

From: [Jeffrey Delapena](#)
To: [Nathan Baker](#); [Cnty 2025 Comp Plan](#)
Subject: RE: Clark County Resolution No. 2025-04-xx - Periodic Review of Comprehensive Plan
Date: Tuesday, April 15, 2025 7:18:30 AM
Attachments: [image001.png](#)
[image002.png](#)

Good morning, Nathan,

Thank you for submitting these supplemental comments regarding Resolution No. 2025-04-xx. These will be entered into the Comprehensive Plan Index of Record.

Best regards,



Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558

From: Nathan Baker <Nathan@gorgefriends.org>
Sent: Monday, April 14, 2025 5:20 PM
To: Cnty Board of County Councilors General Delivery <boardcomm@clark.wa.gov>; Cnty 2025 Comp Plan <comp.plan@clark.wa.gov>
Cc: Christine Cook <Christine.Cook@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>; Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>
Subject: Clark County Resolution No. 2025-04-xx - Periodic Review of Comprehensive Plan

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Dear Chair Marshall, Vice Chair Yung, and Members of the Council:

Please find attached supplemental comments of Friends of the Columbia Gorge regarding Clark County Resolution No. 2025-04-xx.

Thank you.



Nathan Baker (he/him/his)
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SUBMITTED VIA EMAIL ONLY

April 14, 2025

Clark County Council

Clark County, WA

Via email to boardcom@clark.wa.gov and comp.plan@clark.wa.gov

**Re: Clark County Resolution No. 2025-04-xx (Amending Resolution No. 2025-01-11)
Periodic Review of Clark County's Comprehensive Growth Management Plan**

Dear Chair Marshall, Vice Chair Yung, and Members of the Council:

As a follow-up to our prior comments of two days ago (April 12, 2025), Friends of the Columbia Gorge ("Friends") submits the following supplemental comments in support of Clark County Resolution No. 2025-04-xx ("Amended Resolution"). **Please adopt the Amended Resolution as drafted.**

In Friends' April 12 comments, we explained why Clark County is **not required** to prepare a comprehensive countywide analysis of resource lands designations (colloquially called a "resource lands study") for this periodic review cycle, which ends on December 31, 2025. The instant letter will expand on that point with additional authorities and analysis thereof.

Some commenters would have you believe that the County has a "duty" to conduct a resource lands study of mineral resource lands, forest lands, and agricultural lands for the entire County, each and every periodic review cycle—including the current cycle, which ends in less than eight months. The "[April 5 Memorandum](#)," in particular, focuses on changes that the Department of Commerce ("Commerce") made to its rules in 2023. (Apr. 5 Memo. at 2, 5, 6.) According to the April 5 Memorandum, the 2023 rule changes "explicitly require" Clark County "to conduct a comprehensive analysis of all natural resource lands and agricultural lands during every periodic review of the comprehensive plan." (*Id.* at 2; *see also id.* at 5 ("[A]s of 2023, there can be no doubt the WAC requires that a county '**must**' conduct 'a comprehensive countywide analysis' of **all** natural resource lands during **every** periodic comprehensive plan and land use designation review." (emphasis altered).))

As explained in Friends' April 12 comments, these assertions are false. Put simply, Clark County has never been required to conduct a resource lands study during each and every single periodic review cycle, nor did the 2023 rule changes impose such a requirement.

In addition to the authorities cited in Friends’ prior letter, Friends also directs the Council’s attention to the following rule language, which was also adopted by Commerce in 2023: “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). Similar to the “must defer reviews” language in the final sentence of WAC 365-196-480(2)(e) (also adopted in 2023 and discussed in Friends’ April 12 letter), the “must be deferred” language in WAC 365-190-040(10)(b)(ii) gives Commerce express authority to defer (*i.e.* delay) until future periodic review cycles the review of potential de-designations of existing resource lands designations.

In other words, this rule language completely undermines the main arguments of the April 5 Memorandum. Contrary to those arguments, Clark County need not perform a resource lands study every single review cycle, and instead **must defer**—including to the next cycle—any review of potential de-designations of existing resource lands until after a countywide analysis (a.k.a. resource lands study) can be performed.

Friends’ April 12 comments discussed the final sentence of WAC 365-196-480(2)(e), which sentence was adopted in 2023. To provide further clarity and context, Friends will now analyze the entirety of WAC 365-196-480(2)(e):

“The review of existing designations should be done on a countywide basis, and in most cases, be limited to the question of consistency with the comprehensive plan, rather than revisiting the entire prior designation and regulation process. However, to the extent that new information is available or errors have been discovered, the review process should take this information into account. Review for consistency in this context should include whether the planned use of lands adjacent to agricultural, forest, or mineral resource lands will interfere with the continued use, in an accustomed manner and in accordance with the best management practices, of the designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Counties and cities must defer reviews of resource lands until they are able to conduct a comprehensive countywide analysis consistent with WAC 365-190-040(10).”

WAC 365-196-480(2)(e).

The first three sentences of WAC 365-196-480(2)(e)—each of which uses the word “should,” thus implying recommendations rather than mandates—involve the review of existing resource lands pursuant to RCW 36.70A.130(1)(a)¹ and WAC 365-190-040(3).² As noted in the

¹ “Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.” RCW 36.70A.130(1)(a).

² “Under RCW 36.70A.130, all counties and cities must review, and if needed, update their natural resource lands and critical areas designations.” WAC 365-190-040(3).

first sentence of WAC 365-196-480(2)(e), this review “in most cases” should be “limited to” a review of whether the County’s existing resource lands designations are consistent with the comprehensive plan, “rather than revisiting the entire prior designation and regulation process.” WAC 365-196-480(2)(e).

But if “new information is available or errors have been discovered” regarding existing resource lands designations, that should be taken into account during periodic review, and the review of any such new information or errors “should include whether the planned use of lands adjacent to agricultural, forest, or mineral resource lands will interfere with the continued use” of these lands for farming, timber production, or mining—all of which is specified in the second and third sentences of WAC 365-196-480(2)(e). *Id.*

The final sentence of WAC 365-196-480(2)(e) involves a different type of review, which is contingent on the outcome of the review addressed in the first three sentences. When a county conducts a review of resource lands designations as specified the first three sentences of WAC 365-196-480(2)(e) and determines that a review of that county’s designations of agricultural, forest, and/or mineral resource lands using the substantive requirements in the Growth Management Act and Commerce rules is needed, then the final sentence of WAC 365-196-480(2)(e) specifies that this type of review may also be conducted, but not until after the county is “able to conduct a comprehensive countywide analysis,” and in the meantime, the county “must defer” (*i.e.*, delay) this subsequent, substantive review. WAC 365-196-480(2)(e). But the rules do not mandate that this type of review must occur during every periodic review.

In short, the rule language adopted by Commerce in WAC 365-196-480(2)(e) and WAC 365-190-040(10)(b)(ii) expressly authorize Clark County to defer (*i.e.*, delay) both a comprehensive countywide analysis of resource lands (a.k.a. resource study) and the substantive review of existing resource lands designations for potential changes to those designations (including de-designations of existing designations). Neither a countywide analysis nor a substantive review for designation changes must occur in every single periodic review cycle. Rather, both items **must be “deferred”** to a future periodic cycle if circumstances so necessitate, as mandated by these rules.

Consistent with these authorities, any resource lands study can and should be deferred to Clark County’s next periodic review cycle, *i.e.*, after 2025.

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Friends of the Columbia Gorge strongly urges the Clark County Council to **adopt the Amended Resolution as drafted**. Thank you for this opportunity to comment, and for your consideration and attention to this important matter.

Sincerely,



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cc (via email): Christine Cook, Chief Civil Deputy Prosecuting Attorney, Clark County
Kathleen Otto, County Manager, Clark County
Oliver Orjiako, Director, Clark County Community Planning
Jose Alvarez, Program Manager, Clark County Community Planning
Rebecca Messinger, Clerk to the Council, Clark County