EXHIBIT B

'Critical Mass' in Whatcom County

Key Findings

- 100,000 acres of farmland targeted for long-term protection under the 1997 Comprehensive Plan through Ag & APO Zoning
- In 1994, 116,473 acres fell within the Ag & APO Zone
- In 2002, 108,305 acres of land fall within the Ag & APO Zone
- 18,863 acres of farmland exist outside of the Ag & APO Zone, and are essentially unprotected

Historical Acreage Amounts

The amount of reported agricultural acreage within the County has demonstrated a significant decline since the 1950's. While no indication is given of how the 1949 figure was arrived at, the 1991 and 1994 figures are based upon acres enrolled in the County's preferential agricultural open space taxation program. The 2002 figure is based upon land enrolled in the County's preferential agricultural open space taxation program AND a land use designation.

	Reported Farmland Acreage
1949	*200,000 acres*[1]
1991	*152,602 acres*[2]
1994	*139,680 acres*[3]
2002	*128,423 acres*

'Critical Mass'

The 1997 Whatcom County Comprehensive Plan (Plan), within the Agricultural Lands section, notes: *"Agricultural viability is dependent upon…a large fertile land base. Erosion of the farmland base has been recognized as a national and local problem."*[4] Goal 8-A suggests protection strategies that *"Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber*."[5] This reference reflects the commonly held belief of experts in the farmland preservation field that a certain amount of acreage must be available for cultivation in order for the agricultural enterprise within a community to remain viable and successful into the future. In support of these principles, "the Council found that **100,000 acres** in large parcels was an important target to conserve and protect agricultural lands needed for long-term agriculture"[6].

Policies to Preserve 'Critical Mass'

The 1997 Plan recommends the use of two techniques to achieve the **long-term protection of 100,000** acres of large-parcel farmland within the County. The first of these, Agricultural Zoning, the most restrictive protection category, was to provide for the protection of some 88,473 acres.

A new zoning overlay category, the Agricultural Protection Overlay (APO) was also introduced. APO *"recognizes that agriculturally important soils may lie outside existing agricultural zoning, and provides a mechanism for conserving these soils for agricultural use…"*[7]. The APO zone, which covers approximately 28,000 acres, is supposed to limit the further fragmentation of farmland parcels over 20 acres in the R-5 and R-10 zone by requiring 'cluster' development on 20% of the parcel (30% under exceptional circumstances) with the balance reserved for agricultural use.[8]

> "The County thus committed through its comprehensive plan to protecting about **100,000 acres** in long-term large lot commercially productive agriculture, using the agriculture and agriculture protection zone as the primary devices to accomplish the objective."[9]

In addition to the APO designation, three additional mechanisms were meant to provide shorter-term protection to farmland: flood hazard lands upon which development is severely limited (the rationale for this designation is uncertain), preferential agricultural tax designation (this acreage total refers to land with no other form of protection, such as Ag or APO zoning); and right-to-farm legislation. These techniques offered only a **minimal** level of protection to approximately 26,000 acres of agricultural resource land. Agriculture Zoning (Ag & APO) is the most protective regulation, and was meant to secure the long-term future of **100,000 acres** of large parcel farmland.

	1994 Acreage Protected[10]
Agriculture Zone	*88,473 acres**
Agriculture Protection Overlay Zone	*28,000 acres*
Long Term Protection	**116,473 acres (approx)**
Preferential Agricultural Tax (AG/OS)	*25,000 acres***
Flood Hazard Lands	*500-1,000 acres****
Short Term Protection	**26,000 acres (approx)**

*see note above **sole form of protection for this acreage, however this tax designation covered 139,000 acres in total ***rationale for this designation uncertain

Current Status of Identified Critical Mass
Loss of farmland has slowed considerably since the mid-1990's. 139,680 acres existed in 1994, with 128,423 acres in 2002.

88,473 acres are currently within the Ag Zone. Approximately 19,832 acres are within the APO Zone. Thus, of the 100,000 acres identified by the County as important and protected under the previously mentioned policies, approximately 108,305 acres remain protected under the Ag & APO Zone. In 1994, 116,473 acres fell within the Ag & APO Zone.

18,863 acres of land outside of the Ag & APO Zone, protected only by the Preferential Agricultural Tax (Ag/Open Space). 1,494 acres of current-use agricultural land fall outside of the Preferential Agricultural Tax (Ag/Open Space) designation, and are essentially without any form of protection. These two categories, taking in 20,357 acres of land, represent the agricultural acreage in Whatcom County most threatened by conversion.

2002 ACREAGE AMOUNTS	**Designated Acreage**
Agriculture Zone	88,473
Agriculture Protection Overlay Zone	19,832
Long Term Protection	***108,305***
Preferential Agricultural Tax (AG/OS)	18,863
Flood Hazard Lands	Not Applicable*
Short Term Protection	***18,863***
Land Without Any Form of Protection	**1,494**

*Rationale and data for this designation not found

OPEN SPACE AG 8300-8390
Acreage by Zone **D R A F T**

Zone	Acres of OSAG Class.	Percent of Total OSAG Class.	Acres - Total Zoning Desig.	Percent of OSAG in Total Zoning Desig.	Acres of AG Land Use - Not OSAG
AG	67,592	56.43%	88,473	76.40%	2,187
R5A	26,189	21.86%	81,192	32.26%	3,486
R10A	12,506	10.44%	27,572	45.36%	1,519
HII	1,952	1.63%	6,697	29.15%	23
CITY	3,138	2.62%	28,908	10.86%	239
UR3	1,951	1.63%	5,441	35.86%	108
LII	1,184	0.99%	2,907	40.72%	107
RRI	635	0.53%	2,598	24.46%	0
RF	1,227	1.02%	35,964	3.41%	168
R2A	999	0.83%	5,216	19.16%	107
UR4	744	0.62%	8,545	8.70%	310
RR1	487	0.41%	4,280	11.38%	131
RR2	322	0.27%	4,588	7.02%	2
GC	360	0.30%	749	48.00%	4
CF	202	0.17%	186,949	0.11%	18
URM6	132	0.11%	1,440	9.17%	0
ROS	31	0.03%	4,680	0.67%	230
UR-MX	126	0.10%	1,669	7.52%	0
NC	8	0.01%	219	3.43%	0
GI	0	0.00%	0		13
RR3	0	0.00%	0		34
	119,784	**100.00%**	**498,087**		**8,639**

Source: WCPD GIS - AG. Zone
WC Assessor/WCPDS GIS

The following is a summation of the findings of the Western Washington Growth Management Hearings Board, in the case of Wells vs. Whatcom County, upon which the critical mass acreage amounts of this paper are predicated. It summarizes nicely bot the case and the actions Whatcom County to protect the critical mass of agricultural acreage it identified through the Comprehensive Plan Process.

The County designated approximately 100,000 acres as agricultural lands. This designation consists of 88,000 acres in the Agricultural Zone. The County assumes ten percent of this acreage will be lost to "environmental constraints" and "necessary urban encroachment," leaving approximately 80,000 acres available for long-term conservation. Another 28,000 acres available for long-term conservation is included in the Agricultural Protection Overlay Zone, which applies to certain rural zoned lands. Residential development is permitted in the overlay zone, but DRs emphasizing protection of open space for agricultural production restrict how development can occur.

Petitioner Wells argues there is between 118,136 and 139,680 acres of agricultural land in Whatcom County. Based on this range of acreage, Wells asserts the County is not conserving sufficient land for agriculture. However, Wells does not explain how the acreage she identifies correlates to agricultural lands of long-term significance within the meaning of the GMA.

Petitioner Wells argues that the overlay zone does not conserve agricultural lands in the "long-term," where CP Policy 8A-1 asserts a "long-term" planning horizon of 250 years. Altering the overlay zone will require amendment to the County's CP and DRs. Petitioner Wells also argues that the development densities allowed in the overlay zone far exceed the densities allowed in the Agricultural Zone. "Permitted densities should be significantly reduced if the overlay zone is to achieve a long-term conservation outcome similar to Agricultural zoning." Petitioner Well's Brief, at 10. The County asserted that it did not create the overlay zone to provide identical protection provided by the Agricultural Zone; the two zones act in concert to conserve the County's agricultural lands of long-term significance.

In order to comply with the provision of RCW 36.70A.020(8), the County must require those using the overlay development provisions to reserve the balance of land for long-term agricultural use rather than the current provisions which constitute a holding pattern for future sprawl. It must ensure that resultant development does not constitute inappropriate growth nor threaten the long-term commercial viability of remaining farmland, and only removes a small percentage of the land from ongoing long-term agricultural usage. The overlay provisions are clearly erroneous and do not comply with the Act.

Aside from the overlay provisions, Petitioners have not definitely and firmly convinced the Board the County made a mistake in adopting the agricultural provisions of its CP or DRs. Except for the overlay provisions, the agricultural lands provisions comply with the Act.

From Wells vs. Whatcom County, http://www.gmaboards.wa.gov/western/western_decisions/ww1997/97-30cfinalorder..htm

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[1] Whatcom County Comprehensive Plan, May 1997, 8-5.
[2] Whatcom County Comprehensive Plan: Environmental Impact Statement, Existing Conditions Report, p. 80.
[3] Whatcom County Comprehensive Plan, May 1997, 8-5.
[4] Whatcom County Comprehensive Plan, May 1997, 8-6.
[5] Whatcom County Comprehensive Plan, May 1997, 8-6.
[6] Whatcom County's Response Brief, p. 15.
[7] Whatcom County Comprehensive Plan, May 1997, 8-4.
[8] Whatcom County's Response Brief, p. 13 & 15.
[9] Whatcom County's Response Brief, p. 10.
[10] Whatcom County's Response Brief, p. 10.