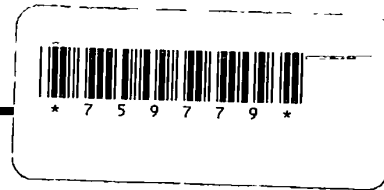


Schroader, Kathy



From: Orjiako, Oliver
Sent: Wednesday, February 03, 2016 5:00 PM
To: Alvarez, Jose; Anderson, Colette; Albrecht, Gary; Euler, Gordon; Hermen, Matt; Kamp, Jacqueline; Lumbantobing, Sharon; Lebowsky, Laurie; Wiser, Sonja
Cc: Schroader, Kathy
Subject: FW: Testimony from 2/2 - For Public Record
Attachments: Feb 2 testimony docx

FYI and for the record. Thanks

From: Heidi Owens [<mailto:heidi.owens@comcast.net>]
Sent: Wednesday, February 03, 2016 4:23 PM
To: Tilton, Rebecca; Boldt, Marc; Stewart, Jeanne; Madore, David; Olson, Julie (Assessment); Mielke, Tom
Cc: McCauley, Mark; Orjiako, Oliver
Subject: Testimony from 2/2 - For Public Record

Councilors,

Attached is a copy of my edited testimony from last night, including notes I did not include due to the 3 minute time limit. As always I thank you for the opportunity to address the council.

Please take a moment to look at the second page which specifically addresses the issue of nonconforming lots that I was beginning to highlight when I ran out of time.

Thank you & regards,
Heidi Owens

To Clark County Councilors

Date. Feb. 3, 2016

From. Heidi Owens

Subject Edited and extended Public Testimony from Feb. 2 Council Meeting
FOR THE RECORD

Last week, Mr Madore submitted his opinions into the public record via The Reflector and claimed "As one of your elected representatives who diligently worked on your 20-year Comp Plan for several years now, I know firsthand that Alternative 4 fully complies with the Growth Management Act (GMA) and will absolutely withstand any court challenge if we defend it. The law is on our side."

I do not know how anybody can predict a judicial outcome, so I will stick to some of the Washington State Codes regarding my comments on where our State's laws stand regarding the legality of Alternative 4

WAC 365-190-050 (1) states that the designation of agricultural resource land must be approached as county wide or area wide, and should not review resource lands on a parcel-by parcel basis. And further WAC.365-190-050(5) states that counties should look at the long-term commercial significance for agriculture when designating ag land so as to ensure and enhance the economic viability of the agriculture industry over the long term

Therefore, given the agricultural potential of Clark County soil and the thousands of acres in current use for agriculture, including in the Rural Zones, it is unlikely that the upzoning of Alternative 4 (or the LPA) is compatible with GMA's 8th goal (RCW 36.70A 020). to "encourage the conservation of productive forest lands and productive agriculture lands, and discourage incompatible uses." In addition, serving the farmer's "non-farm" economic need is not a logical or permissible consideration in designating agriculture land under GMA. So, an economic argument for dividing one's agricultural compatible property for retirement purposes will not stand.

RCW 36 70a 070 (5) requires a Rural Element be included in a Comprehensive Plan and that the 13 GMA goals be applied to the Rural Element. While Clark County's historical development has produced areas of smaller parcels, there is nothing that makes Clark County unique to establish a more dense rural community that is consistent with the 13 GMA goals. To say the county is not going to count potential parcels, but to allow development would be inconsistent with GMA because it does not contain or otherwise control rural development and densities (a direct violation of the Rural Element). Also, critical areas must be protected under GMA, including surface and groundwater resources and wildlife habitat

WAC 365-196-425 covers the required rural element for a GMA comprehensive plan and states in Section 2(a) that "the rural element shall include measures that apply to rural development and protect rural character." Furthermore, "counties must define rural character to guide the development of the rural element." The Clark County 2007 Comprehensive Plan defines the rural areas of Clark County as representative of historical development patterns and resource-based industries such as forestry, farming, orchards, and mining. Furthermore, the 2007 Comprehensive Plan outlines the importance of these rural lands including (to name a few): maintaining the rural character, supply local residents with fresh resource products, to clearly delineate urban and rural uses so that growth is directed to more compact urban centers, and to support quality of life through open space and protected habitat. (Pages 3-2 & 3-3)

With the adopted definition of rural character from 2007, the County has created a variety of densities from 1 to 2.5 acre parcels in Rural Centers to 5, 10 and 20 acre zones outside. This variety is consistent with WAC 365-196-425(3) which states that the range of densities should be provided to (selected highlighted

items). (i) be compatible with natural resource production, (ii) do not make intensive use of land, (iii) allow for natural landscape over the "built environment," (v) provide visual landscapes that are traditionally found in rural areas, (vi) are compatible with fish and wildlife habitat, (vii) reduce sprawl,* (ix) protect natural surface waters and groundwater, and (x) not abrogate the county's responsibility to encourage new development in urban areas.

Mr Madore also stated, in his opinion piece that "The chronic problems that have plagued rural families for the last 22 years are the result of a 1994 plan that imposed a gross mismatch between the rural parcels that already existed and an incompatible zoning map that made the vast majority of rural parcels nonconforming."

R Zoned Parcels 6 out of 10
 AG Zoned Parcels 8 out of 10
 FR Zoned Parcels 9 out of 10

This council has heard much testimony about the problematic issue of "non-conforming lots," that I, as a resident do not understand. How are these a plaque to rural families? Any zoning change can result in parcels/lots (that are not compatible with the new zoning) to become non-conforming, they are still legal lots. Also, is it not the case that cluster lots are non-conforming? In fact, they are completely legal and give a benefit to rural property owners to divide their parcels, and the resulting cluster lots are developable. Recently, as part of my research efforts for Friends of Clark County, I took a sample from R-5 zoned parcels under current use and found that in the sample only 13.5% of the parcels to be non-conforming. And when I looked at neighboring properties, the vast majority of those non-conforming lots are located next to a parcel that when combined would be conforming. There are thousands of current use acres in the rural area being used as productive resource land. Under GMA, the county is required to protect that rural character. Yet the focus on non-conforming lots drives Alternative 4. Can Mr Madore show this council and me any legal non-conforming lots that were denied a building permit due to zoning?

Finally, since the Alternative 4 plan seeks to upzone so much of the rural community, it is important to not look at the number of non-conforming lots, which are present due to the owners decision to divide the property prior to the 1994 zoning change. Instead, this council should consider the amount of acreage that is conforming in the different zones, as this gives the clearest understanding of the impact of upzoning

Zone	Total Acreage	% Non-conforming parcels	%Conforming acreage
Ag-20	31301	77%	67%
FR-40**	9080	94%	31%
FR-80	130025	69%	84%
R-5	71364	57%	70%
R-10	19338	78%	57%
R-20	7306	82%	55%

*As sprawl is not unidimensional, I use the Cornell University, College of Agriculture & Life Sciences definition of sprawl to be the "decentralization of human occupancy"

** This zoning area was particularly divided by property owners prior to adoption of the 1994 comprehensive plan