

Clallam County DCD Update to Critical Area Ordinance for Existing & On-Going Agriculture



Background on Ag in Clallam County

1. In 1945 there was 1,133 farms on 77,880 acres
2. Since then the number of farms (figure 1) and acres in farming (figure 2) has decrease.
3. Since 1977 we see the number of farms increase while the average size has decreased.
4. For Example since 2002 the number of farms that are 1 to 9 acres in size increased by 86 (Figure 4).
5. In 2012 the USDA census on Ag stated that Clallam County had ag production valued at 10.6 million. This was based on 536 farms on 23,640 acres. To be defined as a farm they need a minimum of \$1,000 of production. These farms employed 547 people & had payroll of 4.8 million. County has 6,198 acres of Ag Retention zoning – ag of long term significance (all in Sequim area).
6. Clallam County supports ag land conservation through the ag current use taxing program. In 2015 there were 1,316 parcels in this program equating to 11,873 acres. Of these 1,316 parcels approximately 741 (56%) fall within 200 feet of Type 1 to 5 waters and designated wetlands.

Figure 1

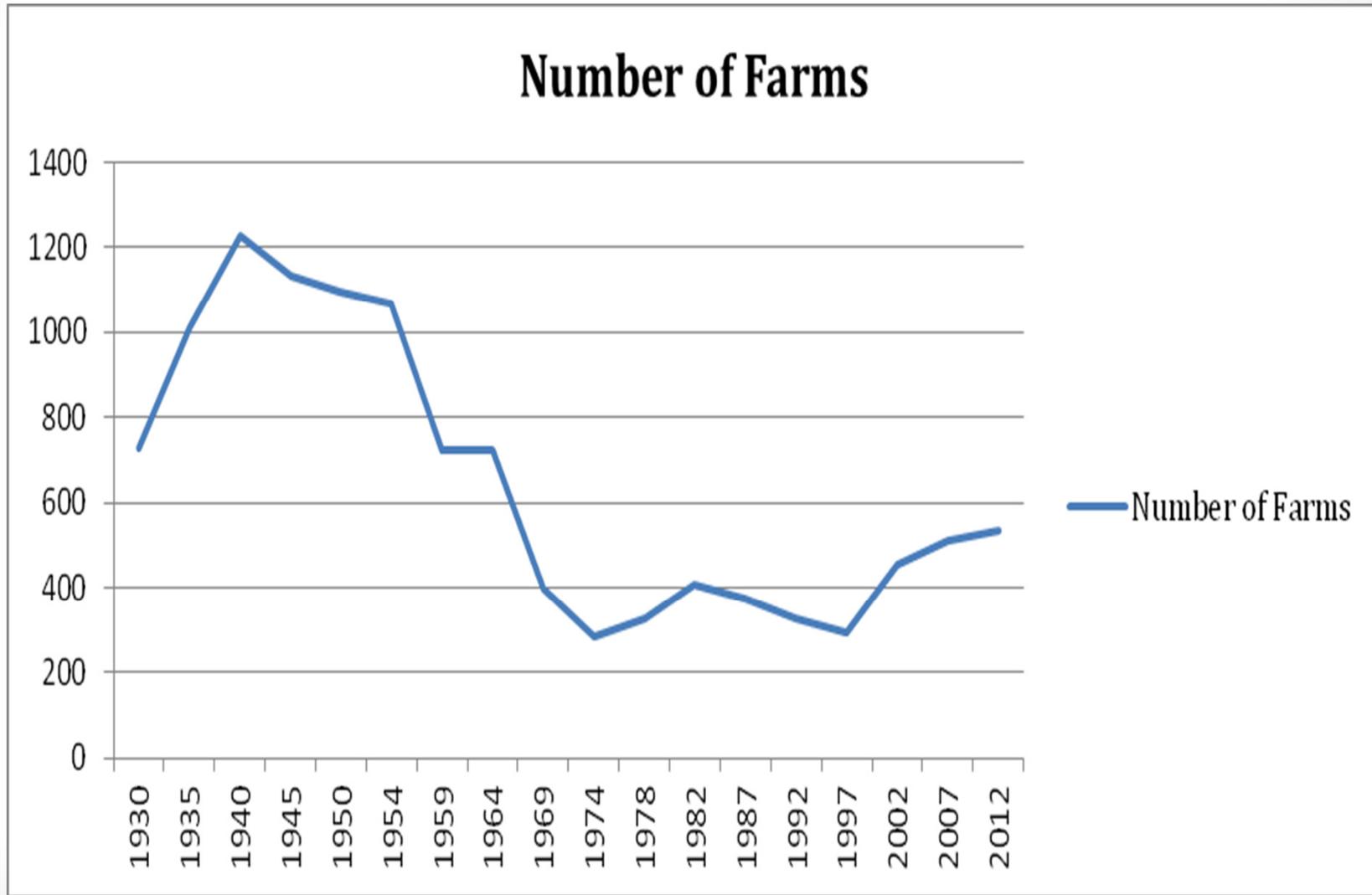


Figure 2

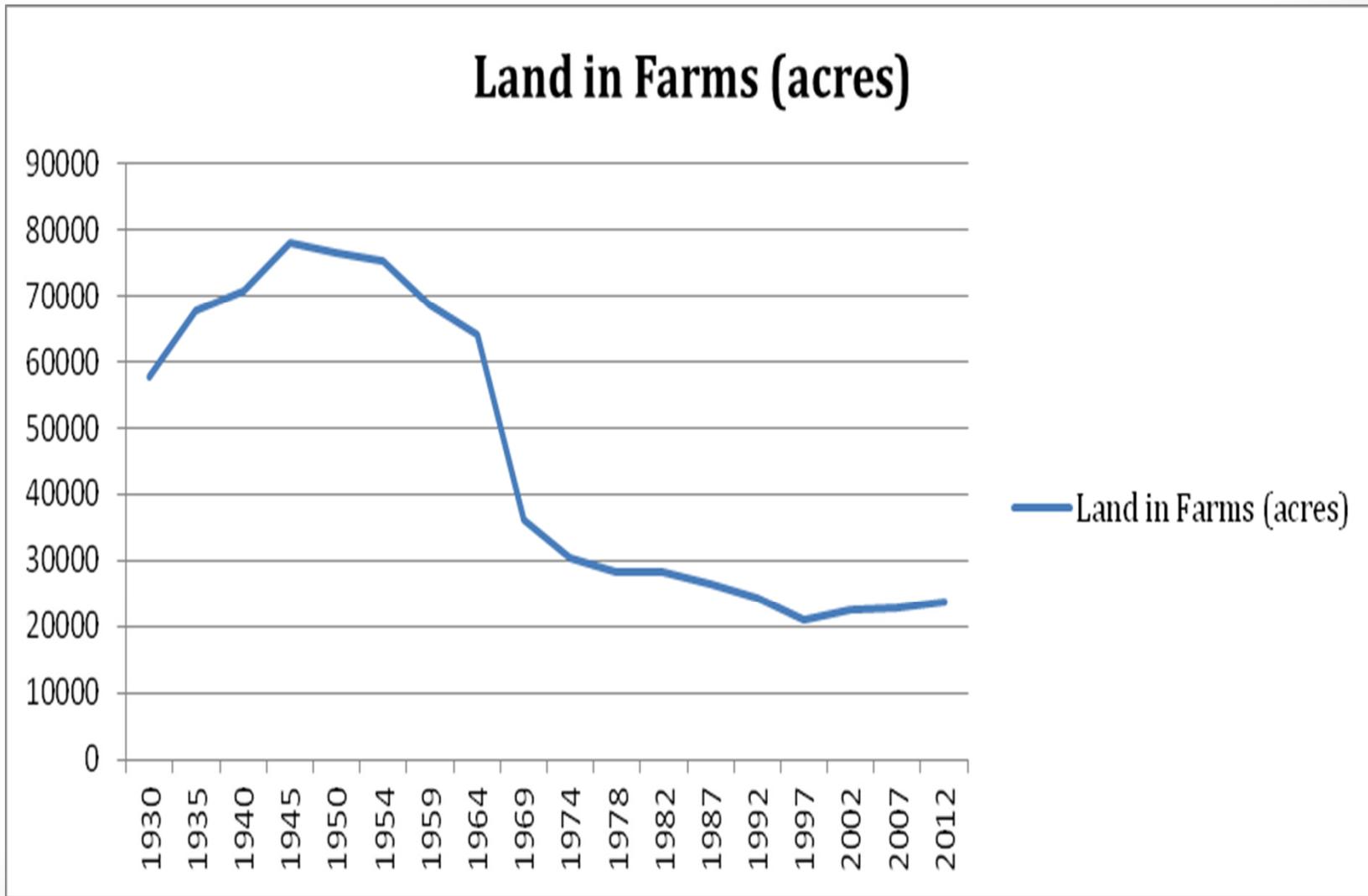


Figure 3

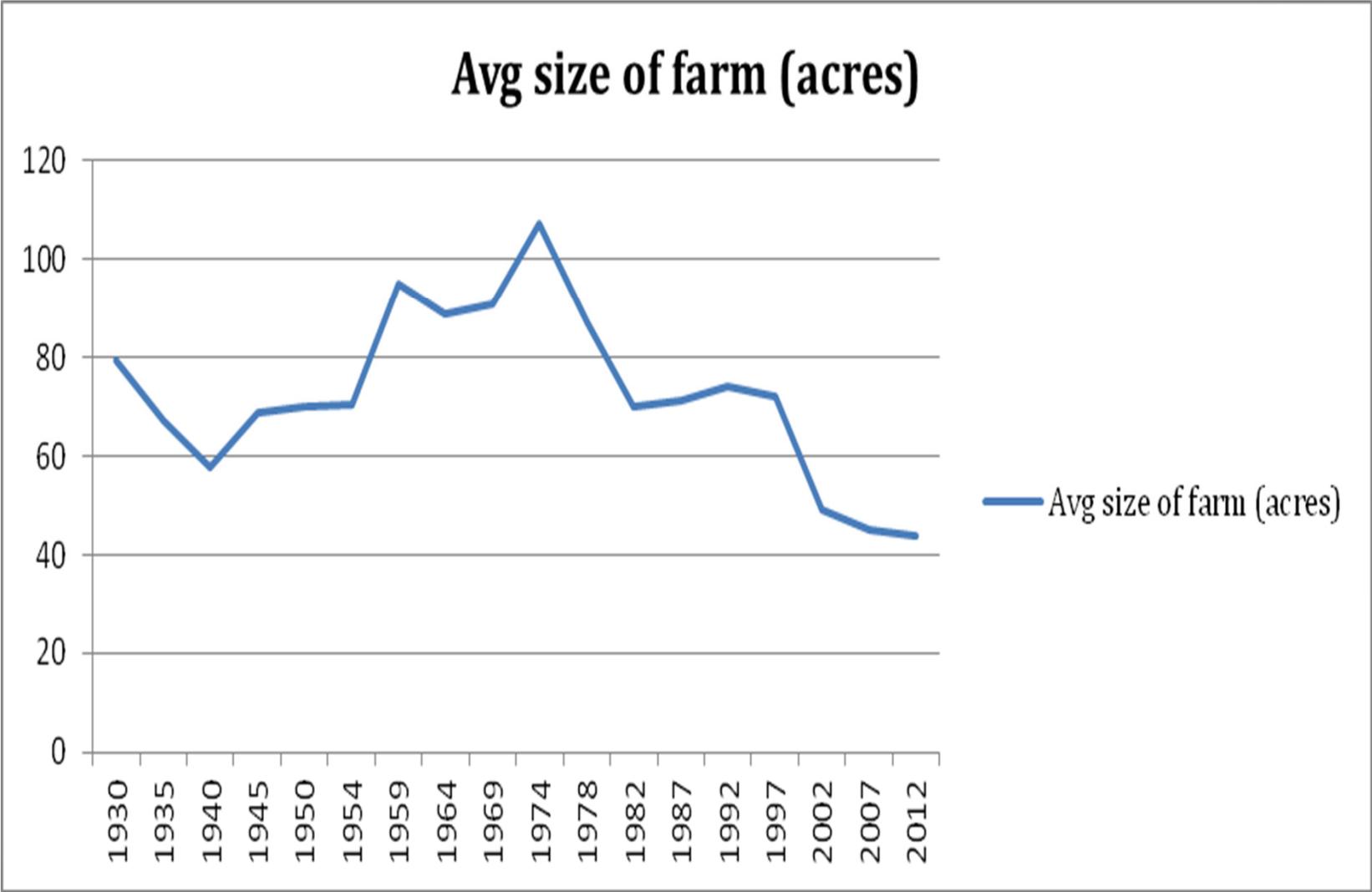
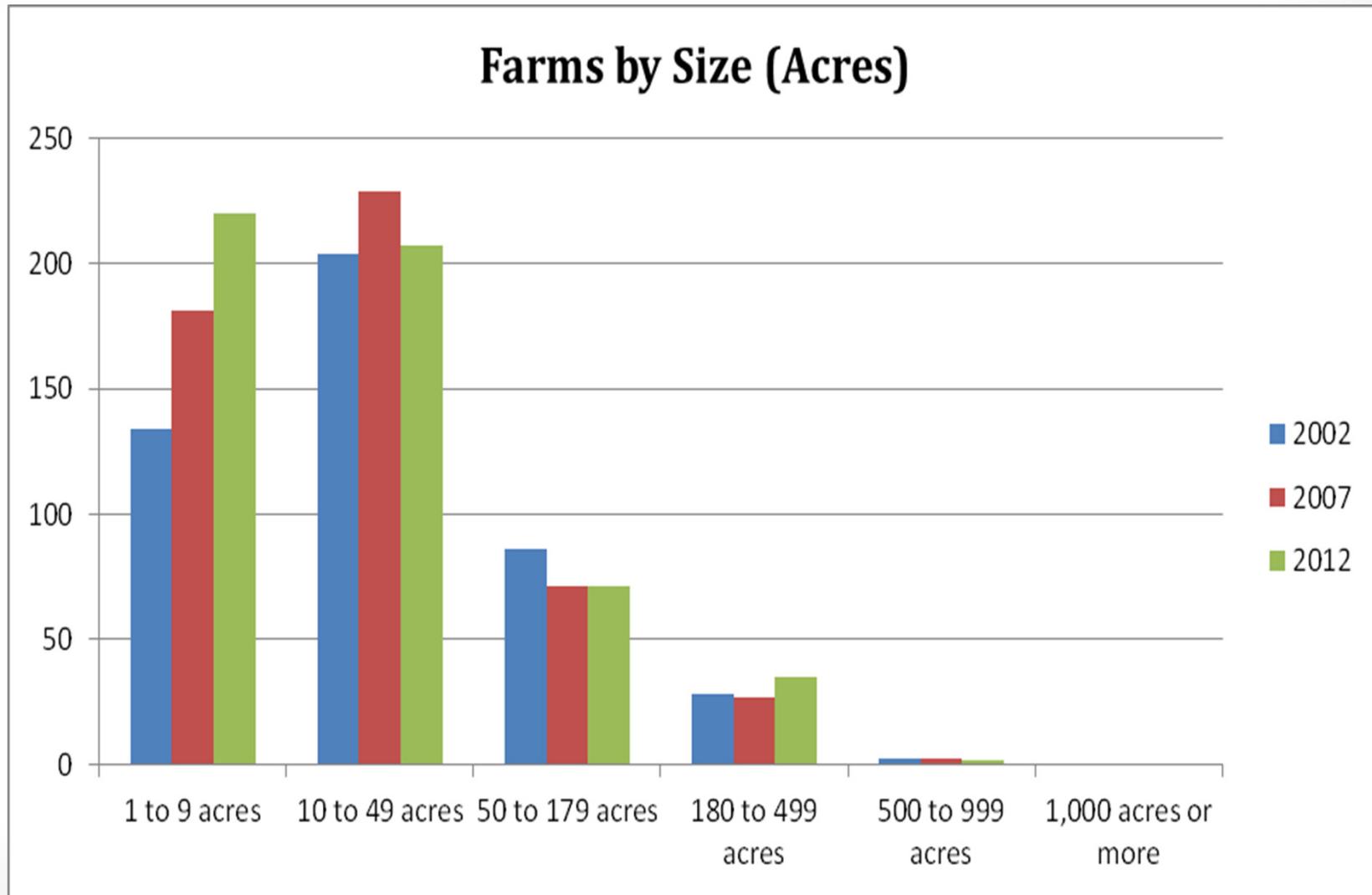
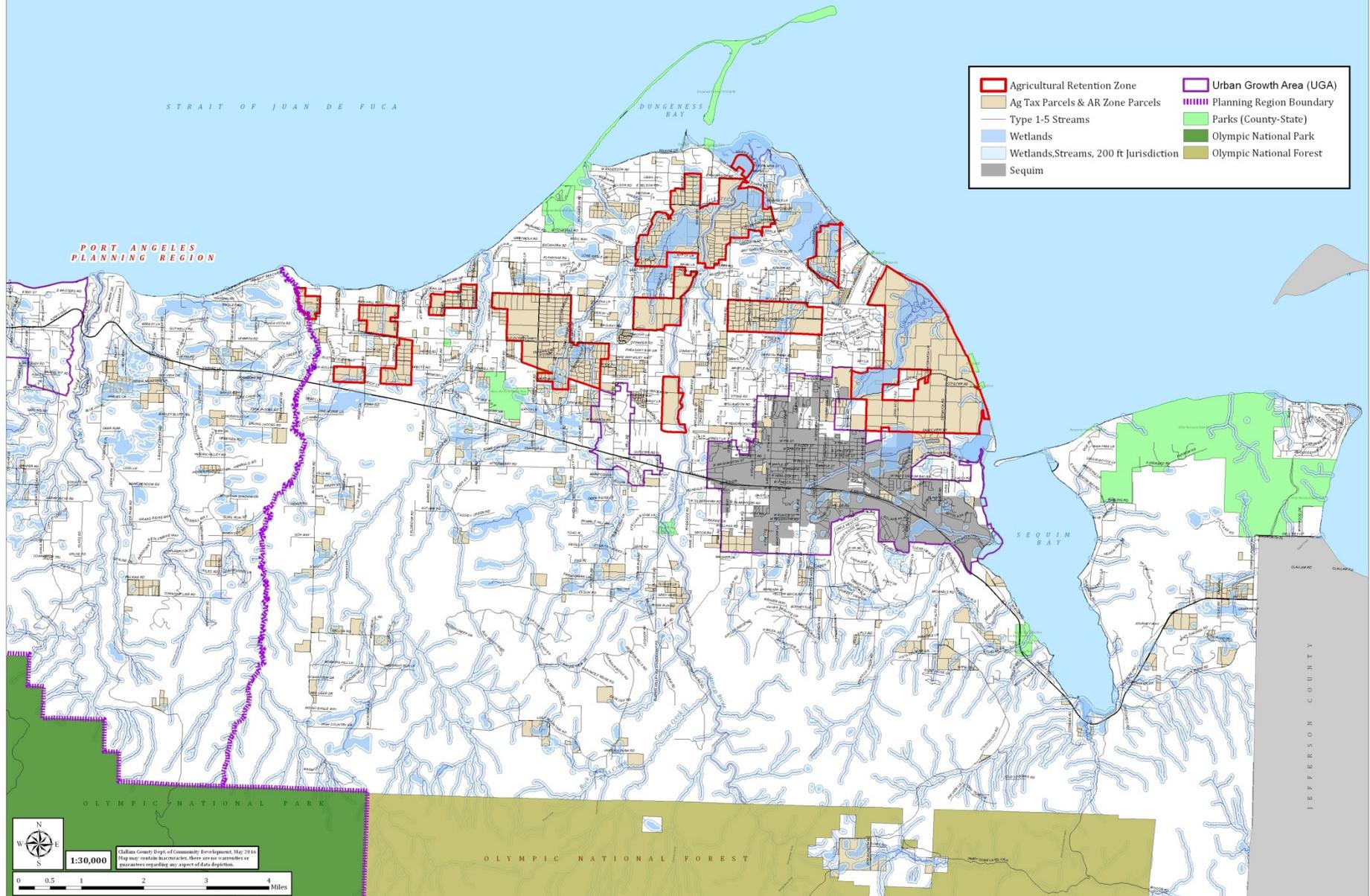


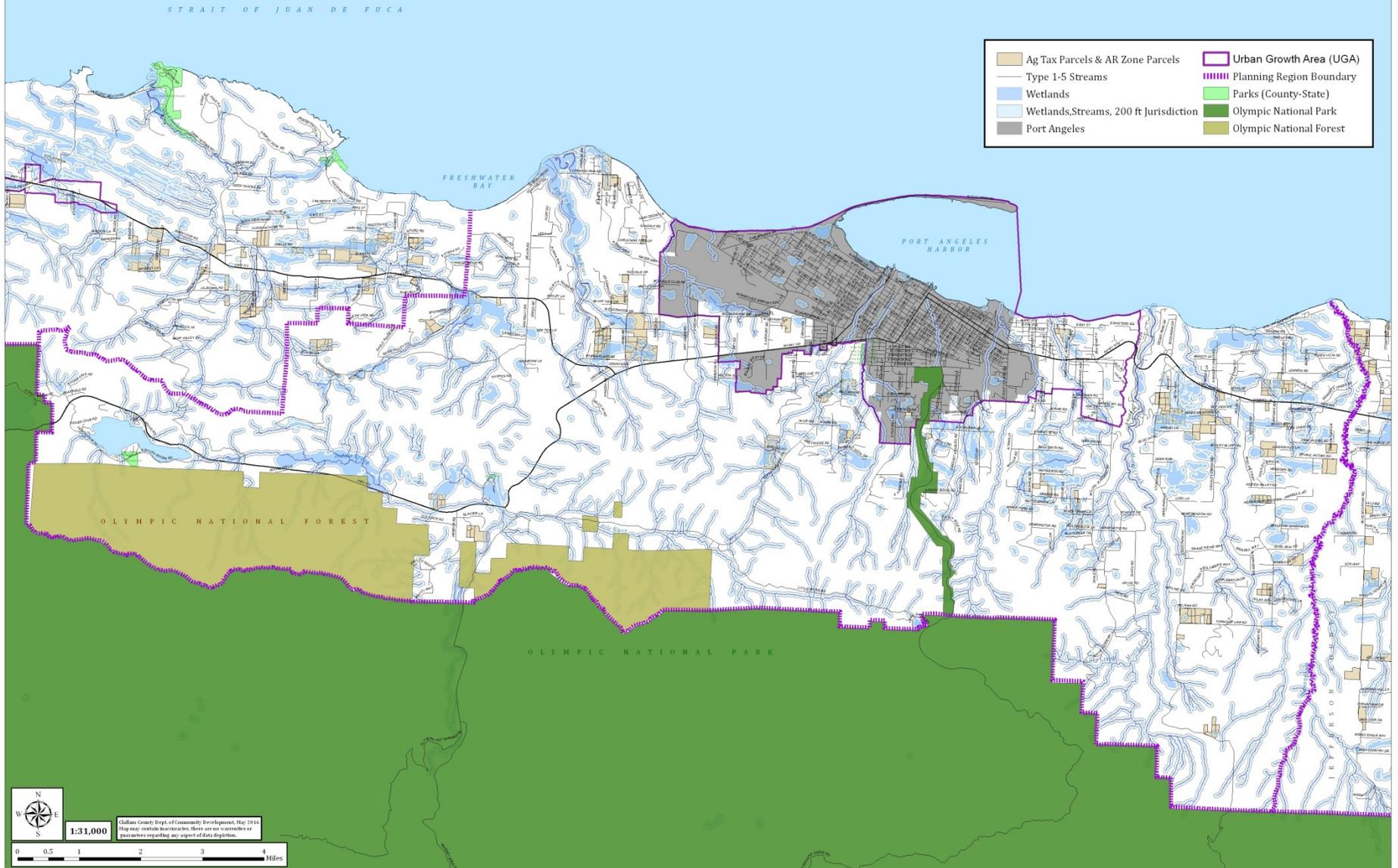
Figure 4



Agriculture Tax Parcels & Agricultural Retention Zone Sequim Dungeness Planning Region



Agriculture Tax Parcels Port Angeles Planning Region



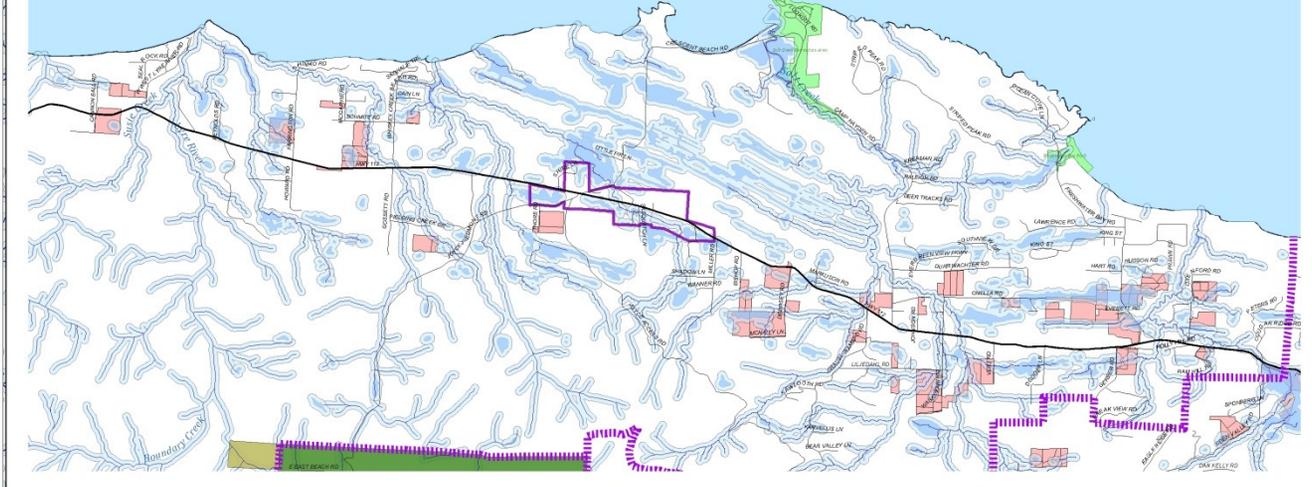
Agriculture Tax Parcels Straits Planning Region

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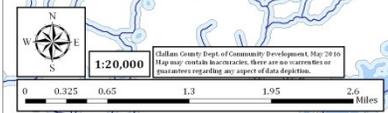
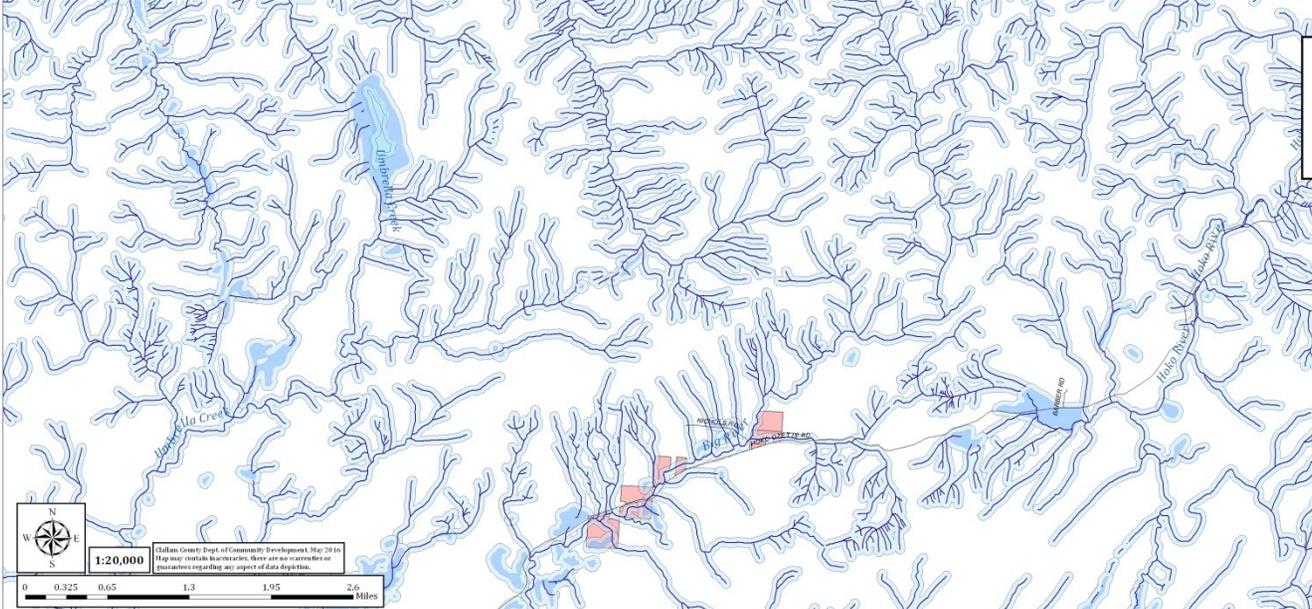
CLALLAM BAY / SEIKU

1:25,000

Joyce



- Ag Tax Parcels & AR Zone Parcels
- Type 1-5 Streams
- Wetlands
- Wetlands, Streams, 200 ft Jurisdiction
- Urban Growth Area (UGA)
- Planning Region Boundary
- Parks (County-State)
- Olympic National Park
- Olympic National Forest



Clallam County Dept. of Community Development, Map 28-89
Map may contain inaccuracies. There are no warranties or assurances regarding any aspect of this depiction.

Agriculture Tax Parcels Western Planning Region

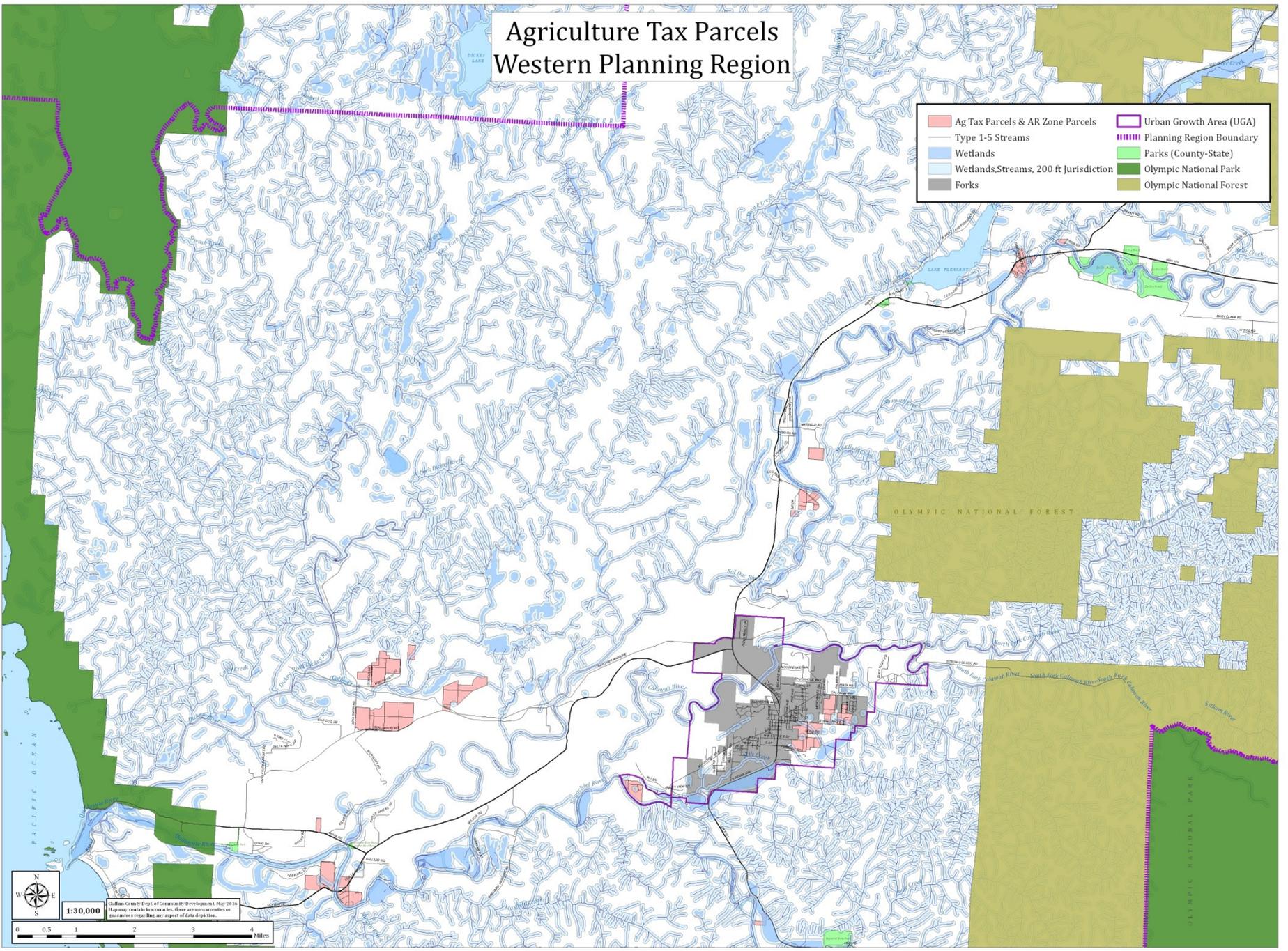
- Ag Tax Parcels & AR Zone Parcels
- Type 1-5 Streams
- Wetlands
- Wetlands, Streams, 200 ft Jurisdiction
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 Skagit County Dept. of Community Development, May 2010

This map contains inaccurate, false or no information or guarantees regarding any aspect of data depicted.

Summary of proposed update to the critical area regulations for existing and on-going agriculture

Proposed update would only apply to agricultural operations that meet the following criteria:

1. Have been in Ag since 1992;
2. Have not ceased in Ag use for 5 consecutive years;
3. Are located within Aquatic Habitat Conservation Areas (AHCA) – (i.e. DNR Type 1 to 5 waters), wetlands, or their associated buffers;
4. Are located within Agriculture Retention Zoning District or in the Agriculture taxing program.

The proposed update to the Critical Area Ordinance (CAO) is intended to make sure that the existing & on-going ag under this proposed section does not cause harm or degradation to the existing functions & values of the streams, wetlands, or their associated buffers. This proposed section does not require the streams, wetlands, or their associated buffers to be restored or enhanced.

Most Ag use is considered Minor Development

The CAO indicates that agricultural activities (excluding dairies and feedlots) are considered Minor Development per Section 27.12.900(39)(b) CCC. This section defines minor development for agriculture to be “Construction and practices normal and necessary for agriculture, including agricultural service roads and utilities, construction of an agriculture building less than 4,000 square feet in size used exclusively for agriculture.”

Table 5. Wetland Buffers Section 27.12.215(1)(a) CCC

	Major New Development	Minor New Development
Class I	200 feet	100 feet
Class II	150 feet	75 feet
Class III	75 feet	50 feet
Class IV	50 feet	25 feet

Table 6. Aquatic Habitat Conservation Area Buffers Section 27.12.315(1)(a) CCC

Designation	Buffer Width for Major New Development and Land Divisions*	Buffer Width for Minor New Development**
Type 1 Waters – Marine, Streams and Lakes	150 feet	Equivalent to the setback set forth by the Shoreline Master Program, as it applies and as hereafter amended***
Type 2 Waters	150 feet	65 feet
Type 3 Waters	100 feet	60 feet
Type 4 Waters	50 feet	50 feet****
Type 5 Waters	50 feet	50 feet****

* Buffers shall be measured from OHWM as specified above, and shall also extend to the outer edge of any associated frequently flooded area.

** Buffers shall be measured from the required measurement from the OHWM as specified above

*** Except for the Dungeness River which shall be a minimum of seventy-five (75) feet.

**** Buffers may be reduced down to a minimum twenty-five (25) feet through the buffer averaging process set forth under CCC 27.12.730.

Purpose of the Update to the Critical Area Ordinance

We are updating our Critical Area Ordinance section on the exemption for existing & on-going Ag in Critical Areas. After we adopted our **interim** critical areas ordinance in 1992 we adopted our Critical Area Ordinance (CAO) in 2000. The initial CAO exempted all existing & on-going agriculture. This was challenged before the Growth Management Hearing Board (GMHB).

In 2001 we adopted new language in the CAO Exemption Section 27.12.035(7) that stated:

Existing Critical Area Ordinance Section 27.12.035(7) CCC

“Existing and ongoing agriculture that was conducted prior to the effective date of this chapter on lands designated as critical areas or their associated buffers; provided, that such lands are classified as farm and agricultural land pursuant to Chapter 84.34 RCW; provided further, that all activities occurring on such lands employ best management practices (BMPs). For the purposes of this exemption, acceptable BMPs shall include: (a) activities carried out consistent with farm plans issued and authorized by the Natural Resources Conservation Service (NRCS); (b) activities that demonstrate consistency with total maximum daily loads (TMDL) established by the Department of Ecology for specific operations; and/or (c) activities that demonstrate consistency with standard BMPs published by the NRCS, as now or hereafter amended. Written confirmation by the administering agency that applicable BMPs are being met will constitute evidence of eligibility for this exemption. (See also CCC 27.12.025(7)).”

Purpose of the Update to the CAO Exemption of Existing & On-going Ag

The previous Section 27.12.035(7) CCC is still in effect today.

This section was also challenged before the Growth Management Hearing Board (GMHB). Before this issue was resolved in 2006, the legislature placed a moratorium on updating the critical area regulations on agriculture. This lasted until 2011 when the legislature amended the Growth Management Act (GMA) to allow Voluntary Stewardship Plans (VSP). Clallam County did not adopt VSP.

In 2012 the GMHB initially found our Critical Areas exemption compliant with the GMA but this decision was challenged to the Court of Appeals that ultimately found our Critical Area exemption for Ag did not comply with GMA.

In July 2015 the GMHB issued a 6 month compliance schedule and we have received three 90 day extension of time.

Progress DCD Made in Update CAO Exemption on Existing & On-Going Ag

March 16, 2016 - Workshop with Planning Commission. Draft definitions and Ordinance presented.

May 10, 2016 - Website on County website for CAO update to Ag Exemption. Provides draft documents, background, and public participation opportunities.

May 10, 2016 - DCD sends out approximately 800 mails to Ag owners in Ag Retention Zone and in the Ag Taxing program.

May 8, 2016 & June 8, 2016 - articles in Sequim Gazette on CAO ag Exemption update.

May 24, 2016 - Workshop held at Dungeness School House in Sequim. DCD & Clallam Conservation District give presentation and answer questions. Attended by approximately 30 people.

May 26, 2016 - Workshop held at DNR facility in Forks. DCD & Clallam Conservation District (CCD) give presentation and answer questions. Attended by 13 people.

With the exception of comments received from CCD dated May 26, 2016, DCD has not received any substantive comments from agencies or the public.

CCD main issues with the May 10, 2016 draft Ordinance was that it should state the expected outcome not how to achieve it. They also had concerns regarding the complexity, implementation, and enforcement of this ordinance. The June 9, 2016 draft ordinance was developed to address the CCD concerns since they are a key partner in providing technical assistance and in the implementation of these standards. DCD is responsible for the review & approval of plans and enforcement of the ordinance.

Proposed Existing and on-going agriculture exemption in Critical Area Code Section 27.120.035(7):

27.12.035(7) Existing and on-going agriculture as defined in Section 27.12.900 CCC, including related development and activities which do not result in expansion into a critical area or its buffer and which do not result in significant adverse impacts to a critical area or its buffer; provided, that such activities comply with the provisions of Section 27.12.037 CCC.

New agricultural activities, expansion of existing agricultural activities or development not meeting the definition of existing and on-going agriculture (per Section 27.12.900) shall comply with both the substantive and procedural provisions of this Chapter.

New Definition Existing and On-going Agriculture

27.12.900 – “Existing and on-going agriculture shall include those lands that have been used for agriculture since June 16, 1992 and have not ceased use for agriculture for more than 5 consecutive years at any one time. The changing the type of agricultural activities being conducted on lands meeting the definition on existing and agriculture is not considered new or expansion of existing agricultural activities. In addition, the parcels are required to be located within the Agricultural Retention Zoning District or meet the criteria of the Washington State Open Space and Agricultural Current Use Program RCW 84.34.020(2)(b) and (c). Agricultural activities that meet the definition of existing and on-going agricultural activities on farmed wetlands, farmed wetland pastures, and prior-converted wetlands are allowed to continue and shall comply with the Best Management Practices outline below to the maximum extent practicable. Agricultural that meet the definition of existing and on-going agricultural activities shall be subject to the provisions of CCC 27.12.037.

Summary of Key Changes from May 10, 2016 to the latest June 9, 2016 Proposed Section 27.12.037

1 – Purpose: Protect Functions & Values Streams & Wetlands & Conserve Ag lands (same as 5/10/16 version).

2 – Section on applies Existing & on-going ag within Streams, wetlands & associated buffers (minor edits from 5/10/16 version).

3 – Ag only responsible for their actions not others or natural conditions (simplified).

4 – The 5/10/16 draft has Performance standards BMPS. The 6/9/16 draft has a risk assessment table.

Low risk Ag activities - Compliant with this section.

Medium risk Ag Activities - Likely compliant unless documentation that Ag is causing harm or degradation to streams, wetlands & associated buffers.

High Risk Ag Activities – Require Farm Conservation Plan

1. Livestock Waste Management

Rating Item	Low Risk	Medium Risk	High Risk
1. No On-Farm Storage	Manure collected from pasture and confinement areas for proper storage and use.	Year-round pasturing or daily spreading of livestock wastes.	Livestock wastes not collected or spread.
2. ON-FARM STORAGE	Manure pile covered (rainfall and runoff diverted) and stored on a solid base (preferably concrete).	Manure partially covered; on slightly permeable soils; runoff diverted to filter strip (grassy/vegetated areas).	Manure not covered; runoff not collected.
3. STORAGE LOCATION	Manure pile located more than 200 feet from wetlands, streams or open irrigation ditches.	Manure pile located 100 to 200 feet from wetlands, streams, or open irrigation ditches.	Manure Pile located within 100 feet of wetlands, streams or open irrigation ditches.

2. LIVESTOCK CONFINEMENT AREA MANAGEMENT ENVIRONMENTAL RISK ASSESSMENT

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
1. PROXIMITY OF CONFINEMENT AREA TO SURFACE WATER	Confinement Areas more than 200 feet from wetlands, streams, or open irrigation ditches.	Confinement Areas 100 to 200 feet from wetlands, streams, or open irrigation ditches.	Confinement Areas less than 100 feet from wetlands, streams, or open irrigation ditches.
2. LIVESTOCK WATER SOURCE	Stock water in troughs (overflow from tanks kept clean, diverted into drywell, grassy area, etc.) on paved or protected areas.	Controlled livestock access to streams, open irrigation ditches, wetlands, and ponds.	Livestock use unrestricted access to wetlands, streams, or irrigation ditches for stock water.
3. SURFACE WATER DIVERSION	All surface water and roof runoff water is diverted away from confinement area. Fully covered (roof) or runoff from surface area diverted to waste storage area.	Most surface and roof run-off diverted around confinement areas. Manure collected regularly. Runoff directed to filter strip (grassy/vegetated areas).	Most surface and roof run-off runs through confinement areas. Manure is not/rarely collected.
4. CLEANING and SCRAPING	Manure collected regularly (every 1-3 days) and stored in a dry, covered location.	Manure cleaned at least quarterly, monthly during rainy season.	Manure not/rarely cleaned.
5. FOOTING IN CONFINEMENT AREA	Area is not/rarely muddy. Proper footing allows year round access for regular cleaning and maintenance.	Area has well-drained soils, but mud during winter months, makes manure removal/maintenance difficult.	Poor footing (native soil) and area cannot be cleaned because of mud.

(3) PASTURE AND CROP MANAGEMENT

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
1. STOCKING RATE	Stocking rate managed to balance forage availability with livestock needs.	Stocking rate exceeds pasture production up to 50% of growing season.	Stocking rate exceeds pasture production majority of growing season.
2. PASTURE & SOIL CONDITION	3-4" minimum stubble height in pasture and adjacent to open water. Greater than 100% grazable forage.	2-3" minimum stubble height in pasture and adjacent to open water. At least 80% grazable forage. Less than 20% bare ground. Some soil compaction evident. No noxious weeds or poisonous plants.	Less than 2" minimum stubble height in pasture and adjacent to open water. Less than 80% grazable forage. Greater than 20% bare ground with compacted soil. Noxious weeds or poisonous plants present.
3. FERTILITY MANAGEMENT	Fertilizer or manure applications based on soil or plant tissue tests.	Crop nutrients (both organic and inorganic) applied at agronomic rates and times recommended for each crop during growing season.	Manure spread within 50 feet of streams or open ditches. Liquid manure applied on bare, frozen or snow-covered ground, or saturated soil from October 31 to March 1.
4. FARM CHEMICALS (pesticides, insecticides, & herbicides)	Farm chemicals used as part of an integrated management plan, including record keeping.	Applied consistent with the chemical container labels and all applicable Federal and State laws and regulations.	Measures rarely or never taken to control pests or weeds. Chemicals used without following guidelines and within 50 feet of open water.
5. SEASONAL MANAGEMENT	Livestock excluded from pastures while soils are saturated or forage is dormant.	Livestock allowed on well-drained pasture in winter, but excluded from seasonally wet areas.	Livestock allowed year-round free range throughout pasture.

(4) WATER FEATURES (STREAMS, OPEN IRRIGATION DITCHES, PONDS, AND WETLANDS).

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
1. Livestock Access	Livestock do not have access to above referenced water features. Vegetated buffers are 50 feet or greater in width.	Livestock do not have access to the above referenced water features. Vegetated buffers are 35 to 50 feet in width.	Livestock have unrestricted access to the above referenced water features. Vegetated buffer width less than 35 feet in width.
2. STREAM CROSSINGS	Animals do not have to cross stream or open irrigation ditch, or livestock use crossings, such as a culvert or bridge, that does not impact the stream.	Livestock infrequently cross streams or open irrigation ditch at one, controlled location. Minimal damage to stream banks and stream channel.	Livestock cross the stream and open irrigation ditch on a regular basis.
3. RIPARIAN AREAS	Healthy riparian buffer of native trees and shrubs at least 50 feet in width.	Buffer consisting of only grass or other herbaceous plants or riparian buffer of native trees and shrubs 35 to 50 feet in width. May include 15 foot wide Hedgerows.	Riparian buffer less than 35 feet in width. Above referenced water features have bare and exposed soil.
4. WATER QUALITY	Above referenced water features appears clean and is not subject to frequent algae blooms.	Above referenced water features sometimes appears murky, especially after storms, periodic algae blooms.	Above referenced water features exhibits poor water quality, such as frequent algae growth and murkiness.

Summary of Key Changes from May 10, 2016 to the latest June 9, 2016 Proposed Section 27.12.037 (continued)

5. Instead of custom plan in 5/10/16 version the 6/9/16 version has compliance requirements.

If monitoring data or complaint investigation indicate Ag regulated under this section cause harm or degradation to AHCA, Wetlands, or buffers then risk assessment required.

(continued) If risk assessment determines medium risk Ag activity is causing harm or degradation then Best Management Practice (BMP) Plan required to be submitted to DCD for specific issue of concern. These would be based on USDA Natural Resource Conservation District Field Office Technical Guides (FOTG).

If risk assessment determines high risk Ag activity then Ag Operation would be required to submit Farm Conservation Plan.

Both plans are encourage to be prepared by Conservation District and would submitted to DCD for review and approval.

6. This section would have the baseline, monitoring and adaptive management section (minor changes from section 9 of 5/10/16 draft). Sections 7, 8, & 9 from 5/10/16 version were moved or eliminated from 6/9/16 version.