

Schroader, Kathy



From: Wisner, Sonja
Sent: Thursday, November 19, 2015 2:18 PM
To: Schroader, Kathy
Subject: FW: Comments for the PC
Attachments: PA-Ltr-151118.pdf; PC-SEPA-Ltr-151119.pdf; Planning Commission-Ltr-151117.pdf; PC-Ltr-Assumptions-151119.pdf; Madore-Ltr-151119.pdf

Fyi and for the record

From: David McDonald [<mailto:david@mcdonaldpc.com>]
Sent: Thursday, November 19, 2015 2:16 PM
To: Wisner, Sonja
Subject: Comments for the PC

Here is what I ask to be put in record and sent to the Planning commission members--

Thanks Sonja

Best,

David

On Nov 19, 2015, at 1:52 PM, Wisner, Sonja wrote:

Yes, thanks everyone. I need it for our public record files.

From: Euler, Gordon
Sent: Thursday, November 19, 2015 1:49 PM
To: 'David McDonald'
Cc: Wisner, Sonja; Orjiako, Oliver
Subject: RE: Engage Clark County?

David:

For the sake of keeping some control over what is being sent to whom, please send whatever you'd like to go to the PC to Sonja (address above). She will forward it to PC members and copy you. We will never be able to maintain the record if we do this any other way.

As for today, please get us what you want forwarded ASAP. Otherwise, you'll need to bring it in person because there won't be time to copy it.

Thanks!

Gordy

From: David McDonald [mailto:david@mcdonaldpc.com]

Sent: Thursday, November 19, 2015 1:40 PM

To: Euler, Gordon

Subject: Re: Engage Clark County?

Could you send me the PC e-mail list. I am sure you are very busy and then I can send my materials directly to them

Thanks,

David

David T. McDonald
David T. McDonald, P.C.
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FRIENDS OF CLARK COUNTY
PO BOX 513
VANCOUVER, WASHINGTON 98666
friendsofclarkcounty@tds.net

November 18, 2015

Christine Cook
Chris Horne
Office of the Clark County Prosecuting Attorney, Civil Division
1300 Franklin Street
Vancouver, Washington 98660

Via pdf and e-mail

Dear Ms. Cook and Mr. Horne:

Both yesterday at the BOCC hearing and last night at the Open House, Carol Levanen called into question the use of two documents that were handed out by public citizens at the open houses. She stated, or at least implied, that the documents were false or fake. She repeatedly asserted that the documents were not public documents implying that the citizens handing out those documents were wrongfully undermining the public process. In fact, her comments at the BOCC hearing yesterday prompted remarks from Councilor Madore and Councilor Meilke that questioned the legitimacy of those documents implying that the distributors had created them out of whole cloth.

This letter is to officially correct the record by affirmatively stating that the documents that were distributed are public documents that were created by Councilor Madore, commented upon by both legal and planning staff and are available on the Planning Commission Grid. In addition, Councilor Madore admitted last night at the Open House that the distributed documents had been "redlined" by our County staff, both legal and planning. Therefore, this is to confirm that the November 3, 2015 and November 4, 2015 proposals created by Councilor Madore, and "redlined" by staff, are public documents that are posted on the Planning Commission Grid but had not been brought to the public Open Houses. You can find these documents

<http://www.clark.wa.gov/planning/documents/PlanningAssumptionChoicesdated2015-11-04.pdf>

and here

Ms. Christine Cook
Mr. Chris Horne
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<http://www.clark.wa.gov/planning/documents/StaffReport-PlanningAssumptions.pdf>

We would appreciate it if you would inform the Councilors that Ms. Levanen's remarks were in error as the documents are readily available as public documents. Thank for your attention to this matter and for placing these comments into the public record.

~~Thanks very much~~

~~David T. McDonald~~

~~On Behalf of Friends of Clark County~~

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November 19, 2015

Planning Commission Members
% Dr. Oliver Orjiako
Clark County Community Planning Director
1300 Franklin Street
3rd Floor
Vancouver, Washington 98660

Via pdf and e-mail to PC members

RE: SEPA

Dear Planning Commission Members:

This document asserts that the Planning Commission and the Board of County Councilors do not have jurisdiction, including but not limited to the taking of public testimony, to consider the proposal that was drafted by Councilor Madore and dated November 15, 2015 (Alternative #5) because to consider it at this juncture would violate SEPA and the "integrated" provisions of SEPA and GMA. FOCC formally requests that the Planning Commission hold a vote, prior to considering and/or taking public testimony on Alternative #5, as to whether or not the Planning Commission has the legal jurisdiction to consider Alternative #5.

BACKGROUND

The County originally adopted the 2007 EIS and, based upon several factors, determined that they need not conduct a full EIS for the current Comprehensive Plan update but rather prepare a supplemental EIS that would "supplement" the 2007 EIS. Based upon that determination, the County issued a Scoping Notice for 3 possible Alternatives, held public open houses on the scoping notices, finalized the 3 alternatives and, after unanimous consent by the Councilors (then Commissioners) last October 2014, the BOCC authorized submitting those Alternatives to the County's consultant, ESA, for the preparation of a draft SEIS. Neither Councilor Madore's Alternative #4 or what has

now become Councilor Madore's Alternative #5 were submitted to the public during the scoping process and Alternative #5 has never been subject to any environmental review.

The Planning process for the current Comprehensive Plan update began in July 2013 (Councilor Madore was elected in November 2012 and was a sitting member of the BOCC when the process began). The County adopted a planning process geared towards early and earnest public participation and early SEPA analysis. Staff developed, and presented to the Board of County Councilors, separate "policy papers" between July 2013 and July 2014¹

The County adopted a planning process, a public participation process, a VBLM analysis, employment forecasts, population and job projections and population and job allocations. Each of these steps was open for public comment and each step built upon the prior steps, as well as the adoptions of assumptions that were approved by the BOCC, including Councilor Madore. Most importantly, the County adopted a SEPA Scoping Policy with three proposed Alternatives. See [http://www.clark.wa.gov/planning/2016update/documents/Issue Paper 5 SEPA Scoping.pdf](http://www.clark.wa.gov/planning/2016update/documents/Issue_Paper_5_SEPA_Scoping.pdf) and set Open Houses *so the public could "comment on the scope of the impacts to be examined in the Supplemental Environmental Impact Statement"*. See [http://www.clark.wa.gov/planning/2016update/documents/Issue Paper 5 SEPA Scoping.pdf](http://www.clark.wa.gov/planning/2016update/documents/Issue_Paper_5_SEPA_Scoping.pdf) at page 3.

The Department of Ecology SEPA handbook discussed the need for early public participation in the Scoping process.² SEPA Scoping went out to the public at 4

¹ In July 2013, Clark County began updating its Comprehensive Growth Management Plan to meet the 2016 periodic update requirement of RCW 36.70A.140. Community Planning prepared the following issue papers to help the Board of County Commissioners make decisions about the update:

Issue Paper 1 - Comprehensive Plan Overview: A summary of the county's Planning Assumptions, 2013 vacant and buildable lands model (VBLM) inventory and population and employment projections.

Issue Paper 2 - Population and Job Projections: Background information for a discussion with the cities and the town of Yacolt on population and job planning assumptions for 2015-2035. On Jan. 21, 2014, the Board adopted the state Office of Financial Management's (OFM) medium population projection of 562,207 for the 20-year period ending 2035 (Res. 2014-01-09).

Issue Paper 3 - Employment forecast based on input from Washington Employment Security Department (ESD). It was revised as Issue Paper 3.1 to include the 2014 VBLM information. On April 29, 2014, the Board adopted the high employment forecast of 91,200 net new jobs for the 20-year period ending 2035 (Res. 2014-04-01).

Issue Paper 4 - Population and Job Allocation: On June 24, 2014, the Board identified the methodology for allocating growth by UGA and adopted preliminary allocations for initial review (Res. 2014-06-17).

This issue paper, Issue Paper 5, will discuss the environmental impact review process under the State Environmental Policy Act (SEPA) and seek Board direction on development of alternatives. See http://www.clark.wa.gov/planning/2016update/documents/Issue_Paper_5_SEPA_Scoping.pdf

² Including the public early in the EIS process is key to identifying public issues, establishing communication lines, and facilitating trust. Taking time up-front to plan how to involve the public and being responsive to the public's needs as the process proceeds can result in a more complete and accurate

Open Houses, including Vancouver, Camas, Ridgefield and Battle Ground in the summer of 2014. The County accepted comments and, based upon those comments, developed 3 Alternatives to be reviewed by the Public prior to being submitted to the consultant for evaluation of the Draft SEIS. On October 22, 2014, the staff presented three Alternatives to the BOCC³ for approval to be reviewed as part of the SEPA SEIS process. At the time, there was no opposition from any of the three commissioners including Mr. Madore to this process. During that meeting, planning staff showed the history back to the 1979 Comprehensive Plan and all of the pre-GMA lands, the 1994 plan and 2004. City representatives praised the work done by our staff and Dr. Orjiako requested the BOCC direct staff to forward the 3 Alternatives to be studied as part of the SDEIS process and the BOCC, with almost no questions of staff, gave their approval. See, <http://www.clark.wa.gov/thegrid/WS102214.MP3>⁴; http://www.clark.wa.gov/thegrid/documents/2014-1022_BOCC_WS_Alternatives.pdf.

Despite all of this public process, at a January 2015 Work Session, Councilor Madore allowed representatives of a special interest, self proclaimed private property rights group to meet with the Councilors and make their case to stop the process and create a new alternative. No other public group, or individual, was allowed to make their case. In my experience with almost 30 years in local land use planning, this move was unprecedented. At the end of that Work Session, the Councilors directed staff to direct ESA to stop work on the Draft SEIS and Councilor Madore began his work on Alternative #4.⁵

The chronological history of the development of Alternative #4 is the antithesis of the public work done by the County to that date. Councilor Madore first

document and a more satisfied public. Early involvement can also avoid later pitfalls and unnecessary delays.

SEPA requires agencies to involve the public during:

1. The "scoping" period, where agencies, tribes, and the public are invited to comment on the range of alternatives, areas of impact, and possible mitigation measures that should be evaluated within the EIS; and
2. The draft EIS review period, where comments are requested on the merits of the alternatives and the adequacy of the environmental analysis.

Agencies are encouraged to think beyond regulatory requirements in determining how best to inspire public participation and create interagency cooperation. Agencies may enhance the required involvement opportunities or add to them, as the proposal warrants. For example, under "expanded scoping," [WAC 197-11-410] SEPA suggests several methods for enhancing public involvement beyond the basic requirements.

³ All of the cities were also present at this meeting and gave great praise to county staff.

⁴ Madore seemed to be opposed to the residential development in the Ridgefield request for the residential expansion but that was one of his only stated objection to allowing the three Alternatives to go forward to the DSEIS process.

⁵ According to public records, ESA had completed the Preliminary Draft SEIS and it actually got submitted to the County but despite that fact, they were told to stop work and the process was stalled so that Mr. Madore could start work on a new Alternative.

worked with a non-planning staff member who, like Councilor Madore, has no background in planning. He developed the first Alternative #4 but the self-proclaimed property rights group rejected that Alternative. Councilor Madore then, totally on his own with no input from staff, developed what is now Alternative #4. ***The County failed to conduct another scoping hearing on this Alternative but simply included it into the SEPA process already being undertaken.*** Therefore neither Alternative #4 nor the new Alternative #5 (which is still apparently a work in progress) were a part of the scoping process. In addition, as set forth below, there has not even been an initial threshold determination, much less an environmental checklist, conducted on the new Alternative #5.

In July 2015, the consultants began issuing chapters of the *Preliminary Draft SEIS* and those chapters were given to the Councilors. According to public records posted on the County's website, Councilor Madore, at the request of CCCU member Susan Rasmussen, began to have direct contact with the consultant. In addition, Ms. Rasmussen also contacted the consultant. To my knowledge, no other member of the public or the Council tried to directly influence the decisions being made by ESA.

The public provided comment up to the September 17, 2015, which included 2 joint sessions of the BOCC and the PC. On September 17, 2015, during a 4-hour hearing, the PC voted on and adopted a recommended Preferred Alternative. In your deliberations, you rejected all up zoning in the rural area as set forth in Alternatives #2 and #4. In fact, the PC rejected all of the provisions of Alternative #4 in the recommended Preferred Alternative.

THE PROPOSAL: ALTERNATIVE #5

As with the Alternative #4, Councilor Madore readily admits that he is solely responsible for the development of this new Alternative #5⁶ and did so without any input from our experienced and seasoned planning staff or the public. Therefore, rather than working collaboratively with staff and the public to frame an alternative, have a SEPA scoping period for that Alternative and then allowing full comment on it before it is submitted for review in the SEIS, he simply has created another Alternative and expects the public to review and actively comment on it. Although it appears that the Council is no longer seeking review by, and input from staff, staff has had some chance (at least as to the 11/3/15 and 11/4/15 documents) to evaluate and critique Councilor Madore's Alternative #5 but the Councilor instructed staff to ***only*** provide his version of Proposal B without staff comments to the Open Houses that were held on Monday and Tuesday. The redline versions were handed out by members of the public.

⁶ Councilor Madore does not want to refer to it as "alternative #5".

Councilor Madore's Alternative #5 is not a passive, minor change but modifies, eliminates and adds to planning assumptions that have been developed over time, accepted by the past and present BOCCs and PCs and which are the foundation of all of the planning process we have engaged as a County since July 2013. His new Alternative #5 specifically rejects many, if not all, of the assumptions that have previously been studied, vetted by staff and the public and approved by the BOCC by resolution. None of his assumptions have been vetted excepted to a small extent by staff regarding two earlier versions of what will be before you tonight. <http://www.clark.wa.gov/planning/documents/StaffReport-PlanningAssumptions.pdf>.

Most importantly, the County put out a SEPA Scoping Paper (issue paper #5) in July 2014 that the citizens could comment on before the first 3 Alternatives were vetted in the SEPA process. Comments were taken and preserved. [http://www.clark.wa.gov/planning/2016update/documents/2014 SEIS-Comments-Report-by-Category-FINAL.pdf](http://www.clark.wa.gov/planning/2016update/documents/2014_SEIS-Comments-Report-by-Category-FINAL.pdf); <http://www.clark.wa.gov/planning/2016update/documents/All-SEIS-Comments-Compilation.pdf>. Neither Alternative #4 or Alternative #5 have ever been subject to the scoping requirements of SEPA and Alternative #5 has not been subject to a threshold determination, an environmental checklist or any environmental review.

SEPA

The current request to review Councilor Madore's private, personal Alternative #5 should not be allowed because has not complied with SEPA and the SEPA/GMA integrated rules. Under the Washington Growth Management Act, Clark County must prepare and adopt a comprehensive plan. The plan must be reviewed and revised periodically to show long range planning needs for estimated populations 20 years into the future, and a revised construction and capital facilities plan for 6 years into the future. The plans must be updated every 8 years.

SEPA regulations authorize GMA counties and cities to "integrate the requirements of SEPA and the Growth Management Act (GMA) to ensure that environmental analyses under SEPA can occur concurrently with and as an integral part of the GMA." WAC 197-11-210(1). "Environmental analysis at each stage of the GMA planning process should, at a minimum, address the environmental impacts associated with planning decisions at that stage of the planning process. Impacts associated with later planning stages may also be addressed". WAC 197-11-210(3).

SEPA and its implementing regulations require that the government conduct environmental review, through at least a threshold determination, for any proposal that meets the definition of an action. *Kucera v. Dep't of Transp.*, 140 Wash.2d 200, 214, 995 P.2d 63 (2000). The basic purpose of SEPA's command for environmental review is to require governments to fully consider environmental and ecological factors

when taking actions that significantly affect the quality of the environment. *King County v. Wash. State Boundary Review Bd.*, 122 Wash.2d 648, 659, 860 P.2d 1024 (1993). The Act requires that the environmental review *begin at the earliest possible time to ensure planning decisions reflect environmental values.* See WAC 197-11-055; WAC 197-11-406. Under SEPA, an agency is required to prepare a threshold determination and EIS at the earliest possible point in the planning and decision-making process. WAC 197-11-055(2). In this case, Alternative #5 which changes the foundation of the entire plan by changing the building blocks (planning assumptions) of the CP, must be scrutinized by an environmental threshold determination.

When an agency decides to use all or part of an existing SEPA document as part of a[n] ... EIS, the agency *incorporates* by reference all or part of the existing document into the EIS it is preparing. [M]aterial incorporated by reference becomes part of a new DEIS, object to independent review, circulation and other process requirements. See R. Settle § 15, at 211. These process requirements include the comment procedures required under WAC 197-11-500 *et seq.* See R. Settle § 15, at 211 n. 24.

WAC 197-11-600(4)(d) provides that existing documents *may* be used

(a) "Adoption," where an agency may use all or part of an existing environmental document to meet its responsibilities under SEPA. Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document; or

(b) "Incorporation by reference," where an agency preparing an environmental document includes all or part of an existing document by reference.

(c) An addendum, that adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document.

(d) Preparation of a SEIS if there are:

(i) Substantial changes so that the proposal is likely to have significant adverse environmental impacts; or

(ii) New information indicating a proposal's probable significant adverse environmental impacts.

However, in this case, the county adopted the 2007 EIS, which used as its basis, the same VBL analysis that has been rejected by Councilor Madore's assumptions in Alternative #5. In addition, the 2007 EIS is based upon many of the other planning assumptions that are being rejected, amended or modified by Councilor Madore's proposed Alternative #5. Therefore, any consideration of Councilor Madore's Alternative #5 would require a rejection of the use of the 2007 EIS and initiate an entirely new threshold determination, checklist and full EIS. The logic is simple, if the assumptions underlying the original environmental document are rejected in the new planning process, then that document cannot simply be adopted because it is based on assumptions that are now being eliminated from Alternative #5.

Even if the PC finds that changing the planning assumptions that formed the basis of the 2007 EIS does not require a new and full EIS (not merely a supplemental), at a minimum, Alternative #5 must go through environmental review as an addendum. WAC 197-11-625 provides that if the environmental review process is an addendum to a DEIS, then the document must be circulated to the recipients of the original DEIS. Here no opportunity has been provided to the public for commenting on the environmental aspects of this proposal. There has been no new environmental threshold determination. No environmental checklist has been provided and there has been no environmental review of this proposal upon which the public can comment. The Council cannot simply pick a proposal at this late date that has neither been subject to environmental scrutiny under SEPA, much less public comment under SEPA and GMA, to go forward as the preferred alternative for the FSEIS. To allow such folly would violate the letter and spirit of SEPA, GMA and the integrated process.

For the above reasons, we request that the PC hold a vote at the outset of the hearing and reject any consideration of the new Alternative.

Sincerely,



David T. McDonald
On Behalf of Friends of Clark County

FRIENDS OF CLARK COUNTY
PO BOX 513
VANCOUVER, WASHINGTON 98666
friendsofclarkcounty@tds.net

Planning Commission Members
% Steve Morasch
Clark County Community Planning
1300 Franklin Street
3rd Floor
Vancouver, Washington 98660

Via pdf and e-mail to PC members

Dear Planning Commission:

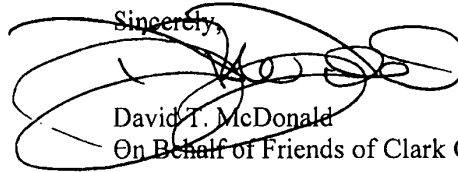
This letter is provide you with some of the specific comments made thus far by FOCC on the current Comprehensive Plan update. I know the record is large and I just wanted to ensure that you had our comments handy should you decide to continue to deliberate on the plan update at your scheduled hearing on November 19, 2015. Therefore, I have attached some of the comments that I have filed on behalf of Friends of Clark County. I intend to file some additional materials after I attend the open house tonight in Ridgefield.

Crafting comments to Councilor Madore's proposal (and the process by which it has been presented) is difficult, as the proposal set forth by Councilor Madore on October 20th has continued to morph over time. His November 3, 2015 proposal is different from his October 20th proposal. In addition, staff commented on his November 3, 2015 proposal and staff's comments are posted on your Grid. Councilor Madore then amended the November 3rd proposal (although it does not appear that he adopted any of staff's comments or responded to them but it is hard to discern as he simply adds or subtracts from the previous word document) and presented the new proposal dated November 4, 2015. He presented his November 4, 2015 proposal at the Work Session on November 9, 2015. Again staff commented on that document and the staff comments are now posted on your Grid.

However, Councilor Madore has now made additional changes to the proposal that was before you at the November 9, 2015 work session and has submitted a new proposal dated November 15, 2015. He presented that proposal for the first time last night at the Hockinson Open House. Staff has not commented on this proposal and, based on an e-mail obtained by the Columbian, it appears staff has been directed to not comment on the new proposal in any manner. Therefore, the last staff comments that the PC will be able to view regarding this proposal are the comments on the November 4, 2015 proposal that you had at the work session.

I hope staff, the Planning Commission Members and the Board of County Councilors find this to be of assistance as they weigh the issues in front of them.

Sincerely,

A handwritten signature in black ink, appearing to read "David T. McDonald", is written over the typed name. The signature is somewhat stylized and overlaps the text below it.

David T. McDonald
On Behalf of Friends of Clark County

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Planning Commission Members
% Oliver Orjiako
Clark County Community Planning
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Via pdf and e-mail to PC members

Dear Commissioners:

I have submitted multiple, detailed and lengthy documents and they are in the record regarding the history of GMA in this county, the current plan, specific reasons why Alternative #4 does not comply with state law, is inconsistent with specific provisions of the GMA, runs afoul of appellate court decisions and mandates and how our current plan is in full compliance with GMA. I have sent those to you by separate e-mail.

Regarding the (at least) fourth version of Councilor Madore's proposal. I want to emphasize that I doubt you will see any "redline" version by staff of this November 15, 2015 proposal as I detail below as Councilor Madore does not want to "confuse" the public. However, if you review the "redline" version of the November 4, 2015 version you will glean where the New Alternative proposed by Councilor Madore is incorrect and fails to show his work. Below are a few examples:

1. There is no support for the assumption that cluster development remainders will not develop:

Table 1 reference 1 B proposal from November 4 states:

Parcels that cannot reasonably be expected to develop should not be counted as likely to develop. Those include remainder lots of already developed cluster developments that are prohibited from further development.

Table 1 reference 1 B proposal from November 15 states:

These rural VBLM assumptions should be used not to

Planning Commission Members
% Oliver Orjiako
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reflect what is possible, but to reasonably plan for what is likely. Parcels that cannot reasonably be expected to develop should not be counted as parcels likely to develop. Cluster development remainder parcels that are known to be prohibited from further development should not be counted as parcels likely to develop.

These are two different assumptions and there is no explanation or detail as to why they are different. Plus the councilor directed staff as follows "*we do not wish for staff to change anything or go back and find every possible cluster remainder lot*".¹ It is unclear who the "we" is in this sentence but

The record fails to provide any planning methodology to support the proposal that "these rural VBLM assumptions should be used not to reflect what is possible, but to reasonably plan for what is likely", and legal staff commented:

These parcels have not been legally identified. Plat notes have not been reviewed to determine whether further division is actually precluded on these parcels. *Staff has not been advised which land is excluded as cluster remainders, and has no basis to conclude how much land is excluded, or whether the exclusion of this land is appropriate* (emphasis supplied)

The record contains no legal authority, scholarly authority or any authority for the above premise. It is impossible to evaluate the validity of this assumption without reference.

2. The November 15, 2015 proposal fails to define "operations likely to continue" contained in Table #1 reference #2. Although it is possible that there are some operations that may continue, there is no evaluation of what operations exist, what operations have been contact, what operations may do if there land is upzoned and available for more intensive land development. Thus, the proposal fails to identify the commercial operations or any input from them as to whether or not they will or will not continue to operate. There is no data, planning theory or supporting document to support your claim that these parcels should not be counted other the councilor's personal opinion. The proposal fails to respond to the legal staff determination that the assumption is "contrary to law". Further the definitions of this assumption have been altered since the work session with no explanation for the change in the assumption or the implications, if any, of the change. Specifically,

¹ E-mail from Madore to staff dated November 10, 2015.

Table 1 reference 2 B proposal from November 4:

Parcels located in areas far from any infrastructure with continuous long-term commercial forestry operations likely to continue should not be counted as likely to develop.

Table 1 reference 2 B proposal from November 15:

Parcels located in areas far from infrastructure with long term commercial forestry operations likely to continue should not be counted as likely to develop. These assumptions are not used to authorize or to prohibit the development of individual parcels. Rather, these assumptions should only be used for tallying parcel totals for general planning information.

3. There is ample support for the Assumption that constrained lands will develop and the new assumption ignores the likelihood of development on constrained lands²:

-In Table I reference 3 B the assumption eliminates rural parcels that have less than 1 acre of unconstrained land

-CCC 40.440.020 that states “This chapter shall not be used to deny or reduce the number of lots of a proposed rural land division allowed under applicable zoning density.”

-The proposal fails to recognize that whether a particular parcel can be developed must be reviewed on an individual basis.

-The proposal fails to recognize that rural parcels may share wells with neighbors, and septic drain fields may be placed on neighboring properties

-The proposal is not supported by any studies, statutes, articles, learned treatises or regulations that support this theory

-No one in GIS has affirmed the methodology and, in fact, GIS simple did

² Ironically, I personally opposed the county ordinance that currently allows for such development but it was put in place, in my view, for the benefit of rural residents and at the urging of those who now support your Alternative #4.

as directed by the Councilor and did not make any substantive determinations as to the validity of his assumptions.

In Table 1 Reference 4 you state the following:

4. There is no support for the theory that the same assumptions that have been vetted County wide *as to the urban areas*, should apply to the rural areas including but not limited to, the “never to convert”, market factor and infrastructure deduction.

-During the development of the original plan, and as part of the various updates, the assumptions regarding the urban areas these assumptions were vetted during the planning processes for the urban areas. As far as I am aware, neither you, nor staff, nor the cities, nor the city planners nor the public through a technical advisory committee has ever studied if these same assumptions should apply to the rural area and your proposal provides no scientific studies, or any other studies, to support the application of these planning principles to the rural area. Specifically:

- The “history” regarding this planning assumptions *only* applies to the urban areas. There is no history of which I am aware, or which has been referenced in the record, that these assumptions that are applied in the urban area have any applicability to the rural area.
- The proposal has not been fully vetted by the cities, planning staff or any public technical advisory committee. There are no statistics, no references to other GMA planning counties, no references laws or regulations and no references to the main MRSC website (mrsc.org) that supports the claim that 30 % of dividable parcels, much less 10% of vacant dividable parcels, in the rural area will not further development.
- An infrastructure deduction in the rural area is unsupportable because infrastructure needs do not reduce the number of available lots there, given code allowances for inclusion of land associated with roads and private stormwater facilities.
- The application of the market factor in the urban area is written into the Growth Management Act *for urban areas only* in order to set urban growth boundaries. WAC³ 365-196-310(4)(b)(ii)(F) and, according to

³ The GMA also provides that when determining the size of a UGA, a reasonable land

staff, "The market factor is an *addition* to the land needed in an urban growth area to accommodate 20-year growth projections, because of assumed fluctuating demand for that area. WAC 365-196-310(4)(b)(ii)(F)" See WAC 365-196-310(2)(3)(e) Urban Growth Areas.⁴

- "what is good for the goose is good for the gander" is not a legal argument in support of a planning assumption nor is there any evidenced in the record that analyzes that the urban assumptions should apply to the rural area.

5. Changing the VBL analysis violates GMA.

Regarding tax lots in the rural area: the proposed maps and assumptions do not differentiate between segregated tax lots and legally developable non-conforming lots. As far as I am aware, there is been no effort to identify which non-conforming lots that the Councilor proposes to upzone are merely segregated tax lots that have no development rights.

Clark County had to review the results of the Buildable Lands report as part of its periodic update. This report is due one year prior to the due date of the periodic review and forms the basis of the county planning along with the OFM number and the "County-Wide Planning Policies." Our county wide planning policies set the general framework for coordinated land use planning between the county and its cities to ensure respective comprehensive plans are consistent with each other. In addition, this new

market supply factor may be utilized and local circumstances may be considered in arriving at this market factor determination. RCW 36.70A.110(2). The Washington Supreme Court has held:

... [A]lthough the GMA does not explicitly limit the size of a UGA, to give meaning to the market supply factor provision and in light of the GMA goal of reducing sprawl, we hold a county's UGA designation cannot exceed the amount of land necessary to accommodate the urban growth projected by OFM, plus a reasonable land market supply factor. *Thurston County v. WWGMHB*, Docket No. 80115-1, at 29 (Aug. 14, 2008, En Banc); See *Thurston County v. WWGMHB*, 164 Wash 2d 329 (2008)

The market factor is a "land supply market factor" used in determining the sizes of UGAs and applies to the calculation of land availability rather than to the calculation of the number of people to be accommodated.

⁴ "The urban growth area may not exceed the areas necessary to accommodate the growth management planning projections, plus a reasonable land market supply factor, or market factor. In determining this market factor, counties and cities may consider local circumstances. See WAC 365-196-310(2)(3)(e).

proposal changes planning assumptions regarding buildable lands that were adopted over a year ago.⁵

6. The urban rural allocation of population and jobs was adopted by resolution after public hearing by the BOCC. There is no evidence that has been repealed. There is no evidence in the record to support changing the previously adopted

⁵ - (4) Buildable lands program reporting:

(a) No later than one year prior to the deadline for review of comprehensive plans and development regulations required by RCW 36.70A.130, the buildable lands program must compile and publish an evaluation, known as the buildable lands report. Each buildable lands report must be submitted to the department upon publication.

(b) The buildable lands reports must compare growth and development assumptions, targets, and objectives contained in the county-wide planning policies and the county and city comprehensive plans with actual growth and development that has occurred since the last required buildable lands report. The results of this analysis are intended to aid counties and cities in reviewing and adjusting planning strategies.

(c) The publication, "Buildable Lands Program Guidelines," available from the department, may be used as a source for suggested approaches for meeting the requirements of the program.

(5) Criteria for determining consistency or inconsistency.

(a) The determination of consistency or inconsistency for each county or city maintaining a buildable lands program must be made under RCW 36.70A.215(3):

(i) Evaluation under RCW 36.70A.215 (3)(a) should determine whether the comprehensive plan and development regulations sufficiently accommodate the population projection established for the county and allocated within the county and between the county and its cities, consistent with the requirements in RCW 36.70A.110.

(ii) Evaluation under RCW 36.70A.215 (3)(b) should compare the achieved densities, type and density range for commercial, industrial and residential land uses with the assumed densities that were envisioned in the applicable county-wide planning policies, and the comprehensive plan.

(iii) Evaluation under RCW 36.70A.215 (3)(c) should determine, based on actual development densities determined in the evaluation under RCW 36.70A.215 (3)(b), the amount of land needed for commercial, industrial and residential uses for the remaining portion of the twenty-year planning period. This evaluation should consider the type and densities of each type of land use as envisioned in the county-wide planning policies, comprehensive plan.

(b) The evaluation used to determine whether there is a consistency or inconsistency should include any additional standards identified in the county-wide planning policies or in other policies that are specifically directed for use in the evaluation. *See* WAC 365-196-315

resolution. According to staff, and unrefuted in this new proposal:

Urban/Rural split is a planning assumption used to determine the percentage of growth that is anticipated in the urban and rural areas respectively. The 1994 plan used an 80/20 split. The 2004 and 2007 plan updates both used a 90/10 split. The attached table indicates the total annual population of the county and rural areas from 1994 to 2014. The percentage of county population residing in the rural area has declined from 15.47% to 13.87% in the 20 year period. This decline is captured in the 11.18% percent of total growth going to the rural area in the same time interval. From 2007 to 2014 the percent of rural growth has been 10.42% of total county growth. See 6th column on page 5 *that was put in by staff and excluded from your* November 19, 2015 proposal. The urban/rural split is based on the future growth, not the population, for a particular year. Over the years, the average has been approximately 89-11.

At the Open House in Ridgefield on Tuesday, I stated the following:

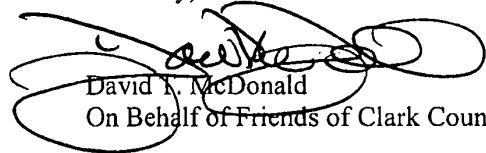
1. Staff had not been provided the November 15 materials in advance to redline;
2. The two prior proposals (November 3rd and 4th with redlines) were on the Grid and I had copies to distribute.
3. Staff had "redlined" the November 3, 2015 and November 4, 2015 proposals, however staff has not been directed to conduct the same analysis as to the November 15, 2015 proposal.
4. The redlined versions of the November 3, 2015 and November 4, 2015 (which is the one that was discussed at the Joint PC/BOCC meeting on November 9, 2015 work session) were not available for the public to see at the Open Houses but for members of the public obtaining them off of the Planning Commission Grid and handing them out;
5. The November 15, 2015 proposal is different from the proposal that was presented on November 9, 2015 to the Work Session; and
6. The November 3, 2015 and November 4, 2015 "red-lined" proposals were posted on the Planning Commission Grid

Planning Commission Members
% Oliver Orjiako
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Those are facts not opinions. In addition, Councilor Madore sent an e-mail to staff prior to the Open Houses that states: "It is very important that we focus only on the maps, tables, and assumptions of Column B and not confuse citizens with other previous version or previous plans"⁶ (emphasis supplied) and "As we related yesterday and as stated in our documentation supporting Column B, we do not wish for staff to change anything or go back and find every possible cluster remainder lot. As written in the proposal, we are good with maps, assumptions and numbers as proposed." (emphasis supplied). So much for transparency and wanting the public to have all the relevant information.

I apologize for the timing of the presentation of these comments to you but it has been difficult to keep up with the continually morphing versions of the current proposal that will be before you tonight. In addition, the Councilor's proposal unwinds years of work putting together and vetting the current assumptions (all of which have been continually vetted and approved by, not only the current BOCC and PC, but prior BOCC and PC hearings and votes.

Sincerely,



David L. McDonald
On Behalf of Friends of Clark County

⁶ Ms. Gillespie posted this e-mail from you to staff dated November 10th

November 19, 2015

Councilor David Madore
Board of County Councilors
1300 Franklin Street
Vancouver, Washington 98660

Via pdf and e-mail

Dear Councilor Madore:

I appreciate your response. However, you did not address the central subject of my letter—which is that you agreed on Tuesday night to direct staff to “redline” your November 15, 2015 proposal and provide those comments directly to the Planning Commission. Are you, or are you not, going to request planning and legal staff to provide honest and credible redline comments to your November 15, 2015 proposal? I think a simple yes or no will suffice.

I have submitted multiple, detailed and lengthy documents into the record regarding the history of GMA in this county, the current plan and current planning process. Those documents contain specific reasons why Alternative #4 does not comply with state law, is inconsistent with specific provisions of the GMA and runs afoul of appellate court decisions and mandates. They also detail how our current plan, and Alternative #1, is in full compliance with GMA when our CFP is fully funded by the Council. I have sent those to you by separate e-mail, along with some comments by Futurewise, and request that you please let me know where you would need more specificity. As to your new proposal, please see the comments I have provided to the Planning Commission.

You state that you have not asserted that our Comp Plan (which to me also means Alternative #1) is not compliant with GMA but then you make the following statement “Thus Alternative 1 is not a viable option since it cannot comply with the GMA requirement to provide for the forecasted growth.” (emphasis supplied) To me that says that the Alternative as written cannot comply with GMA. However, if you are stating that our current Comprehensive Plan and, thus Alternative #1 are compliant with GMA, then I accept, and agree with, your position.

Since the remainder of your e-mail consists of meaningless assertions that simply prove that you are the master of the straw man argument, no further response is required or necessary. I look forward to seeing staff’s redline comments of your November 15, 2015 proposal.

Sincerely,


David T. McDonald

CC: Mark McCauley, Chris Horne, Chris Cook, Oliver Orjiako, Gordy Euler