that:

- a. Removal of the land will not diminish the productivity of prime agricultural soils or the effectiveness of farming within the local APD boundaries; and
- b. The land is determined to be no longer suitable for agricultural purposes.

In addition to meeting these two tests, removal of the land from the APD may only occur if it is mitigated through the addition of agricultural land abutting the same APD of equal acreage and of equal or greater soils and agriculture value.

Policy R-655 cited below was adopted to authorize removal of parcels from the APD in order to implement the Growth Management Hearings Board decision requiring all properties in the APD to be zoned Agricultural (discussed in the Historical Background – Years 2003-2005). Policy R-655 mandates that the properties removed remain Rural. This particular policy applies to all of the Northern Parcels that were removed from the APD in 2005.

**R-655** Land that is zoned rural and has permanent non-agricultural structures can be removed from the Sammamish APD only when a subarea plan demonstrates that removal of the land will not diminish the productivity of prime agricultural soils or the effectiveness of farming within the

APD. Land to be removed from the APD shall retain rural zoning and shall not be rezoned to urban zoning. The removal of land zoned rural from the Sammamish APD shall not be contingent on the addition of land to the APD.

The proposed amendment is manifestly inconsistent with these policies. No attempt has been made by the City to establish the requisite requirements to move the Urban Growth Boundary.

### **Conclusion**

The GMA, CPPs and King County Comprehensive Plan mandate a very rigorous and methodical process to determine whether a change in the Urban Growth Boundary is required. Woodinville's proposal is unsupported by the facts or the law. The County has reviewed and rejected similar proposals over the last several years and the facts have not changed. The need to expand the Urban Growth Area has not been established and cannot be justified because the requisite criteria have not and cannot be met. This proposal must be rejected.

The Agricultural land in the Sammamish Valley is a natural resource of Statewide Significance. The adjacent Rural land buffers the Agricultural land from encroaching urban development. The GMA mandates that this Agricultural and Rural buffer land be permanently protected.

The King County Council needs to establish a high threshold for considering proposals to expand a UGA, particularly when Agricultural and/or Rural buffer lands would be affected. Repeated consideration of UGA expansion fosters land speculation that is detrimental to Agricultural and Rural uses. Future proposals to expand the UGA should not be considered by the Council without a clear showing by the proponent that the criteria in the GMA, CPPs and the King County CP have been analyzed and satisfied.

Respectfully submitted,

/s/  
By: Michael Tanksley, President  
Hollywood Hill Association

#### Attachments:

- Map 1 - Study Area Overview Map (Northern and Southern Parcels)
- Map 2 - Farmland Preservation Properties Overview Map
- Map 3 - Northern Parcels
- Map 4 - Southern Parcels
- Map 5 – Wetland Map
- Map 6 - Critical Aquifer Recharge Areas Map