

**From:** [Ann Foster](#)  
**To:** [Kathleen Otto](#); [Glen Yung](#); [Michelle Belkot](#); [Sue Marshall](#); [Matt Little](#); [Wil Fuentes](#); [Oliver Orjiako](#)  
**Cc:** [Rebecca Messinger](#)  
**Subject:** FOCC comments regarding Resolution 2025-01-011  
**Date:** Monday, January 27, 2025 3:24:06 PM  
**Attachments:** [FOCC\\_Record-Resolution \(DEIs Alternatives\)-1\\_26\\_25\\_final.docx](#)  
[PC Minutes-Excerpts-Cook & Orjiako 11\\_7-24.pdf](#)

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Dear Council Chair Marshall, Councilors Yung, Belkot, Little and Fuentes, County Manager Otto and Community Planning Director Orjiako:

Please accept our letter containing our comments regarding the adoption of Resolution 2025-01-011 relating to the 3 alternatives studied in the DEIS for the 2025 Comprehensive Plan Update.

There is one attachment to the letter which contains Planning Commission meeting minutes of November, 2024, referred to in our letter.

Rebecca, please enter into the public record.

Many thanks,  
Best,  
Ann Foster, President  
Friends of Clark County



# Friends of Clark County

PLANTING THE SEEDS OF RESPONSIBLE GROWTH

January 26, 2025

Clark County Council  
c/o Kathleen Otto, County Manager  
Oliver Orjiako, Director, Community Planning  
Rebecca Messinger  
Public Services Center  
6<sup>th</sup> Floor  
1300 Franklin Street  
Vancouver, WA 98660

RE: Comments *For the Record* for Comprehensive Plan Update Re: Proposed Resolution  
January 28, 2025 Hearing Agenda Separate Business Item # 1

By email only to Kathleen Otto at [kathleen.otto@clark.wa.gov](mailto:kathleen.otto@clark.wa.gov) and Rebecca Messinger at  
[rebecca.messinger@clark.wa.gov](mailto:rebecca.messinger@clark.wa.gov).

Dear Councilors:

My name is Ann Foster and I am writing on behalf of Friends of Clark County (FOCC).<sup>1</sup> myself, and individual board members to voice our collective opposition to this resolution for the reasons we have previously stated in writing (most recently in our letter to Councilor Yung), and orally at public hearings in front of the Planning Commission and the Council<sup>2</sup> and for these additional reasons:

## Trigger

1. The County is not adequately prepared to engage in a comprehensive county wide resource land study
  - a. The WAC is clear that: “Land use planning is a dynamic process. Natural resource lands review procedures should provide a rational and predictable basis for accommodating change”. WAC 365-190-040(10)(a).
  - b. The County has not adopted any review procedures and, FOCC asserts, that the County would have to adopt such procedures prior to engaging in any study; and

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<sup>1</sup> FOCC is a 501(c)(3) Washington State non-profit corporation that works collaboratively with community partners and policy makers to keep Clark County a beautiful and healthy place to live, work, and play<sup>1</sup>. FOCC and its members have served on County committees preparing for the Comprehensive Plan Update including the Buildable Lands Project Advisory Committee and the Community Climate Advisory Committee. FOCC, and its members, have provided multiple comments into the record at every stage of planning

<sup>2</sup> See comments of Diane Dempster at page 33-34 of PC Minutes posted on the Planning commission “grid” and testimony of Mary Goody at 3:46:15 of CVTV recording of December 6, 2024 Council hearing.

- c. The WAC is also clear that engaging in such a study must be done with an eye towards not de-designating any property and must also give great weight to the consideration, and study, of the cumulative impacts because “De-designations of natural resource lands can undermine the original designation process. De-designations threaten the viability of natural resource lands and associated industries through conversion to incompatible land uses, and through operational interference on adjacent lands. Cumulative impacts from de-designations can adversely affect the ability of natural resource-based industries to operate.” WAC 365-190-040(10)(b)(1)

### Need/Scope

1. There is no need for the County to spend the time, energy and resources for either a SSR study of all of the SSR outside of the those that fall within the proposed UGA expansions and no need to conduct a county wide resource study at this time. Dr. Orjiako’s statements in front of the Planning Commission elucidate the folly of engaging in both the SSR requests ***and*** the Resource Land study. *See attached* with FOCC highlights. As Dr. Orjiako’s statement’s highlight “Why should we study those requests?”. Further Ms. Cook stated to the Planning Commissioners that they “may recall that a hold was put on annual reviews because there is yet another provision in that pesky state law that prohibits revising the Comprehensive Plan more than once a year” and emphasized that the comprehensive plan process “is a different process from an entitlement process, nobody is entitled to a Comprehensive Plan change”.
2. In addition, all proposed mining sites that are part of the SSRs should require their own independent environmental studies and, under the WAC quoted above, the cumulative impacts. The requests involve owners and operators who have made it clear that they intend to mine the area. BRP Minerals has specifically stated that they buy the mineral rights and then lease those mineral rights to an extractor to conduct the mining operation(s).

### Time

1. The WAC recognizes that a “***Because of the significant amount of time needed to review natural resource lands and potential impacts from incompatible uses,*** frequent, piecemeal de-designations of resource lands should not be allowed. Site-specific proposals to de-designate natural resource lands must be deferred until a comprehensive countywide analysis is conducted.” WAC 365-190-040(10)(b)(ii)(emphasis added).

- a. As to Agricultural Lands of Long-Term Commercial Significance, the original process for the designation of Agricultural Lands took place during the development of the original comprehensive plan and spanned over 2 years of work by citizen task force groups and, in the end, led to multiple years of litigation in front of the growth management hearings board and the Courts. To suggest that the County, its staff and its citizens have to the opportunity to engage in such a complex and comprehensive process is unrealistic at best. We believe that should the county want to engage in such a process in the future, that it should be thoughtfully planned and intertwined with the full engagement of our newly approved Agricultural Commission.
- b. As to the study of mineral lands, the last spanned over a 3-year period between 2011 and 2014 and involved almost 2 years of work by a citizen Mineral Lands Advisory task force. Their work resulted in a variety of recommendations which led to multiple, and lengthy, work sessions and hearings before the Planning Commission and Board of County Commissioners.<sup>3</sup> Attempting to complete what previously was a multi-year process involving citizen task forces, in the final months of a comprehensive plan update that is already dramatically behind schedule defies logic and represents a gross misjudgment of available resources and time availability.
- c. There is simply an inadequate amount of time to engage in such a comprehensive county wide resource land study in the remaining 11 months before our comprehensive plan must be completed in December.

#### Cost

1. The resolution is accompanied by a general budget cost of \$300,000 that cannot even be effectively authorized until the next budget cycle. FOCC believes, given the costs of prior consultants, this amount would be a minimum requirement, but no one can know until the costs are itemized and an RFP (or RFPS—one for site specific and on for resource lands) is/are put forward to the Council.
2. As there are no specific RFPs for these studies (and we are assuming that they will have to be outsourced), it is unclear if this amount is for staff, a consultant or both;
3. As to the SSRs, the County stands to be financially responsible for this work which would normally be paid for by the person (or entity). As Dr. Orjiako and Ms. Cook have painstakingly pointed out, all of these requests came in because they were

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<sup>3</sup> In 2013 and 2014, concomitantly with working through the beginnings of the Comprehensive Plan update, the County also went through a very long and contentious county wide process regarding designating Mineral Lands (SMOs) *and* updating its Comprehensive Plan Policy and Code provisions regarding the designation of mineral lands and surface mining operations. The Planning Commission held four hearings in 2013<sup>3</sup> and received comments from scores, if not hundreds, of people<sup>3</sup>. On December 5, 2013, the Planning Commission issued a document entitled “Planning Commission Recommendations to the Board of County Commissioners” (at that time the policies were found in number 3.5 of the Comprehensive Plan but the 2015-2035 renumbered those policies to 3.6). The PC recommendations regarding Mineral Lands Comprehensive Plan Policies mirror exactly the Mineral Lands Comprehensive Plan Policies found in 3.6 of the 2015-2035 Comprehensive Plan. However, on November 25, 2014, the BOCC rejected some of those recommendations and adopted different policies as described below.

Clark County Council  
% Kathleen Otto, County Manager  
Rebecca Messinger  
October 19, 2024

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“free”. See Minutes of Planning Commission hearing at page 63 (Dr. Orjiako) and pages 58 and 60 (Cook). As set forth in our letter to Councilor Yung. The county would be forfeiting at least one million dollars in revenue that would normally be covered by the applicants **just for the application fees and not including any environmental studies such as Habitat, Wetlands and/or an EIS.**

In conclusion, as pointed out by Ms. Cook,

“there are decisions that have in fact been made by the County already concerning allocation and assumptions and that those facts and State law do not prevent you from making a recommendation to the contrary, doesn’t prevent the County Council from making a decision to the contrary, but know that there are legal consequences of those sorts of decisions.”

We urge the Council to not engage in lengthy, costly and unnecessary studies with the clock ticking for the County to timely complete its 2025 Comprehensive Plan update. We thank you for providing us the opportunity to comment.

Best Regards,

*Ann Foster*

Ann Foster, President

question.

HALBERT: Yeah, go ahead.

WOGEN: I'd like to comment on that a little bit. I think the public is a little confused because when you look at, go to the website for submitting site-specific it says follow this process, you submit the process and then the next thing it goes talks about going to the DEIS, it doesn't say anything about any steps between whether they're going to be evaluated for or anything.

So, I think most people were thinking that once you submit a site-specific request that it is going to at least get to the DEIS.

COOK: Commissioner, with respect, most of the folks who said things like that here are land use attorneys or consultants who have been engaged in their business in this county for a number of years, and I understand that they would like for their clients' properties to be given the designations that they asked for, that doesn't mean that the County is required to do so.

This is a different process from an entitlement process, nobody is entitled to a Comprehensive Plan change. Entitlements arise from permit applications, you know, you got your criteria for a permit, you submit an application if you meet the criteria, you get the permit, but you are not entitled to a comprehensive plan change and at some point, staff needs to evaluate what is in front of it.

There are some site-specific requests that are just not even imaginable as being approved, there are some site-specific requests which are close, as Jose said, there's some that seem like they would be appropriate if there were a need.

In the last Comprehensive Plan periodic review and update one of the areas where the County was held to be noncompliant and invalid was in expanding urban growth boundaries beyond what the need was for those expansions, and I'm afraid that need is a term of art and it's legally defined.

And there is -- there are decisions that have in fact been made by the County already concerning allocation and assumptions and that those facts and State law do not prevent you from making a recommendation to the contrary, doesn't prevent the County Council from making a decision to the contrary, but know that there are legal consequences of those sorts of decisions.

HARROUN: Just a point or I think, Chris, my understanding is the site requests, the site-specific requests are just being asked to be looked at, to be studied, it's not obviously anybody could ask for the moon whatever and it could totally not make sense, but statutorily don't we like and I'm trying to understand because I'm going from the letters, right, isn't there a requirement that like, I don't know, like every dog has its day and everybody gets a chance to go, to like they put in the application according to the guidelines on the County and then the County then is obligated to take a reasonable look at that?

COOK: No.

HARROUN: That's just what I'm trying to understand, so...

COOK: So, one of the things we heard tonight is that the County has to look at this every year, not true. Most years, yes. But you all may recall that a hold was put on annual reviews because there's yet another provision that pesky State law that prohibits revising the Comprehensive Plan more than once a year.

When that moratorium on annual reviews was adopted, it was because we all assumed that the Comp Plan update would occur on June 30, 2025, and then a year or so later we got a six-month grace period, I'm not sure what that would have done to the moratorium but here it is.

And annual reviews would be as I understand it are welcome again starting in, well, if you make a decision on December 31, 2025, then you can get your annual reviews at the end of 2026 and I think that is when they were scheduled. Yes?

ORJIAKO: Yes.

COOK: Yes, so...

HARROUN: But they do have the right to be looked at; correct?

COOK: A right to be looked at?

HARROUN: Well, meaning that the County --

COOK: Well, okay, here's the question, how much looking do you have to do. So, there is for example a site-specific request for changing a lot size in a way that was just precisely ruled invalid at the last Comprehensive Plan update. Now how much more do we have to look at that, do we really have to pay somebody to do an environmental analysis of that site-specific request along with a number of others that simply do not appear to comply with the law.

HALBERT: I'll just throw out too, and I looked at that map, the dots, each one had additional information on it so it did look like to me that each one --

COOK: Yes.

HALBERT: -- had been looked at --

COOK: Yes.

HALBERT: -- and had some information even if it said no or yes or to be included but even to get a red,

green or yellow dot or there was a couple other colors, certainly meant that they were, I'm defending the County here on this one, but they did look at them.

COOK: They have all been considered.

HALBERT: Yes.

COOK: And in the annual review process of course there's a pretty significant fee to apply, no fee here which might have something to do with a number of requests.

But speaking of maps, I thought, Commissioner Halbert, that you were going to address the map that we received from Ms. Lovern from the BIA and it's an interesting map. I understand there's a total of something like 18,000 acres or something of land in these four areas adjoining the Vancouver urban growth boundary and beyond, there are only, what, 4,000 or so acres of site-specific requests outside the UGA, so this, this is way beyond the site-specific request.

There's a lot of land which we are asked to study that nobody actually asked to include, why should we study that, it's not an idol question because it goes to this whole conversation.

HARROUN: Well, I think it goes back to the conversation that you have a whole community that believes that they were deliberately cut out of the process.

COOK: You know --

HARROUN: I mean, I'm just telling you, I'm reading the comments and there's a lot of them, there's like 400 pages worth.

COOK: So, Oliver and Jose and I actually went to the BIA just last week and met with people there. If, you know, letters have gone back and forth. I have heard that you never listen to us before, I'm not buying it this time.

HARROUN: Well, with respect, when you have industry representatives that are saying that we were not included in the conversation.

COOK: Which conversation?

HARROUN: Well, okay. So, again, let's get back to my personal experience where you're saying that you met with them last week, but this was already a baked cake last week. So, you can't say that I certainly don't feel you can say that you really took their input when you already baked the cake.

COOK: They -- it's -- I'm sorry. Go ahead.

HARROUN: So, this is my concern. So then I get a map from the industry that includes way more land



them or include it in any of the alternatives. If you look at what the sum of, the majority of the smaller cities have done they've included some. In Battle Ground we didn't have any request that came to us directly, that request went to the City of Battle Ground and they included it in some of their proposal. In Town of Yacolt you have them.


But the majority of the requests that are just in between are in the middle of nowhere want to be in the urban growth boundary. If you look at the map there is nowhere I'm going to ask that a site-specific request that is half a mile away from the urban growth boundary, I'm going to study you and include, I can do a cursory study and provide you with the reasons why they were not considered or suggested to be included or to even to be studied.

I think also what is being missed is that when we open up, and I'll put that into the record, when we open up the plan amendment the majority of these requests will not be submitted. As Chris indicated, yes, this is free, so I will throw in anything and see what happens. If I get it, I get it; if I don't get it, I don't get it.

There are so many requests here for mining, for example, we went through a process in 2014 that requires community input and a task force and a new information from DNR, I have been lamenting that there is no new information, I've reached out to DNR, when will you update that DNR aggregate map, it's not their top priority, they're studying landslide issues throughout the state to address that issue, so until we have new information nothing is lost.

When we updated that surface mining as an example we added some surface mining area, some areas were not added. I can attest that there are some areas that we added for surface mining that no one have come in for permit. And as you know mining can take 30, 50 years, so that is one request that again is not considered but not being addressed or providing an overlay to those areas.

So, there are a variety of requests out there that when you really look at it you may disagree, but I'll use an example, there are some requests that want to go from AG-20 to 1 acre or to 2 and a half, the only areas where you can have 1 acre or 2 and a half is in the rural center.

 Why should we go studying those requests? You will reasonably say, sorry. I will do that cursory study and provide you the reasons why majority of this have not been looked at if that's what you would like to see or by the time we go to Council is as if we can do that in our shop and provide you, provide the Council as to the reason why they were not looked at. So, no one from my shop or my staff is ignoring inclusion of resource land.

And if I may we have provided it to Council, to you, I think I have it somewhere, this is what I'm looking at here is WAC 39- -- 365-190-040 and this is the recent rule making that came out of Commerce and in Section 10(b), Roman Number (i) it says, "De-designations of natural resource lands can undermine the original designation process." Okay.

So, I have to make a finding that the original resource designation was in an error. I couldn't make that

finding. Why? Because when this particular issue was challenged the court found that the agricultural designation was done right.

"De-designations of natural resource lands can undermine the original designation process. De-designations threaten the viability of natural resource lands and associated industries through conversion to incompatible land uses, and through operational interference on adjacent lands."

It goes on to continue to say in Roman Numeral (ii) "Counties and cities should maintain and enhance natural resource-based industries and discourage incompatible uses. Because of the significant amount of time needed to review natural resource lands and potential impacts from incompatible uses, frequent, piecemeal de-designations of resource lands should not be allowed."

Again, if you don't adhere to this WAC those that watch what we do will point it out to us, I want to be mindful of that and I am putting it into the record, some will disagree, we are not avoiding looking at resource land not intentionally doing so.

If their requests does not meet the or align with the decision that have already been made, what we have scoped out is inline with what we are presenting to the Planning Commission and we will be presenting to Council.

So, I would like to know what question you have here is? Good points, Planning Commissioner Harroun, but there is -- we're not required to do economic analysis or market analysis of what will or what wouldn't happen.

We will get there by doing the necessary Capital Facilities Plan.

The other comment that I will make is that you hear me say that through this process if we come out and do a very good work on meeting the housing requirement as prescribed by the State, you hear me say answering your question this was intentional, what I meant by that that the legislature was intentional by requiring local government to plan for housing by various income bands, we cannot ignore that, it's a requirement.

Too, they have us also have this new climate bill that calls for reduction in vehicle mile travel, those are some of the things we have to consider as we put this land use together. It's new and it's challenging, I get that, but I want to do a plan that meets the Growth Management Act and not subject us to risk.

HALBERT: I think I'm going to move right into Karl's seat here and Karl had an emergency and had to leave, so... I do want to figure out how we can land this ship and move on tonight.

ORJIAKO: I thank you, Planning Commissioner Halbert.

HALBERT: Or Karl.

ORJIAKO: Or for Karl. Staff will be making a recommendation to the Planning Commission that you