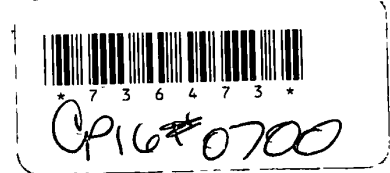


O'Donnell, Mary Beth

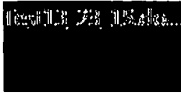
From: Orjiako, Oliver
Sent: Wednesday, March 25, 2015 1:46 PM
To: Euler, Gordon, Anderson, Colete, Alvarez, Jose, Albrecht, Gary, Hermen, Matt, Kamp, Jacqueline, Lebowsky, Laurie, McCall, Marilee, O'Donnell, Mary Beth
Cc: McCauley, Mark
Subject: Test13_23_15 docx



All:

Attached, please find the draft preliminary assessment of Alternative 4 that was presented to Councilor Jeanne today. I thank you all for the brainstorming and for your edits. We will put the upcoming open houses behind us soon and onwards with the SEPA review. Thanks.

Oliver



Memorandum

TO: Councilor Jeanne Stewart
FROM: Oliver Orjiako, Director, Community Planning
DATE: March 25, 2015
SUBJECT: Draft Preliminary Assessment of the proposed Alternative 4 – Resource and Rural Land Use changes

Purpose

The purpose of this memorandum is in response to Councilor Stewart for staff analysis of the proposed alternative 4. There was also a request for a risk analysis of how often county land use plans are challenged and the potential of another challenge if Alternative 4 were to be selected as a preferred alternative.

This memo will focus on land use implications. Issues relating to compliance with the Growth Management Act (GMA), consistency with state platting laws, and risk of potential challenge will be provided by legal staff.

Background

The Board adopted the county's first plan under the Growth Management Act in 1994. The Board at the time recognized the significant parcelization in Clark County as it wrestled with designating resource lands (agriculture, forest, and minerals). The 1994 plan was challenged for a number of reasons, but resource and rural zoning were ultimately found to be GMA-compliant. The comp plan was reaffirmed by the Board in both 2004 and 2007. The 2007 plan was challenged primarily because of the inclusion of a large amount of what had been agriculture in urban growth areas.

Assessment of Alternative 4

Alternative 4 would return the county to zoning that was in place prior to the 1994 comp plan and in some cases back to pre-1979 when the county's first comprehensive plan was adopted. The issue is whether proposed alternative 4 advances county land use forward or backward, that is, what has changed in rural Clark County that would require a return to pre-1994 zoning patterns? Many parcels were down-zoned with the adoption of 1994 plan, but there was virtually no change in allowable land uses. What was lost in many cases was the ability for property owners to subdivide.

The comprehensive plan is about community vision and forward looking. Alternative 4 as proposed takes the county back to the pre-GMA era. Alternative 4 is inconsistent with the Community Framework Plan and does not support county-wide planning policies

Land Use Issues

Alternative 4 has been touted as a way to “recognize” non-conforming lots. The county currently has a process to recognize lots that are non-conforming due to parcel size. There is nothing that can be done on a conforming lot in terms of land use that can’t be done on a similarly zoned non-conforming lot.

Non-conforming lots are recognized by Clark County through the Clark County Code (CCC) 40 530 Non-Conforming Uses, Structures and Lots. The purpose of this section is defined below

Lots, uses, and structures exist which were lawful when established but whose establishment would be restricted or prohibited under current zoning regulations. The intent of this chapter is to allow continuation of such nonconforming uses and structures. It is also the intent of this chapter to, under certain circumstances and controls, allow modifications to nonconforming uses and structures consistent with the objectives of maintaining the economic viability of such uses and structures while protecting the rights of surrounding property owners to use and enjoy their properties.

Since 1995, the county has issued 3,433 building permits in the rural area on legal non-conforming lots. 2,060 of those were not in recorded subdivisions or short plats, therefore not part of a cluster development that specifically allows undersized lots. That is an average of 100 building permits per year on legal non-conforming lots in the rural area

Alternative 4 will result in increased sprawl in the rural area and no longer provide a distinction between rural centers and the rural area. This is in direct contradiction to the GMA goals of encouraging growth in urban areas and of reducing sprawl by limiting the inappropriate conversion of undeveloped land into sprawling, low-density development (goals 1 and 2)

Evaluation of Potential rural vacant lots based on Alternative 4 land uses:

Under the current zoning there are about 9,122 total potential lots that could accommodate 24,450 persons using an average of 2.66 persons per household. Alternative 4 as proposed could yield between 16,858 and 17,321 total new lots depending on how it’s calculated. Using the same persons per household there is potential of between 44, 842 and 46,074 population in the rural area

Implications for preserving farm land and farming in Clark County

The proposal is inconsistent with the 1995 Growth Management Hearings Board decision in that it provides for no buffering to resource lands. Proximity of less than 5-acre zoning abutting or surrounding urban growth areas provides no incentive to develop in urban growth areas and would

result in “leapfrog” development. It would reduce the future opportunity for large acreage job producing land for future UGA expansions

A home site with AG-5 zoning does little to preserve or support farming in Clark County. While some argue that farming can be done on smaller lots, new home development tends to occur as the primary use of the lot, usually occurring in the center of the lot. This common site plan does not lend itself to farming for trade, but only for self-sufficiency. By not preserving traditional agriculture, Clark County is more likely to become dependent on foods grown outside the region. AG-5 zoning exists elsewhere, but such lots are not buildable.

The county just completed a contentious process to update its surface mining overlay map. The conversation focused on residential uses adjacent to mineral extraction. Adding smaller parcel sizes will increase the conflict with mineral resource extraction.

The proposed alternative 4 could be inconsistent with current planning efforts, i.e. Chelatchie Prairie Railroad development.

Potential Capital Facilities Issues

It is likely that the future of lands in this alternative will be toward the smallest parcel size. As a result, Alternative 4 will significantly increase population outside urban growth areas which will result in increased demand on the county road system, as well as demand for law and order, schools, water, required septic systems, etc.

If Alternative 4 becomes the preferred or adopted as the land use plan going forward, could increase in code enforcement, and may further increase the jobs-to-housing ratio.

Inconsistency with State Statute

Alternative 4 has the potential to legalize lots created illegally, which may be inconsistent with state platting rules.

Finally, GMA requires that ‘rural character’ be maintained via the Rural Element in the comp plan. Rural character refers to patterns of land use and development established by a county in the rural element of its comprehensive plan.

- (a) In which open space, the natural landscape, and vegetation predominate over the built environment,
- (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas,
- (c) That provide visual landscapes that are traditionally found in rural areas and communities;
- (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat,
- (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
- (f) That generally do not require the extension of urban governmental services, and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

In Summary

It is important to remain committed to statutory requirements when reviewing and updating the comprehensive plan. Alternative 4 does not contain or control rural development, in violation of GMA Goals 1 and 2. Alternative 4 as proposed, does not assure the visual compatibility of rural development with surrounding lands. It encourages low-density development in the rural area. It does not protect natural resources, instead it increases demand on groundwater resources by increasing the need for wells. It increases impervious surfaces and therefore increases stormwater impacts. Alternative 4 pressures agriculture, forest and mineral resource land to convert to residential. The proposed Alternative 4 contradicts the county's own definition of rural character.