

**Schroader, Kathy**



**From:** David McDonald <david@mcdonaldpc.com>  
**Sent:** Wednesday, March 16, 2016 11:45 AM  
**To:** Orjiako, Oliver  
**Cc:** Kremer, Thelma, Horne, Chris, Cook, Christine, Schroader, Kathy, Boldt, Marc, Olson, Julie (Councilor), Stewart, Jeanne, Madore, David, Mielke, Tom  
**Subject:** Re FOCC Comments-CP Update  
**Attachments:** FOCC Comments-160222.pdf

Dr. Orjiako:

I submitted these comments previously for the SEPA record but was subsequently informed that the SEPA record had been closed and, thus, the comments were not made a part of that record. However, it is my understanding that the Comprehensive Plan update record is still open so I am submitting these comments to be made a part of that record.

Thank you,

David T. McDonald

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February 22, 2016

Clark County Councilors  
Comprehensive Plan Update Record  
% Dr. Oliver Orjiako, Clark County Community Planning Director  
1300 Franklin Street  
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Via pdf and e-mail to [Oliver.Orjiako@clark.wa.gov](mailto:Oliver.Orjiako@clark.wa.gov)

Please place in the record for the Comprehensive Plan update and, if still open, the SEPA Record Councilors

This matter comes before the Councilors on Tuesday, February 23, 2016 for a hearing on review of the previously adopted Preferred Alternative commonly known as Alternative 4B. In the event that I am unable to attend, please accept these comments on behalf of Friends of Clark County and myself. These comments focus on three issues:

1) Recommendation for Task Force to study issues related to "relief" for rural residents, 2) Response to Councilor Madore's submission and 3) Comments with regards to Alternative #2

"Relief" Issues

During discussions by the Planning Commission on September 17, 2015, and subsequently by members of the public and some councilors, there have been multiple references regarding what alternatives may be available to provide "relief" for rural residents. Suggestions for relief focus on exploring the use of a variety of planning tools including but not limited to 1) purchase of development rights, 2) transfer of development rights and 3) accessory dwelling unit ordinances among others.

Traditionally, when addressing issues of this magnitude that are "ancillary" to the Comprehensive Plan process, the County has appointed a diverse group of interested stakeholders and citizens to work with either a staff person, an outside consultant or both in a cooperative, deliberative fashion to study the issues and bring recommendations to the County for evaluation by staff, the Planning Commissioners and, ultimately the Councilors.

FOCC recommends that rather than attempting to insert a discussion of these types of planning tools into the current planning update process, the Councilors direct the staff to formulate the outline of such a task force. We would recommend that the task force consider all

of the possible planning tools that have been suggested in a cumulative and comprehensive fashion and then, in turn, make recommendations which would include the costs, benefits and, possible detriments, of implementing such planning tools and applying them only to the rural area.

Councilor Madore's Submission (Document #761677)

Councilor Madore's document should be rejected in its entirety because it is the contains its own errors, omissions and misrepresentations that cannot be reconciled with the facts and record. I have reviewed the document presented by Councilor Madore and find no reason to respond in great detail on a point by point basis for the following reasons: 1) Councilor Madore asserts nothing new in the document but mostly parrots the statements he made in support of Alternative 4B during the November 24, 2015 hearing all of which have been systematically and painstakingly evaluated, and predominantly rejected by our staff and the independent consultant Councilor Madore hand picked<sup>1</sup> to an "independent" analysis; and 2) His document provides no data, studies, comparative analysis with other jurisdictions, much less staff support or independent analysis for any of his B assumptions or his "rural map" assertion<sup>2</sup>.

Just one example of errors and omissions in Councilor Madore's document is that he states that the consultants he personally selected and championed for the job, and for whom he approved the Professional Services Agreement, did not consider what he thinks that they should have considered due to a "miscommunication". He supports this claim by quoting language from one of his own documents that he created and submitted to the Council *prior* to any proposal to hire RW Thorpe. However, Councilor Madore fails to quote, or even refer to, the actual contracts with Thorpe. The *actual* language regarding the scope of work in the document posted on the Grid from the December 8, 2015 hearing and specifically states:

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<sup>1</sup> In addition, CCCU board member Lonnie Moss, in an e-mail to Susan Rasmussen that is in the record, found that the Thorpe report was accurate.

<sup>2</sup> For example there is ample evidence in the record that, 1) post passage of the GMA, land segregations, many of which were simple tax lot segregations began to occur at such an alarming rate that the county imposed moratoriums, 2) multiple segregations have occurred post 1994 plan yet there is no differentiation in his analysis as to timing of any lot segregation in his analysis and 2) tax lot segregations have no correlation to legally developable non-conforming lots and thus, his claims regarding 6/10, 8/10 and 9/10 have no validity since his analysis does not differentiate between legal non-forming lots and tax lot segregations that have no right to develop. Also, his support for such things as accounting is simply his opinion as to how the "law of supply and demand" will create affordable housing in the rural area without any further study, facts, data or citations to any authority.

The Scope of our assignment would be to provide an Addendum that we anticipate could be accomplished in 3 steps. Step 1: Review the Planning Assumptions introduced on November 4, 2015 and provide professional opinion on the validity of these assumptions and whether they should be applied to the Vacant Buildable Lands Model for the rural lands. Our Opinion Letter/Report will be provided to Clark County by December 30th 2015. (emphasis supplied)

The November 4, 2015 planning assumptions introduced on November 4, 2015 are the Column B assumptions. Therefore, the County's agreement with the consultant, which was approved by him as Chair of the Council at the December 8, 2015 hearing, is specific that the consultant is supposed to review Councilor Madore's Column B assumptions (introduced on November 4) and provide professional opinion on their "validity". Document 761677 is just his personal expression of "buyer's remorse".

Another example of his errors and omissions in document #761677 is where Councilor Madore stated "most of Clark County's planning assumptions were not known by the policy makers nor subjected to transparency or scrutiny for the past 22 years". First, he states no support for such a fallacious claim. Second, one only need only look at the history of GMA in this county to see that the assumptions used in planning process have been before all Commissioners and Councilors and been upheld by the Hearings Boards and courts. Although he does not specify which planning assumptions he is referring to, one can look at Grid and find all of the work sessions, board hearings, resolutions, planning staff documents provided to the, then, Commissioners, that set forth the Commissioner's review and adoption of the policies, including time when in 2014 and 2015 when Councilor Madore was on the Board. One example of a synopsis of the process and procedures regarding the assumptions can be found at *The Grid* at June 18, 2014 for a summary of what occurred regarding planning assumptions during this Comprehensive Plan Update.

In summary, his document lacks credibility, is full of its own errors and omissions, is simply his "opinion" without factual or legal support and should be rejected from consideration.

#### Rejection of Alternative #2 Proposed Zoning Changes

FOCC urges the Councilors to follow the Planning Commissions 4-2 votes and reject the up zones listed in Alternative #2. Alternative #2 has two provisions for up zoning in resource land areas: 2.b Agriculture Lands. Changes the minimum lot size for parcels zoned AG-20 from 20 acres to 10 acres (AG-10) and 2.c Forest Lands. Changes the minimum lot size for parcels zoned FR-40 from 40 acres to 20 acres (FR-20).

There are several reasons to reject these proposals including but not limited to the fact that legal counsel for the county has concerns regarding its legal validity:

I will tell you that my office does have some concerns about this and that is because there is evidence in the record that opposes this and it opposes it on grounds on what it will do to the agricultural industry in the county and in order to I think adopt this under GMA, the County will need to find that eliminating the Ag 20 minimum lot size would maintain, enhance, preserve, promote and conserve the agricultural industry which is why agricultural resource land is agricultural resource land I understand what you are saying about fairness, if there is a way to harmonize those two, that is a possibility but the agricultural resource zone I don't think is designed a place for family compounds though there might be innovative ways to come up with housing that would work for that, in any event, I am concerned about this and I am concerned that it would be troublesome before a court. Audio of 9/17/15 hearing at 1:39.

Commissioner Barca moved to "deny" 2.B and Commissioner Bill Wright seconded the motion. During discussion on the motion, Commissioner Wright pointed out that there was testimony for and against 2.B but "that when you look 2.b, it is going to add about 1000 lots to the rural area that presently would not be developed, which would be potentially 2500 people and that is a fair amount of traffic and that's a load on rural systems and so I will vote against it to be consistent<sup>3</sup>. The Planning Commission was 4-2 against the up zone of the agricultural lands. Then the PC voted similarly (4-2) to against the up zone of Forest Lands.

Mr. Wright's statement and Ms. Cook's concerns are substantiated in the DSEIS. The DSEIS states that Alternative #2 would create almost 1,000 additional lots over Alternative #1. See Summary of impacts by alternative on page S-5.

The DSEIS also states:

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<sup>3</sup> During these deliberations, several commissioners expressed a desire to seek out and debate possible relief measures for those in the rural area but the statements were that they did not want to find that relief in contravention of the goals and policies of the GMA.

Alternative 2 - Countywide Modifications-The majority of changes proposed under this alternative are technical fixes to correct map inconsistencies, and a reduction in the number of comprehensive land use designations. There are minor adjustments within the UGAs of all the cities (except Camas and Yacolt). The other aspect of this alternative is the proposed reduction in minimum lot area for resource lands, which has the potential to create approximately 8,200 new parcels. This amount of new development would create a need for expanded transportation facilities in all areas of the county. As shown in Figure 1-2b, the parcels that could potentially be affected by this change are spread throughout the county. A portion of the potential development would occur where at least some infrastructure currently exists; however, a majority of the potential new development would require road improvements and additional transit routes, and would result in longer commutes to employment centers. The majority of the planned roadway improvements shown in the RTP are located within and adjacent to the more urban areas (Figure 7-2). Infrastructure to support potential future development under Alternative 2 would be in the more rural portions of the county and is not included in the current TIP, the RTP, or the budget for C-TRAN. In addition, existing land uses (e.g., actively farmed areas) in the areas affected by the zoning changes could restrict the amount and placement of new roadways. The burden of constructing new transportation facilities or improving existing facilities to support allowed development would fall to the County, with partial recovery of costs through transportation impact fees. Full development under this alternative would not happen quickly, but incrementally over the planning period. Individual projects would be required to undergo additional environmental analysis under SEPA; however, the cumulative impact of adding additional transportation facilities to support the development allowed under Alternative 2 could be significant. The infrastructure needed would change the character of rural Clark County. DSEIS at p 7-9 (emphasis supplied)

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Based upon all of the above, FOCC and myself respectfully request that this council consider "relief" measures through the use of a citizen based task force, reject the creations and assertions of Councilor Madore, affirm the 4-2 Planning Commission votes on Alternative 2.B and 2.C and 1) adopt the legally and factually supportable Alternative #1, or the PC's Preferred Alternative, 2) allow the final SEPA analysis to occur and then 3) start the process of developing a Capital Facilities Plan and development regulations that implement that choice.

Our members look forward to the Councilors deliberations on these issues.

Sincerely,

*/s/ David T. McDonald*

David T. McDonald  
On Behalf of Friends of Clark County