

Attachment B
Docket 16-0001

"Essential public facility (EPF)" means a facility that provides a necessary public service as its primary mission, and that is difficult to site. EPFs include, but are not limited to, those facilities listed in RCW [36.70A.200](#); any facility that appears on the list maintained by the State Office of Financial Management under RCW [36.70A.200](#) (4); secure community transition facilities as defined in RCW [71.09.020](#); state education facilities; state or regional transportation facilities as defined in RCW [47.06.140](#) and facilities determined to be an essential public facility under SJCC [18.30.055](#). Essential public facilities of County- or statewide significance also include, but are not limited to: passenger and vehicle ferry terminals (public); public elementary and secondary schools facilities; County sheriff facilities; solid waste collection, transfer and disposal facilities; County recycling facilities; County roads, County docks, County boat launching and County barge landing sites and facilities; County equipment storage and maintenance yards; County septage handling and treatment facilities; primary electrical transmission and distribution systems including systems owned and operated by OPALCO; fire stations and emergency service facilities; public libraries; post offices; County parks; County administrative offices; facilities for communications for public emergency services; community water systems; those community sewage systems serving urban growth areas (UGAs), activity centers and master planned resorts; and general aviation airports.

Linda Ann Kuller

From: Frank Penwell <iwp@rockisland.com>
Sent: Thursday, June 11, 2015 9:05 AM
To: Sam Gibboney; Linda Ann Kuller
Cc: Francine Shaw; DL - Council; Randall Gaylord
Subject: Emailing: Sam Gibboney-Linda Kuller meeting 2-27-15
Attachments: Sam Gibboney-Linda Kuller meeting 2-27-15.docx

6/11/15

Dear Sam Gibboney and Linda Kuller,

I last wrote you immediately after our meeting on 2/27/15. I asked you to correct any mistakes or misunderstanding regarding my notes on that meeting (copy attached and below). Since you have not noted any errors in my notes, I move forward with the understanding that there are no disagreements on what I wrote.

I know you are very busy, but one of the items I noted about our meeting was that you had promised me a marker by June 30th, 2015. I respectfully request that you communicate what that marker is ASAP, and that you schedule an appointment with myself, and our land use representative, Francine Shaw, to discuss your strategy, progress, and plan. We would like to know if there is any way we can be of any assistance in helping the County follow the Essential Public Facilities laws, especially RCW 36.70A.040.

Respectfully,

Frank M. Penwell, Trustee of F & P Penwell Trust iwp@rockisland.com
360-317-5130 – Cell, or 360-378-6473 - Home

CC Francine Shaw

2/27/15

Dear Sam Gibboney and Linda Kuller,

Thank you for meeting with Francine Shaw and me today, and for answering questions for me so that we could help each other work together toward changes in land use regulations that would be helpful to our San Juan County community.

I was surprised at the lack of information you had read, regarding CT and the land use / Essential Public Facilities issues surrounding the CT site. I will see that you receive the items that you have indicated that you have not had an opportunity to review. I appreciate your allowing me to express my frustration over the historical lack of progress on Essential Public Facilities land use issues. A phone call to me, or email notice, prior to any future County discussions would be appreciated. It was a bit upsetting to have no advance knowledge of the last Council meeting, and to see how little you knew about the issues. If we had talked prior to your meeting with the Council about CT, you would have been better prepared and I would have felt some due diligence and due process had been followed. I now know you had received emails from Erwin at Public Works, you were never tasked to do anything, and that somehow the past progress on the topic was lost. I also appreciate your statement that I could look forward to a "marker" on progress by June 30th, 2015.

Below are the questions I asked at our meeting, and what I wrote down as my notes on our meeting. Please advise if I have made any mistake on what needs to be provided to you, or if you would like any other documents or information:

- Do you know that CT is a 501 C-3 Public Charity? You said "Yes",

2/27/15

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Below are the questions I asked at our meeting, and what I wrote down as my notes on our meeting. Please advise if I have made any mistake on what needs to be provided to you, or if you would like any other documents or information:

- Do you know that CT is a 501 C-3 Public Charity? You said "Yes", and I went on to explain the difference between the 501 C 3 organization and the Trust.
- Have you been out to the CT site? Circle one: You and Linda said "Yes"
- Would you be willing to take a tour of the CT site? Circle one: You said "Yes", and Linda shook her head in the affirmative. I would like to schedule this ASAP, so let me know what date would work well for you. Mondays and Tuesdays work best for me, and I am available before or after hours to give a private tour.
- Go over Helen Venada / County / e-recycling request: You stated that you were aware of the request made of CT by Helen Venada.
- Are you aware the County must have a designated e-recycling facility? You indicated you had knowledge of this.
- Look at the County Comprehensive Land Use Map: We all looked at the San Juan Map for Rural Industrial and Rural Commercial properties. I pointed out parcels that are currently improperly designated, which have historical and current commercial activities taking place on them. Francine Shaw pointed out that CT has consistently had commercial activity on its site prior to the first Comprehensive Plan.
- Did you read the written letters of support for CT and its EPF activities? You answered "No", so I will see that you get the full CUP file, which has those letters in it.
- Do you know that per my public records request that our County has no list of any EPF sites, and that they were legally required to have done so by 2003, and it has not been done? You answered "No". I will send you a full copy of the RCW, but below is one of the quotes from **RCW 36.70A.200** I actually had the year wrong. The County was to comply with this RCW by 2002. I want to direct your attention to:

71.09.020.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community

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(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

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(b) A consideration for grants or loans provided under RCW 43.17.250(2); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

[2011 c 60 § 17; 2010 c 62 § 1; 2002 c 68 § 2; 2001 2nd sp.s. c 12 § 205; 1998 c 171 § 3; 1991 sp.s. c 32 § 1.]

- Have you read the January 21st, 2011, San Juan Planning Commission Findings and Recommendations to the County? You said "No", so I am having Sally Rogers send you the full Findings and Recommendations. I want to direct your attention to at least the following quotes from the Findings and Recommendations:
The #2 Finding and Conclusion states, "*The Planning Commission finds that there is an insufficient quantity of appropriately designated land to accommodate future essential public facility demand.*" and "*3.) to recommend to the County Council that the County identify and redesignate land that can be appropriately designated for Rural Industrial and Urban Industrial uses.*"
- Have you read WAC 365-196-550, and RCW 36.70A.200? Circle one: You said "Yes, I am familiar with them due to my time at Public Works". I will send these anyway, since one of the questions above referred to a quote in the WAC that you were unfamiliar with.
- Have you read Bob Jean's August 9th, 2012, comments to the County Council? You said "No", so I will send you a copy. Please look for the part regarding how the County can do the Essential Public Facilities Process much faster and at less expense than a private party.
- Have you read the County Minutes and discussions on CT that moved Bob Jean to write his letter August 9th, 2012 letter? You said, "Yes, I have read the motion by the County Council".

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- Have you read the County Minutes and discussions on CT that moved Bob Jean to write his letter August 9th, 2012 letter? You said, "Yes, I have read the motion by the County Council".

- Please list any reasons you feel that the San Juan County Planning Department might oppose identifying CT as an EPF. You declined to list any concerns or reasons by stating the Planning Department takes no position.

- Are you familiar with the many land use applications, HEX decisions and historical information on CT? You said "No", and Francine Shaw gave you a brief run through. If you need more information, please ask and I will see that you receive the prior HEX files.

- Have you read the email correspondence between the past Planning Department head, Ms. Hale, and Frank Penwell? Circle one: You said "No", so I will email you a copy of the most recent email chain. If you need more background, please ask Sally at the Public Records Department to give you

all emails between Frank Penwell and Shireen Hale. Basically, in March 2012 correspondence from Ms. Hale regarding the proposal to Rezone our property for free, stated: "....Pete and the County Council to take the lead (with no cost to you). As I said when we spoke, I would not be opposed to that approach...."

- Have you read the letters to the County Council regarding CT issues? You said, "No, only one letter, which I forgot to ask the date of. I will have Sally Rogers provide those documents to you. The most important recent correspondences are between 2010-2013, but there are two in 2014 that are significant: 8/14/14 to Rick Hughes, and 12/14/14 to the full County Council.

- Have you read the correspondence between the San Juan Prosecuting Attorney and the issues regarding CT and the Penwells? Circle one: You said, "No", so I will have Sally Rogers send those letters to you.

Francine, do you have any notes on that meeting that might help Sam?

- Jamie Stephens stated at the Feb 9, 2015 County Council meeting that the neighbors would be against an EPF site. Can you name any neighbor that is against the EPF site, other than the two neighbors who showed up at the Hearing Examiners meeting? You said "No", and I told you a little about the neighbors.

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- Did you know that there are CT neighbors who are in favor of the EPF site? You said “No”. You should find at least one neighbor letter of support in the HEX file.
- Did you know that well over 800 people joined a “Save Consignment Treasures Page”, and that Bob Jarman and Mark Florenza held a public forum on the CT Issue? Bob and Mark went on to win election to the San Juan County Council. There was no answer to this question, as I basically just told you what happened with the Petition process and with the Facebook Page.

I also note that I referred you to an email exchange I had with the Public Works Department regarding altered and lost documents, and our “Commercial Driveway Permit”. I will ask Sally Rogers to forward those emails to you.

I look forward to being involved, and toward helping San Juan County move the ball forward on identifying and designating Essential Public Facilities, as required by State law. I hope we can accomplish this in a positive manner for our community and San Juan County.

Respectfully,

Frank M. Penwell, Trustee of F & P Penwell Trust
iwp@rockisland.com
 360-317-5130 – Cell, or 360-378-6473 - Home

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Your message is ready to be sent with the following file or link attachments:

Sam Gibboney-Linda Kuller meeting 2-27-15

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

Attachment B
Docket 16-0002

Attorney & Counselor at Law
Stephanie Johnson O'Day, PLLC

540 Guard Street, Suite 120
Post Office Box 2112
Friday Harbor, WA 98250-3112

Telephone (360) 378-6278 Fax: (360) 378-5066
E-Mail: sjoday@rockisland.com

November 10, 2015

Rick Hughes, Member
Mike Thomas, County Administrator
San Juan County Council
350 Court St #1
Friday Harbor, WA 98250

Re: Don and Marion Gerard Property
Orcas Island/Request for Docket
Code Amendment SJCC 18.40

Dear Rick and Mike:

Thank you for meeting with Don Gerard and I yesterday to discuss the land use dilemma they have faced for so many years. It was a productive meeting, for which the Gerards are very grateful. As we worked through the problems, it became clear that a the following simple regulatory changes to the Development Code would clear the way for the Gerards to be able to use their three properties as their neighbors do:

#1: Revising the definition of airport hazard in 18.40.030B (see track changes):

5. Public Assemblies. Any land use that causes or encourages people to assemble in large numbers, including medium- and high-density residential uses (greater than one dwelling unit per two acres), commercial uses requiring more than 10 parking spaces or an equivalent degree of traffic generation, and campgrounds (having more than three campsites per acre), is prohibited in the approach and transitional zones designated by an airport district overlay.

#2: Revise 18.40.032F(2) as follows (see track changes)

F. Sideline Safety Zone/Airport Development Zone (Zone 5)

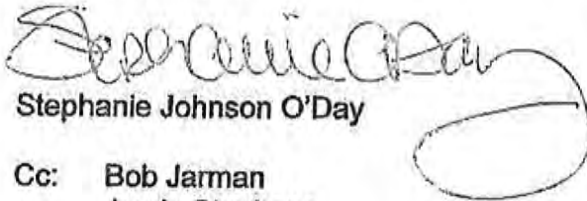
1. New residential development is prohibited except as provided in subsection (F)(2) of this section.

2_a. Residential Use in the Grasylyvania and Aeroview Subdivisions. Existing and new residential use in the portions of the Grasylyvania and Aeroview subdivisions

that are within sideline safety zone (zone 5), solely in the form of aircraft hangar structures which incorporate within them an accessory single-family residential dwelling unit, may be allowed as a conforming use.

2b. Eastsound Residential parcels may develop one residential dwelling unit per acre as a conforming use.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "Stephanie Johnson O'Day". The signature is written in black ink and is positioned above the printed name. To the right of the signature is a large, hand-drawn oval shape, possibly a placeholder or a mark.

Stephanie Johnson O'Day

Cc: Bob Jarman
Jamie Stephens
Don and Marion Gerard

Linda Ann Kuller

From: Colin Maycock
Sent: Wednesday, April 20, 2016 9:45 AM
To: Linda Ann Kuller
Subject: FW: Hangar Homes

I think this was the original discussion.

From: Gregory Ayers [mailto:ayersmd@yahoo.com]
Sent: Thursday, January 07, 2016 12:59 PM
To: Anthony Simpson <orcasairport@rockisland.com>; Colin Maycock <Colinm@sanjuanco.com>; Hughes, Rick <starwave96@hotmail.com>
Subject: Re: Hangar Homes

Tony
Looks like EPRC is not required for the change, as I thought. Colin will guide you in your application. Not sure but before you make the application you may want to look at Airport, to me it looked similar to SLI but might be better for your use. That is your call as to what you apply for. There is no "Give" to EPRC, we are an advisory board to county council that summarizes public input. I will bring it up in February when we discuss final changes to the ESAP that were made in December and allow the EPRC members to decide if we are going to comment, maintain our present position or if we want to wait for council to ask for a comment from EPRC ahead of the 2016 Docket review in December.

Looks like you are on track to get the change made in the 2016 docket. Hopefully that will resolve your issues with the Port's landuse designation.

Thanks

Greg

Gregory M Ayers
+1 (206) 390-6714
Fax +1 (877) 772-7506

From: Anthony Simpson <orcasairport@rockisland.com>
Date: Thursday, January 7, 2016 at 11:59 AM
To: Gregory Ayers <ayersmd@yahoo.com>, Colin Maycock <Colinm@sanjuanco.com>, Rick Hughes <starwave96@hotmail.com>
Subject: RE: Hangar Homes

Time Period and Notice

Application Period. Suggestions, proposals, or requests for amendments may be submitted to the Community Development and Planning Department at any time during the year. To be considered in the annual amendment process, submittals must be received no later than the end of January. Submittals that are received after the end of January will be considered in the amendment process for the following year.

Thus, **submittals for Docket 2004 must be received by January 31, 2004**. Submittals that are received Feb. 1, 2004 through Jan. 31, 2005 will be considered in the amendment process for the year 2005.

Notice. The County will publish a legal notice(s) in the official County newspaper each year, as well as provide continuing notice and information on the County's website to inform the public of the opportunity to submit suggestions, proposals or requests for amendments to the Comprehensive Plan and UDC. All suggestions and requests will be considered at advertised public hearings before the Planning Commission and Board of County Commissioners, in accordance with state law and County requirements. Notice of public hearings or public meetings will be provided to the public as set forth in the UDC Section 18.80.030(C) SJCC, and all other notice required by RCW 36.32.120 will be provided.

----- Colin, consider my email below as a submission for the Docket for 2016. If insufficient, please advise as to necessary format.

Greg, you're application of "Airport" to the entire parcel would further constrain the use of the entire property and that is unnecessary and an unfair burden to place on the landowner when we have already offered to GIVE you a 200' setback on the portion that is of concern to the EPRC. If you ask for more by seeking to further limit this property in its entirety, I think I will be justified in questioning the motivation of the EPRC and its members.

If you think it should be Airport, then I would contend that it should be airport without the setback. As "Airport," there will be no concerns about a gas station, etc.

Tony

(W) 360-376-5285

(F) 360-376-6062

(AWOS) 360-376-6045 / 135.425

(CTAF) 128.25



From: Gregory Ayers [<mailto:ayersmd@yahoo.com>]

Sent: Thursday, January 07, 2016 10:34

To: Anthony Simpson; ColinM@sanjuanco.com

Subject: Re: Hangar Homes

Importance: High

Tony

As I have explained to a few of your commissioners, EPRC can review this at the Feb meeting as we will be reviewing all of the last minute changes that were made to the ESAP (mainly a significant number of changes proposed by Mr. Hughes that did not have public input). We can consider this along with the other items.

Resolution quickly will be the issue. I will check with Colin, but as it is a land-use zoning change (from Eastsound Residential to SLI), it will need to be a part of the Annual Docket, which will come for approval in late 2016 (with other Comp Plan changes). Even though land-use regulations are now in the UDC, and we could change allowable use and other aspects of the UDC pertaining to Eastsound, landuse zoning remains a part of the Comprehensive Plan.

I also think we might want to consider making it a part of the Airport district formally, rather than SLI. Given it will be a part of the airport, why make it SLI?

Colin is out of the office until the 11th and our agenda is very full today, with many things that have been deferred due to the ESAP work that has been done of late. If there is a way for you to be tolerant to waiting until February, I would

recommend it. This way Colin can chime in on the "how" the change would occur and whether it is indeed a part of the Docket.

Thoughts?

Greg

Gregory M Ayers
+1 (206) 390-6714
Fax +1 (877) 772-7506

From: Anthony Simpson <orcasairport@rockisland.com>
Date: Thursday, January 7, 2016 at 9:18 AM
To: Gregory Ayers <ayersmd@yahoo.com>, Colin Maycock <Colinm@sanjuanco.com>
Subject: FW: Hangar Homes

For the entire Commission:

I would ask you to take this up and put it to bed expeditiously. I think my offer mitigates any concern as to the final disposition of this property. Specifically, I would ask that the EPRC move to---

Recommend to County Council that the parcel TPN 271143016000 be re-designated as Service Light Industrial in its entirety and "new section 6" be amended as follows:

Under "Permits, Conditions and Limits" of "Building Front Setback," add the text, "The Building Front Setback from the centerline of the North Beach Road ROW for TPN 271143016000 is 200 feet except for one structure less than 1000 square feet if it is accessory to parking or visitor information. Such structure is subject to the standard restrictions of service light industrial if accessory to parking or visitor information."

Thank you,

Tony

(W) 360-376-5285
(F) 360-376-6062
(AWOS) 360-376-6045 / 135.425
(CTAF) 128.25



From: Anthony Simpson [<mailto:orcasairport@rockisland.com>]
Sent: Wednesday, December 16, 2015 21:55
To: 'Rick Hughes'
Cc: Greg Ayers (ayersmd@yahoo.com); 'Ehrmantraut, Brian'; 'Gregory, Sheldon'; 'Guss, Dwight'; 'Hopkins, Steve'; Steve Hopkins; 'Wells, Audrey'
Subject: RE: Hangar Homes
Importance: High

FYI---The SLI setback is in new section 6 and I think its 40', not 30'.

If establishing a 200' Building Front Setback from the centerline of North Beach Road ROW makes its designation as SLI acceptable, I would propose you amend the "new section 6" as follows and re-designate the parcel TPN 271143016000 as Service Light Industrial in its entirety.

Under "Permits, Conditions and Limits" of "Building Front Setback," add the text, "The Building Front Setback from the centerline of the North Beach Road ROW for TPN 271143016000 is 200 feet except for one structure less than 500 square feet if it is accessory to parking or visitor information. Such structure is subject to the standard restrictions of service light industrial if accessory to parking or visitor information."

If you want to quibble on the 200' or the 500 square feet, go for it. It's not a surveyed line and I pulled 500' out of thin air as a reasonable size... again, only thinking I might do something there for the people of Orcas and Eastsound...not building a gas station or drug store.

If you want to put a footnote in the ordinance and/or code that says, "This setback was established as a condition of eliminating split-zoning on the parcel, was enacted to preserve the character of the Eastsound North gateway and should not be removed without very deliberate consideration.", I could accept that if it puts people more at ease.

For us, that restriction is effectively already there with the FAA and an elected body running the Port. We'd gladly take it in writing to have this behind us and allow the EPRC to focus on more meaningful things...like the West gateway.

I think it's unfortunate to have to go parcel by parcel and make "special" zonings for each parcel, but I guess it's the place we live. And now I guess it be a couple more years.

Tony

(W) 360-376-5285

(F) 360-376-6062

(AWOS) 360-376-6045 / 135.425

(CTAF) 128.25



From: Rick Hughes [mailto:starwave96@hotmail.com]

Sent: Wednesday, December 16, 2015 21:04

To: Anthony Simpson

Subject: Re: Hangar Homes

Ok, I just wanted to make sure the use was allowed for the homes.

Rick Hughes

Sent from my iPhone

On Dec 16, 2015, at 7:30 PM, Anthony Simpson <orcasairport@rockisland.com> wrote:

The lot owners off-airport have a deeded right of access to our airport and the FAA has no say over what is built on private property (except for height restrictions which won't be limiting).

There are not "true" hangar homes in Aeroview (SLI)...there are a few small-ish ADUs attached to hangars.

(W) 360-376-5285

(F) 360-376-6062
(AWOS) 360-376-6045 / 135.425
(CTAF) 128.25
<image001.png>



This map is derived from San Juan County's Geographic Information System (GIS). It is intended for informational purposes only. The map does not represent a survey or other professional engineering or architectural drawing. No warranty is made for the accuracy or completeness of the information shown on this map.

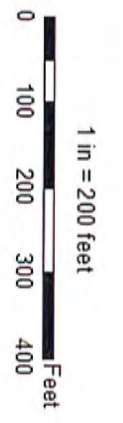


Exhibit 8, SLI and ER Split

Date: 8/4/2015

Time: 4:20:22 PM

John M. Campbell, AIA
P.O. Box 250
Orcas, WA 98280
(360) 376-2035
jmc779@centurylink.net

February 8, 2016

San Juan County
Dept. of Community Development
P.O. Box 947
Friday Harbor, WA 98250

S.J.C. DEPARTMENT OF
FEB 16 2016
COMMUNITY DEVELOPMENT

Attn: Ms. Erika Shook

Subject: SJCC 18.90 Criteria and Procedures for Legislative actions and
Site Specific Redesignations

Dear Ms. Shook,

In the course of last year's amendments to the Eastsound Subarea Plan and map, there was some confusion regarding the UDC requirements for public notice of property owners, residents and neighbors affected by site specific redesignations that were lumped together with the legislative plan and regulation amendments. In fact, they were never notified except by a generic postcard at the eleventh hour.

Legislative amendments and site specific redesignations are very different actions and, it appears to me, our county regulations confuse things. Site specific redesignations are listed under legislative decisions (18.90.010.A.3) where, I believe, it does not belong. Public notice requirements under Legislative procedure, 18.90.020.E, are appropriate for site specific actions but not legislative ones and, in the event were not followed.

I have no wish to revisit the events of 2015 but do think the County should take a look at the distinctions and procedures for legislative and site specific redesignations. This was begun in 2014 and dropped for reasons unknown to me. Probably the subject is more complex than I imagine. In any case, in accordance with 18.90.030.B, I submit the attached proposed UDC amendment for county consideration.

Yours truly,



John M. Campbell

DRAFT 18.90 PROPOSED REVISIONS

18.90.010 Legislative decisions.

A. Decisions. The following decisions are legislative and are not subject to the project permit application, notice, review, and appeal procedures in this code unless otherwise specified:

1. Uniform Development Code (this code) text amendments;
2. Area-wide reclassification of land use districts **and/or maps** to implement new County policies;
- ~~3. Site specific land use redesignations and density changes; and~~

Site specific redesignations and density changes, whether introduced by a property owner or local government, should follow the notice and approval criteria specified in section 18.90.030 which is written for that purpose.

4. Adoption of the Comprehensive Plan and any plan amendments, including subarea plan adoption and amendments.

B. SEPA. If a legislative action qualifies as an “action” that requires review under the State Environmental Policy Act (SEPA) (see SJCC 18.80.050), all SEPA procedural requirements shall be met prior to public hearings on the action. If the legislative decision making body makes changes that may result in additional, greater or more intense individual or cumulative impacts, supplemental SEPA analysis shall be completed before action may be taken (see SJCC 18.80.050(E)(3)).

18.90.20 Legislative procedures.

A. **Procedures.** All proposed amendments to this code and requests to amend the official maps shall be handled according to the procedures established in the Comprehensive Plan and in this section. This process will ensure formal public notice and public hearings, evaluation, and recommendations from the planning department's professional, technical

perspective and from the planning commission's knowledgeable lay perspective. Final action is reserved for the board of County commissioners (BOCC).

B. Who May initiate. The CC, the planning commission, the planning department or interested persons may propose an amendment to the CP or UDC under this section. Changes to the CP shall be docketed as provided in RCW 36.70A.230.

The inclusion of interested parties is from existing (to be deleted) language in 18.90.030 regarding Comp Plan and UDC amendments.

Do you really want anyone to be able to introduce amendments to the CP or UDC as at present?

C. Planning department. The planning department shall evaluate all requests to modify this code and forward recommendations to the planning commission and CC for consideration.

D. Planning Commission. The planning commission shall hold a public hearing and make recommendations to the BOCC on all legislative decisions specified in this section. The public hearing shall be held in accordance with the requirements of the Comprehensive Plan.

E. ~~Board of County Commissioners~~ County Council (CC). The BOCC may at its option consider the planning commission's recommendation in a public hearing held in accordance with the requirements of the Comprehensive Plan.

F. Public notice. Notice of the public hearing or public meeting shall be provided to the public as set forth in the Comprehensive Plan and described in ~~SJCC 18.80.030~~ and other notice required by ~~RCW 36.32.120. 36.70.390~~ **Nothing in the foregoing shall limit the ability of CD to notify and discuss a proposed issue, map or regulation change with affected residents or property owners at any time.**

18.80.030 is notice procedure from RCW 36.70B.110 for site specific rezones and project permit applications and RCW 36.32.120 is about powers of county authorities. Neither provides direction on notice.

In Eastsound in 2015, property owners and residents were not notified of impending zoning changes
John M. Campbell, AIA PO Box 250 Orcas, WA 98280 360-376-2035 jmc779@centurylink.net

in fear of "discriminatory" notice. This addition is to encourage notice and dialog with affected parties.

G. Implementation. The BOCC decision shall become effective by passage of an ordinance or resolution.

H. Legislative Enactments Not Restricted. Nothing in this section or the permit processing procedures shall limit the authority of the BOCC to make changes to the County's Comprehensive Plan or the County's Unified Development code (this code), as part of an annual revision process.

I. Appeals. Appeals of BOCC decisions under this section must be filed with the Growth Management Hearings Board (GMHB) as provided by state law and RCW 36.70A.280.

Comprehensive Plan and official Map decisions are, I think, appealable to the GMHB under the criteria of RCW 36.70A.280.

18.90.030 Amendments and site specific redesignations.

A. Purpose of site-specific Redesignations. A district change or density change is a mechanism by which the Comprehensive Plan land use designation or density applicable to property can be changed to reflect such things as changed circumstances, new land use needs, or new land use policies.

B. Who May Initiate. A request for redesignation or to change density may be initiated by a property owner. The BOCC, planning commission, or planning department ~~may propose an amendment to this code or the official maps at any time subject to the requirements of this section.~~ ~~Interested persons, including applicants, citizens, the Hearing Examiner, and staff of other agencies may suggest Comprehensive Plan or UDC amendments.~~ ~~A request for redesignation or to change density may be initiated by a property owner.~~ The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130.

*Site specific redesignations are quasi-judicial decisions affecting individual property values and rights whether introduced by a property owner or local government.
CP and UDC changes are "legislative" not site-specific under this section.
Site specific changes have their own notice and approval criteria (36.70b.110) not to be confused with legislative amendments to the Plan or UDC.
The BOCC, PC and CD all may introduce site-specific redesignations and should follow the procedure in 18.90.030 (this section).*

C. Time Limitations. Requests for amendment of the official maps (redesignation or density change) shall only be submitted to the planning department between January 1st and March 1st of any year for consideration during the remainder of that year. Requests submitted after March 1st shall be returned to the applicant for resubmittal the following year.

D. Application Procedure.....etc.

E. Notice of Application. The applicant shall be required to ~~mail~~ provide notice of application as provided in SJCC 18.80.030(A) and RCW 36.70B.110. Notice of the application shall also be published in the official County newspaper in a manner prescribed by the planning department.

This is where the notice requirements of 18.80.030(A) belong, i.e. notifying property owners, residents, posting and publishing at the outset of consideration and closely follow RCW 36.70B.110 the requirements for projects and site specific rezones.

F. Criteria for approval. These actions are reviewed for conformance with the applicable provisions of the UDC and as follows:

1. **Site Specific Redesignations.** The county may approve or approve with modifications an application for a change of designation or density of property if all of the following criteria are met:

- a.
- b.
- c.etc.

G. Appeals. Appeals of BOCC decisions under this section must be filed with the Growth Management Hearings Board as provided by state law.

Is this appropriate? See RCW 36.70A.280 for matters subject to appeal to the GMHB.

Attachment B
Docket 16-0005

Linda Ann Kuller

From: Francine Shaw <fshaw@rockisland.com>
Sent: Wednesday, April 22, 2015 10:21 AM
To: Linda Ann Kuller; Sam Gibboney
Cc: Lee McEney; Julie Thompson
Subject: Code problems
Attachments: doc02946720150422095517.pdf

Hi Ladies:

I am in the process of preparing a subdivision application and I came across a land division regulation in my code that requires that 60% of the land area be set aside as open space. This regulation was invalidated by Superior Court in 2010. (See attachments.) I just purchased my code from Code Publishing within the last year and this regulations still remains in the code. I thought you may want to know about this.

Francine

not be used to create lots smaller than the allowed minimum lot sizes where established by SJCC 18.70.010(E) or in applicable subarea plans. The sanitarian shall consider an approved water system or a proven common well supply in lieu of individual wells on clustered lots.

3. Conforming to Natural Features and Topography. To the greatest degree possible, all subdivisions shall be designed to conform to the natural features of the land. Problems such as eroding cliffs or other potentially hazardous conditions must be divided with the general welfare and safety of persons and property in mind.

4. Usable Construction Area. All proposed lots shall provide a usable area for the construction of a dwelling unit, approved sewage system, and an approved water supply.

5. Division of Lots by Roads. Individual lots shall not be divided by roads or road rights-of-way. Where a pre-existing road divides a lot where there is no alternative to such a division the administrator may grant a discretionary exception.

6. Buffers and Setbacks. All subdivisions shall meet the setback requirements and other density, dimension, and open space standards of SJCC 18.60.050, and the landscaping and screening requirements of SJCC 18.60.160.

7. Number of Lots. Subdivisions may include any number of lots. Short subdivisions are limited to no more than four lots.

8. Standards for Agricultural and Forest Resource Lands. On all agricultural or forest resource lands (AG and FOR) the maximum area of development which is not related to agricultural or forestry uses and activities shall be limited to 20 percent of the parcel area, but not less than one acre, regardless of the assigned density. Further, in the division of a parcel by any means, the allowable area for conversion of the parent parcel to nonfarm and/or nonforestry use shall not be exceeded. This shall not apply to parcels smaller than five acres.

9. Standards for Rural Farm-Forest (RFF) Districts. In RFF land use districts, no more than 30 percent of the area of a parcel shall be covered by impervious surfaces, exclusive of roads and driveways.

10. Conservation Design Requirements. All land divisions in resource land, conservancy, and rural designations (outside of areas of more intensive rural development), and all shoreline areas shall protect open space and scenic resources as well as natural resources by meeting the following design and development requirements:

a. At a minimum, 60 percent of the area of the parcel to be divided shall be maintained as open space area from which all construction related to residential use (houses, residential outbuildings, parking and residential landscaping) shall be excluded. Wells, septic systems, biofiltration, and ponds approved as pumper supply points, may be placed within the nonbuilding area of a parcel.

b. The significance and sensitivity of open space resources shall be identified for the entire parcel to be divided using the landscape information in Parts III and IV (Open Space Atlas and Map Folio) of the San Juan County Open Space and Conservation Plan (SJCC 18.30.190(F)) and the criteria and rating scales in Part III of that plan.

c. The land division design shall adhere to the following principles to the extent practicable:

i. Establish nonbuilding portions of new parcels to be contiguous with one another and to contain the most sensitive open space features of the site within them.

ii. Establish the location of roads, individual driveways, houses and outbuildings, and utilities, to minimize intrusion on the most sensitive open space features of the site.

iii. Maintain existing orchards, meadows and pasture areas.

iv. Leave ridgelines and contrasting edges between landscape types unbroken by structures.

v. On rolling open or steep open slopes, locate building areas so that buildings will be screened by existing vegetation or terrain.

vi. Ensure that the protection of features such as wetlands and wildlife habitat.

d. Use and management provisions for the nonbuilding area of each parcel shall be specified on the face of the plat.

e. Building and nonbuilding locations of each parcel shall be indicated on the face of the plat.

f. Alternative Design.

i. At least 60 percent of the entire parcel to be divided may be retained within a single tract maintained as open space from which all construction related to residential use (houses, residential outbuildings, parking, and residential landscaping) shall be excluded. Wells, septic systems, biofiltration, and ponds approved as pumper supply points, may be placed within the conservation area. Individual building lots shall be clustered or otherwise located in a manner consistent with

*These were determined to be invalid by the Superior Court ruling - Case No. 08-2-05743-b Inman**

COUNTY CLERKS OFFICE
FILED

APR 7 2010

JOAN P. WHITE
SAN JUAN COUNTY, WASHINGTON

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**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SAN JUAN COUNTY**

PAT and STEPHANIE O'DAY
Plaintiffs,
vs.
SAN JUAN COUNTY,
Defendant.

Cause No. 08 2 05243 6

**JUDGMENT AND ORDER ON PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT**

I. JUDGMENT SUMMARY

- A. Judgment Creditors Pat and Stephanie O'Day
 - B. Judgment Debtor. San Juan County
 - C. Total Judgment Amount \$440.00
 - D. Principal Judgment Amount. \$440.00
 - E. Interest to date of Judgment \$ 0.00
 - F. Statutory Attorney's Fees \$200.00
 - G. Filing Fee. \$240.00
 - H. Principal Judgment shall bear interest at12% annum
 - I. Attorney for Judgment Creditors Stephanie Johnson O'Day
 - J. Attorney for Judgment Debtor
- Jonathan W. Cain, Deputy Prosecuting Attorney, Attorney for San Juan County

Judgment and Order I

Law Offices of
Stephanie Johnson O'Day
Post Office Box 2112
Friday Harbor, WA 98250
Phone (360) 378-6278

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II. JUDGMENT AND ORDER

On March 8, 2010, this matter came before the Court on Plaintiffs' Motion for Summary Judgment. Plaintiffs Pat and Stephanie O'Day appeared by and through their attorney, Stephanie Johnson O'Day; defendant San Juan County appeared by and through its attorney, Jonathan W. Cain, Deputy Prosecuting Attorney.

Listed below are the materials reviewed by the Court in making its ruling on this matter:

1. Complaint for Declaratory Relief, filed 12/30/08
2. Answer of San Juan County, filed 1/20/09
3. Plaintiff's Motion for Summary Judgment, filed 7/17/09
4. Declaration of O'Day, 7/17/09
5. San Juan County's Response to Motion for Summary Judgment, filed 9/22/09
6. Declaration of Randall K. Gaylord in Support of San Juan County's Response to Motion For Summary Judgment, filed 9/22/09
7. Reply to Response Motion For Summary Judgment, filed 9/29/09
8. Declaration of O'Day (2), filed 9/29/09

The Court reviewed the pleadings and, motion, papers and arguments of the parties, and upon being fully advised, GRANTS the motion for summary judgment on the grounds which are stated in the court's written decision dated March 16, 2010, a copy of which is attached. The Court concludes that San Juan County Code Chapter 18.70.060B(10)(a) violates RCW 82.02.020 as a tax on the subdivision of land.

Now, therefore it is hereby ORDERED that:

1. O'Day's motion for summary judgment is GRANTED;
2. San Juan County Code Chapter 18.70.060(B)(10)(a) is INVALID.

Judgment and Order 2

Law Offices of
Stephanic Johnson O'Day
Post Office Box 2112
Friday Harbor, WA 98250
Phone (360) 378-6278

1 3. Statutory attorney's fees in the amount of \$200.00 and a filing fee in the amount
2 of \$240.00 are awarded to the O'Days.
3


4
5 Dated this 1 day of April, 2010


Susan K. Cook, Superior Court Judge

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7
8 Presented By:

9
10 Stephanie Johnson O'Day, WSBA# 17266
11 Attorney for Pat and Stephanie O'Day

12 Notice of Presentation Waived,
13 Copy Received:

14 
15 Jonathan W. Cain, WSBA # 37979
16 Deputy Prosecuting Attorney
Attorney for San Juan County
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Judgment and Order 3

Law Offices of
Stephanie Johnson O'Day
Post Office Box 2112
Friday Harbor, WA 98250
Phone (360) 378-6278

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3. Statutory attorney's fees in the amount of \$200.00 and a filing fee in the amount of \$240.00 are awarded to the O'Days.


Dated this _____ day of March, 2010

Susan K. Cook, Superior Court Judge

Presented By:

Stephanie Johnson O'Day, WSBA# 17266
Attorney for Pat and Stephanie O'Day

Notice of Presentation Waived,
Copy Received:



Jonathan W. Cain, WSBA # 37979
Deputy Prosecuting Attorney
Attorney for San Juan County

Judgment and Order 3

Law Offices of
Stephanie Johnson O'Day
Post Office Box 2112
Friday Harbor, WA 98250
Phone (360) 378-6278

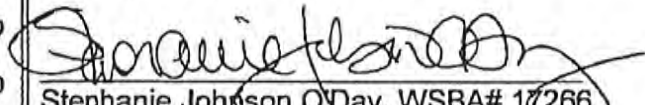
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3. Statutory attorney's fees in the amount of \$200.00 and a filing fee in the amount of \$240.00 are awarded to the O'Days.

Dated this ____ day of March, 2010

Susan K. Cook, Superior Court Judge

Presented By:



Stephanie Johnson O'Day, WSBA# 17266
Attorney for Pat and Stephanie O'Day

Notice of Presentation Waived,
Copy Received:

Jonathan W. Cain, WSBA # 37979
Deputy Prosecuting Attorney
Attorney for San Juan County

Judgment and Order 4

Law Offices of
Stephanie Johnson O'Day
Post Office Box 2112
Friday Harbor, WA 98250
Phone (360) 378-6278



Skagit County Superior Court

Skagit County Courthouse
205 West Kincaid Street, Room 202
Mount Vernon, WA 98273

Phone: (360)336-9320
Fax: (360)336-9340
E-mail: superiorcourt@co.skagit.wa.us

JOHN M. MEYER
JUDGE, DEPARTMENT NO. 1

MICHAEL E. RICKERT
JUDGE, DEPARTMENT NO. 2

SUSAN K. COOK
JUDGE, DEPARTMENT NO. 3

DAVE NEEDY
JUDGE, DEPARTMENT NO. 4

G. BRIAN FAXTON
COURT COMMISSIONER

DELILAH M. GEORGE
COURT ADMINISTRATOR

March 16, 2010

Ms. Stephanie Johnson O'Day
Attorney at Law
540 Guard Street, Suite 160
P.O. Box 2112
Friday Harbor, WA 98250

Mr. Jonathan W. Cain
Deputy Prosecuting Attorney
San Juan County
350 Court Street
P.O. Box 760
Friday Harbor, WA 98250

Re: Pat O'Day and Stephanie O'Day v. San Juan County
San Juan County Case No.: 8-2-05243-6

Dear Counsel,

I have now reviewed the materials submitted by the parties in connection with the Plaintiff's motion for summary judgment. I conclude that San Juan County Code 18.70.060 (B)(10)(a) violates RCW 82.02.020 as a tax on the subdivision of land. That section of the San Juan County Code is therefore invalid and should not be applied to the O'Day's proposal.

This case comes before the Court as a result of San Juan County's refusal to process the O'Day's application to sub divide their 10.54 acre parcel on San Juan Island into two 5.27 acre parcels. The San Juan County planning department based its refusal on the fact that the O'Day's application lacked an Open Space Conservation Design as required by SJCC 18.70.060 (B)(10). The O'Day's asserted both to the planning department and to this court that the open space requirements were an illegal tax under RCW 82.02.020 and CAPR v. King Co. 145 Wn.App. 649 (2008).

The O'Day property is located in the Rural Farm Forest land use district with a permissible residential density of one unit per five acres. If left undivided, the property would be required to have a minimum of 30% of its area set aside as open space or landscaped area. When divided, however, the land becomes subject to SJCC 18.70.060 (B)(10)(a) and is required to maintain 60 percent of its area as open space "from which all construction related to residential use is excluded."

Although San Juan County attempts to characterize its ordinance as a zoning regulation enacted pursuant to the authority of GMA, there is no getting around the fact that when

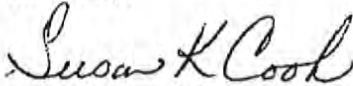
March 16, 2010
Ms. Stephanie Johnson O'Day
Mr. Jonathan W. Cain

the O'Day property is divided the percentage of that property limited to open space uses doubles. And Washington law is clear that RCW 82.02.020 prohibits local ordinances that require developers to set aside land as a condition of development.

The County also argues that its 60% requirement is not a "set-aside" because the property owner can make agricultural or forestry uses of the 60% area even if it cannot be used for residential construction. This overlooks the fact that the amount of land so limited increased from 30% to 60% as a result of the land division.

SJCC 18.70.060 (B)(10) imposes a "fee, tax or charge" on land divisions and therefore violates RCW 82.02.020. The ordinance is invalid.

Sincerely,



SUSAN K. COOK
Superior Court Judge

SKC/hs

Attachment B
Docket 16-0006

* drop in doc folder
last 2 weeks

John Campbell as
EPRC
med.

EASTSOUND SUBAREA PLAN

TOPICS FOR REVIEW

Existing language is shown in italics,

Discussion in normal face

Recommended language in Bold face type

General Plan presentation. The Plan is a statement of our community's vision for Eastsound, not simply compendium of dreary boilerplate verbiage in accordance with the GMA. Or it ought to be so. Let's give it a cover with a picture of EASTSOUND. The Plan devotes several pages to discussing "village character" That is a subject where a picture is worth a hundred words. Let's illustrate that character. Finally, EPRC has worked hard to get here and they deserve credit on a title page or the inside of the cover including CD staff too. "Make no little plans as they have no magic to stir men's blood." Eastsound is not Chicago but there is no reason to be banal.

Page numbers refer to Eastsound Subarea Plan, Staff Draft October 20, 2015 Exhibit A

1

Page 3, Section 3 EPRC

On page 4, Add new subsection E:

E. Board Training and Education. In order that the EPRC is informed of both the history and current good planning practice, a program of continuing education will be implemented including membership in the American Planning Association (APA).

Since inception the EPRC has been largely self-directed. The APA exists entirely to inform Planning Commissioners of current thinking and good practice and how other communities are meeting their similar issues.

2.

Page 8 (old 16.55.110.A.3.iv)

B. General goals and Policies, 1.3 Policies a.iv: (bottom of page):

In accordance with overall SJC policies in conformance with the WA State GMA which provides that 50% of the anticipated overall future residential growth shall occur within the UGA's, and that adequate provision be made for housing island residents of all income categories, the Eastsound UGA shall be sized accordingly, including applicable seasonal and market factors.

In order to achieve GMA Compliance in 2005, Ord 13-2005, SJC committed to monitor rural vs. urban housing starts every five years. Consider adding: **Review urban vs. rural housing starts since 2005.**

3.

Page 10. 3.3 Policies a.iv: *Encourage multi-family residential development in and around the village so that more island residents can walk, rather than drive, to destinations in the village.*

Consider what incentives would encourage new commercial development to include second and or third story residential development. Parking abatements, Other?

4.

Page 10 3.3.c *Provide adequate land area for commercial and industrial uses that are not appropriate in the village but that are logically located conveniently to the village, while avoiding conflicts with other land uses.*

Review growth in the Service and Light Industrial zone and consider whether this zone should be expanded.

5.

Page 11

5.2 Transportation policy

a. *The transportation Plan (Figure 130-1) will be used for the orderly and timely acquisition of Rights of Way.* Revise figure 130-1 to meet current needs. Find and indicate an exit from “A” street, preferably south beside the Athletic Center to Main Street but identify an exit.

AND

Indicate Streetscape plans for Prune alley “A” street.

AND

Figure out what is to become of the Fern Street ROW between North Beach and Prune Alley.

6.

Page 12

6.2.a *A public parking plan will be developed for the village.*

Implement the Parking Plan in old 16.55.300.c.4 and provide an immediate funding means such as tax district or tax increment financing to acquire and improve sites now while available. In order to encourage more intense commercial development, consider prohibiting new on-site parking.

7.

Page 20

E. Village Plan

*1.1 figure 140-1 illustrates the elements of open space, historic and natural features and circulation in the village.....*Bring figure 140-1 current.

8. Page 20

Figure 130-7 Waterfront Access Plan. This plan and its attendant provisions for access and parking should be clarified and incorporated into the Plan and Regulations, not left to private agreements. Enforce visual corridor requirements.

9.

Page 24

F. Utilities Figure 150-1 This plan should be brought current, perhaps separating water and sewer line drawings, including existing extensions beyond the UGA.

10.

Page 25

G. *Architecture and Site Design.*

Provide photographic illustration of qualities described in the text.

11.

Page 27

Section 5

A. *Eastsound Land Use Districts.* Insert current zoning map.

12

Page 29

D. *Service and Light Industrial District.*

5.3. *Purpose*

e. To prohibit new residential development other than residential units accessory to a commercial or industrial use and located within a commercial or industrial building.

Are we sure? If so, why do we allow RV Parks, see matrix page 17. If not here, where can we allow this valuable affordable housing option?

Certainly another reason is to separate, as much as possible, airport use and surrounding residential use. Consider adding:

f. To provide a buffer or separation between the airport runway and surrounding residential areas.

Page 29 continued.

5.4 Purpose.

c. To provide a buffer of moderate land use intensity between the airport and adjoining industrial uses and the rural residential areas outside the geographic boundaries of this plan.

The primary purpose of the residential zoning is to provide area for urban density housing in the UGA. The Airport is “buffered” by SLI from housing. Current language is confusing. Consider replacing with:

c. To provide sufficient land for urban density residential growth, at least 50% of projected Orcas island Growth, in the Eastsound UGA.

13.

F. Service Park District

5.5 Purpose

a. To provide for a service Center at the eastern edge of Eastsound , in a relatively small area characterized by an existing mix of service and residential uses, but which is large enough to allow for reasonable growth.

b. To allow for development that preserves the existing character and natural features and visual qualities of adjacent properties by imposing specific development standards including building height, setbacks, open space and landscaping.

c. To allow a mixture of commercial service uses and accessory residential units while protecting adjoining residential areas from undesirable commercial and industrial uses which typically generate noise, traffic, or evening activities incompatible with residential neighborhoods.

d. To prohibit new residential development other than residential units accessory to a commercial or industrial use and located within a commercial or industrial building.

What “service center”, it is not Country Corner, it is the OPALCO property. What residential uses? Why is this not zoned Rural Industrial.

14.

Page 30

H. Eastsound Airport District.

When and why did the Plan add an “Airport District”, rather than airport as an allowed use in SLI, become adopted?

Coordinating airport uses and other Eastsound land uses has been an objective from the first Subarea Plan, originally designating SLI uses as a buffer to surrounding residential uses so far as possible.

Consider:

5.7 Purpose

b. To allow for new airport related facilities and services that are compatible with the **Eastsound Subarea Plan**. ~~other commercial and residential uses in the subarea and consistent with The adopted Orcas Island Airport Master Plan~~ **shall coordinate with and be guided by the Eastsound Subarea Plan.**

15.. Page 31.

J. Eastsound Rural Residential.....etc.

5.9 Purpose.

~~a. To provide for a mix of residential densities in areas already in residential use.~~

b. to acknowledge the existing medium density residential areas **already served by sewer and water** and allow other uses which are or can be made compatible with residential use **in a rural area.**

~~e. to provide a buffer of moderate land use intensity between the airport and adjoining industrial uses and the rural residential areas outside the geographic boundaries of this plan.~~

What has this zone to do with the airport? Delete. This zone was an attempt to ignore all the urban density small lot development out towards Bartwood notwithstanding it was already served by water and sewer, normally determining Urban designation.

16.

Page 32

Section 7. Implementation

This section should be completely rewritten and reviewed annually thereafter. Implementation will require integration into appropriate County implementation plans, Road Plan, Park Plan, etc.

REGULATIONS

16.

Page 10

Table X Allowable land uses by land use district. At the eleventh hour, the RURAL Eastsound Rural Residential zone was separated into a new column from the URBAN Eastsound Residential column. However, the allowable and not allowable uses in the resulting columns were not edited to restrict urban uses to the urban column and rural uses to the rural column. For example:

1. The allowable uses in the Eastsound Residential column should be reviewed to eliminate all rural uses on pages 18 and 24 such as farm labor accommodations and farm stay, agricultural uses, retail sales of agricultural products, and unnamed agricultural uses.
2. Similarly, the uses in the Eastsound Rural columns should allow rural uses such as forest practices, portable lumber mill, nurseries, small scale slaughter operation, resorts and camps, outdoor recreation and not allow urban uses requiring community water and sewer such as day care, nursing homes, residential care facilities, community clubs, multi-family housing and group housing.

ATTACHED ARE MATRIX SHEETS SHOWING SUGGESTED REVISIONS TO SEPARATE URBAN AND RURAL USES.

3. Review Recreational Vehicle and Mobil Home use tables, pg 17 and 18. Mobil homes are, I believe, built in a factory to a HUD Building Code and trucked to the site and are regulated like any other building. No special zoning necessary. Delete Mobil Home use from table.
4. Recreational vehicles are any unit that is built on a permanent chassis and practically moveable, campers, trailers, motor homes and fifth wheel units. . RV density is typically 6-12 units/ acre and require sewer and water, i.e. an urban use. An RV park would be a useful tool for meeting affordable housing needs. Not a preferred neighbor but very affordable. Currently allowed only in SLI with CUP. But where, beside the airport? Consider expanding SLI to provide space for an RV development.
5. Kiosks have been noted as needing work, I think.

17.

Page 34

Notes to Residential density requirements, third box from bottom

Within the Eastsound urban growth area... ..Affordable housing developments must comply with the critical area requirements of Chapter 18.30 SJCC.

This is not an applicable reference. 18.60.230.C.6.d? i.e. not to exceed 1500 s.f. per dwelling unit?

18.

Page 58

Section 22 Design Standards

2. Procedure for exceptions.

There must be some clarity about appeals from EDRC decisions, if any. Decisions can be final, appealable to the Hearing Examiner (SJCC 18.80.140.B.8 and Table 8.1) or other. The failure to clarify this issue is unfair to applicants (who may not realize they have the option) and EDRC who need to know as well.

In addition, consider specifying a fee to cover additional staff time, printing and recording entailed and similarly if appeals are permitted.

the end

Attachment B
Docket 16-0007

HOUSING BANK COMMISSION OF SAN JUAN COUNTY

MEMORANDUM

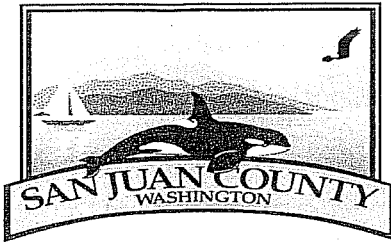
Date: June 29, 2011
To: San Juan County Planning Commission
From: Sandy Bishop, Chair, Housing Bank Commission
Subject: Housing Bank Commission Recommendation

This recommendation is regarding the Staff Report dated April 5, 2010, prepared by Colin Maycock, San Juan County Senior Planner. An excerpt from the Staff Report follows:

“San Juan County Comprehensive Plan, Section B, Element 5 (the Housing Element) Sub-section 2.D (Policies for Affordable Housing) #15 provides for an expansion of Rural Residential Cluster development densities from a maximum of 8 dwelling units to a maximum of 12 dwelling units. In addition, Staff received a proposal from the public to consider increasing the size of the individual Rural Residential Cluster units from 1,500 sq ft to 2,000 sq ft per unit.”

Although not unanimous, a majority of San Juan County Housing Bank Commission members voted today in favor of recommending that the Planning Commission recommend that the County Council approve the proposed amendments to the Unified Development Code, as detailed in the staff report.

Prepared by: 
Angie Lausch, Affordable Housing Coordinator



**San Juan County
Community Development & Planning**

135 Rhone Street P.O. Box 947 Friday Harbor, WA 98250
(360) 378-2354 (360) 378-2116 Fax (360) 378-3922
www.sanjuanco.com

DATE: APRIL 5, 2010

Staff Report

TO: SAN JUAN COUNTY PLANNING COMMISSION

FOR MEETING OF: 16 APRIL, 2010

ISSUE:

San Juan County Comprehensive Plan, Section B. Element 5 (the Housing Element) Sub section 2.D (Policies for Affordable Housing) #15 provides for an expansion of Rural Residential Cluster development densities from a maximum of 8 dwelling units to a maximum of 12 dwelling units. In addition, Staff received a proposal from the public to consider increasing the size of the individual Rural Residential Cluster units from 1,500 sq ft to 2,000 sq ft per unit.

POLICY DECISIONS:

The policy issue facing the Planning Commission is whether or not to recommend the adoption of the proposed amendments into the UDC.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission recommend approval of these amendments to the County Council.

BACKGROUND:

Ordinance 50-2008, adopted by the San Juan County Council on 18th November, 2008 allows the County to amend the UDC up to 3 times a year and sets forth protocols to ensure sufficient public notice regarding the proposed amendments. The proposal to amend the Rural Residential Cluster Development standards by increasing the number and size of units permitted is one facet of the overall first 2010 UDC docket.

ANALYSIS:

The Rural Residential Cluster concept was introduced to San Juan County by Ordinance 2-1998. Since then two Rural Residential Cluster developments, totaling sixteen units, have been completed in the county.

Currently, Rural Residential Clusters are allowed in Rural Residential, Rural Farm Forest, Village Residential, Hamlet Residential, Eastsound Rural Residential, Orcas Village Residential, Orcas Village Commercial, Olga Hamlet Residential Commercial and Deer Harbor Residential.

Under the existing regulations, the minimum parcel size that will allow for the development of the maximum number of 8 units is 4 acres, (SJCC 18.60.230 allows for a maximum of 8 units at a maximum of 2 units per acre). The maximum unit size is 1,500 sq ft which means that of a 4 acre site (174,250 sq ft) a maximum of only 7%(12,000 sq ft) is taken up with housing.

The proposed amendment would change these numbers slightly, at 3, 1,500 sq ft units per acre with a maximum of 12 units altogether, the combined floor space would take up 10% of the lot. At 2,000 sq ft per unit, the maximum development on the smallest parcel would take up 13% (24,000 sq ft) of the lot.

SJCC 18.60.230 D.1 limits the number of residential clusters that can be built in a single year on the Ferry Served Islands to no more than three (3) clusters per year and sets the maximum number of units that can be constructed in a decade as one hundred (100) with a further restriction of no more than fifty (50) on any single island. This section further limits the construction of residential clusters on non ferry served islands to no more than ten (10) units per island per decade.

As noted above, there have been no more than 16 rural residential cluster units built since 1998 or an average of 1.3 units per year. Which means that at the current rate of construction, by the time first 100 units are built, (77 years from now), a further 700 affordable units would have been permissible (100 per decade).

Just as the primary purpose of creating rural residential cluster development standards in first place was to provide an innovative regulatory option for the creation of affordable housing, increasing the number and size of units possible within rural residential clusters has been proposed to further encourage their development. The 2009 Comprehensive Plan Housing element shows there is a severe shortage of affordable homes for a broad cross section of county residents, and, as noted above, few rural residential clusters have been construction, increasing both the number and size of the units allowed in rural residential clusters has been proposed as a means of making such projects more attractive to private investors and to assist non profit affordable home providers with a means of increasing, in their favor, the homes to cost ratio.

Objectives: (5.2.A 1-4)

1. To make adequate provision for a variety of housing choices in terms of type, cost, size, design, and suitability for various households including families, the elderly, the disabled, and housing for very low-, low-, moderate-, middle- and low-upper-income households while recognizing the unique physical, social, and economic environment of the islands.
2. Maintain the demographic variety of our community by supporting the availability of housing for the very low-, low-, moderate-, middle- and low-upper-income earners in the County.

Housing Element 9

3. Reinforce where possible and establish where necessary a continuum of care for people with special needs in UGAs and Activity Centers, including emergency housing, transitional housing, assisted living, group homes, senior housing, and very low-income housing.
4. In conjunction with the Town of Friday Harbor, promote the provision of an

5.2.B Housing Goals

Goals: (5.2.B 1-5)

1. To provide a geographical and regulatory opportunity for the annual construction of the minimum number of needed housing units affordable to very low-, low-, moderate- and middleincome households.

Policies: (5.2.C 1-9)

1. Promote fair and equal access to housing opportunities for all persons.
2. Ensure that County policies, codes, and regulations do not restrict, prohibit or substantially increase the cost of establishing a variety of housing types including, but not limited to, government assisted housing, housing for low-income families, manufactured housing, multi-family housing, and group homes and foster care facilities; or impede the goals, policies and objectives of this Housing Element.

5.2.D Policies for Affordable Housing

Purpose:

To ensure that housing is affordable to all income groups through programs targeted at specific income groups or groups with special needs for whom the conventional housing market is unable to deliver sufficient suitable housing to meet the needs of the very-low, low-, moderate- and middleincome population at affordable prices or rents.

Policies (5.2.D.1-25):

1. In order to support affordable housing development, provide, as appropriate, for the sale or lease of appropriate County-owned land for permanently affordable housing development. The County will evaluate the full scope of such development proposals for their ability to meet County objectives.
11. Prioritize programs and projects, when considering funding, that ensure permanently affordable housing, such as through non-profit ownership; or permanent funding sources, such as revolving loan funds.
13. Expand the existing tiered density bonus program to provide further incentives for creating affordable housing. This program includes standards for innovative site planning techniques which minimize road, sewer, water, and other infrastructure costs, and standards to limit adverse impacts of additional density on adjacent properties and uses. This program should also entail a determination of increased densities necessary to make multifamily housing units profitable.
15. Provide for a limited number of small-scale rural residential cluster developments of no more than twelve dwelling units each within rural lands, and Village, Hamlet and Residential Activity Centers, where allowed, excluding Resource, Natural and Conservancy designated lands. Establish

conditions regarding the allowable number, appropriate location, size, design, spacing, ownership, affordability, and permitted accessory uses in such clusters to ensure that such developments do not adversely affect the rural, natural and agricultural character of these areas.

15. Provide for a limited number of small-scale rural residential cluster developments of no more than twelve dwelling units each within rural lands, and Village, Hamlet and Residential Activity Centers, where allowed, excluding Resource, Natural and Conservancy designated lands. Establish conditions regarding the allowable number, appropriate location, size, design, spacing, ownership, affordability, and permitted accessory uses in such clusters to ensure that such developments do not adversely affect the rural, natural and agricultural character of these areas.

Homes for Islanders—Incorporated in 1998 – completed first development in 2006 – Lee Ward Cove – to this date there are 25 completed units – 16 in RR Clusters. There are 14 more under construction, the total tally should be 39 units by this fall and 53 by the end of 2011.

Of these 25 units only one (1) has been sold – Brad Bailey sold his unit to Valentin's-

I have examined the 2006 and 2007 tax returns, as well as the 2008 YTD earnings statements, of Van and Shannan Valentin. I find that their income falls within 95% of the median income for San Juan County, as determined by HUD.

The 2008 estimated median family income for San Juan County residents is \$65,000. Buyers of the Leeward Cove project must fall within 95% of that amount, which is \$61,570.

The Valentins' 2007 adjusted gross income was \$27,333, and their 2006 AGI was \$50,223. Based on latest available earnings statements, their 2008 total income will be less than \$50,000.

Therefore, I find the buyers to be qualified to buy one of the resale-restricted properties in Leeward Cove.

At such time that a sale of any Unit in Leeward Cove Condominium is contemplated, and in accordance with San Juan County Code §18.60.260.D.2, notice is given that a copy of the purchaser's personal tax returns for the preceding two years be provided to the San Juan County Auditor, together with a copy of the Purchase and Sale Agreement together with any other information requested from the Auditor so that the Auditor may certify compliance with the resale restriction.

Dated: 8/24/07

SAN JUAN COUNTY AUDITOR

Milene Henley
Milene Henley

STATE OF WASHINGTON)
) ss.
COUNTY OF SAN JUAN)

I certify that I know or have satisfactory evidence that Milene Henley is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the document and acknowledge it as the San Juan County Auditor, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 24 day of August 2007.

Diane M. Timm
Notary Public in and for the State of
Washington, residing at Friday Harbor
My commission expires: August 20, 2010



The restricted use easement is on the platt, site plan and deed.
The Easement requires that total costs do not exceed 30% of AMI- which the sale meets.

FACTS & FINDINGS:

1. These amendments are being considered by the Planning Commission as part of the first UDC Docket for 2010.
2. A 60-day notice on the amendment of the Unified Development Code was submitted to the Department of Commerce on November 3, 2009 and assigned material ID # 15097.
3. The San Juan County Comprehensive Plan Section B. Element 5 (the Housing Element) Sub section 2.D (Policies for Affordable Housing) #15 provides for an expansion of Rural Residential Cluster development densities from a maximum of 8 dwelling units to a maximum of 12 dwelling units.
4. A combined hearing notice and SEPA DNS was published on March 31st, 2010.
5. There is a continuing shortage of affordable housing in the County and Rural Residential Clustering is one tool among many the County deploys to address the issue.

RECOMMENDED MOTIONS:

Move to recommend that the proposed amendments(with the additional changes drafted by the Planning Commission) to increase the number of units, from 8 to 12, and the size of units, from 1,500 sq ft to 2,000 sq ft, allowed in Rural Residential Clusters be approved by the San Juan County Council.

Attachment B
Docket 17-0001



Nov. 28, 2016

Attention: Erika Shook, Director
San Juan County Community Development
P.O. Box 947, Friday Harbor, WA 98250

SAN JUAN COUNTY

Attention: Colin Huntemer, County Engineer
San Juan County Public Works
P.O. Box 729, Friday Harbor, WA 98250

COMMUNITY DEVELOPMENT

Re: Simple Land Divisions and Boundary Line Modifications County Code

Dear Erika and Colin,


Thank you for your attendance at our recent Land Surveyor's Association of Washington (LSAW), Northwest Chapter, San Juan Subchapter meeting. We as a group were very interested in your comments regarding Simple Land Division (SLD) and Boundary Line Modification (BLM) county codes and agree with meeting proposals to:

1. eliminate SLD code and require future SLD type divisions to be processed under our current Short Subdivision or Subdivision codes.
2. require title reports for BLMs to verify ownership and the required signatures, then submit the map (and if approved) record the BLM application and approved map as a Record of Surveys according to state standards.

We would welcome the opportunity to review and possibly recommend code language as the process of code amendments moves forward. We appreciate being included as one of the groups most often using county code for land use application preparation and submittals.

We would also be glad to provide rationale for the above recommended code changes if deemed useful. Please advise.

Sincerely,



Robert J. Wilson, PLS
LSAW San Juan Sub-Chapter Chair

cc: LSAW San Juan Sub-Chapter Members

Attachment B
Docket 17-0002



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250
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S.J.C. DEPARTMENT OF
DATE RECEIVED
1-18-21 2017
COMMUNITY DEVELOPMENT

Comprehensive Plan Text/SJC Code* Amendment Request

*San Juan County Code Titles 15, 16 & 18
(Annual Docket)

APPLICANT INFORMATION:
Name of Applicant: Shireene Hale et al.
Address: PO Box 693
City, State, Zip: Friday Harbor, WA 98250
Phone: 378-9797
Email: shireeneh@yahoo.com

This request is for a text amendment to the Comprehensive Plan or development regulations, not a comprehensive plan map amendment. I understand that this request will be reviewed according to the County's annual docket process.
Signature: Shireene Hale
Printed Name: Shireene Hale
Date: 2-21-17

Please Describe the Proposed Amendments (attach additional pages if you need more space):

1. Comprehensive Plan - Describe proposed amendment and/or attach proposed text changes. List Comprehensive plan section, page numbers, title and policies proposed for amendment.

2. San Juan County Code Title 15, Title 16 or Title 18. Describe proposed amendment and/or attach proposed text changes. List code sections proposed for amendment.
Cover letter and proposed amendments attached. Amendments include: SJCC Sections 16.50.040; 16.50.100; 16.50.200; 16.50.210; 16.50.220; 16.50.230; 16.50.240; 16.50.250 (proposed to be combined with similar section); 16.50.260; 16.50.265; 16.50.270; 16.50.275; 16.50.280; 16.50.440; 16.50.510; 16.50.530; 16.50.540; 16.50.570; 16.50.590; plus two new sections on specifications for conservation easements and re-evaluation after property enhancement.

3. Why is the amendment being proposed?

- Meet the requirements of RCW 84.34.055(b)-(d) to give priority consideration to lands with native vegetation buffers. The county missed the July 1, 2006 deadline for meeting this requirement.
- Provide the public with a better value in return for accepting additional property taxes.
- Enhance protection of fish and wildlife habitat.
- Consolidate related provisions and prevent "double dipping" (i.e. granting points and the associated tax shift for the same resources in multiple categories).
- Improve incentives for dedication of trail easements.
- Remove and/or correct out-of-date terms, definitions, and references.
- Clarify ambiguous and confusing sections.

4. How is the proposed amendment consistent with the Growth Management Act (RCW 36.70A), Comprehensive Plan and development regulations?

GMA

- RCW 36.70A.011 – Supports rural character.
- RCW 36.70A.020 – Helps meet GMA goal 9 by providing tax incentives for retaining open space.
- RCW 36.70A.060 – Helps protect critical areas.
- RCW 36.70A.110 – Can be used as an incentive for retaining open space in UGAs.

Comprehensive Plan

- Helps preserve open space in accordance with Comprehensive Plan vision statement.
- Supports open space goals and policies outlined in Land Use Element (Section B, Element 2): Sections 2.1.B; 2.2.A (policies 7 and 10); and 2.2.I.

Development Regulations

- SJCC 16.50.050 – Would meet requirement for 3-year program review by Planning Commission.

5. Does this proposal impact an Urban Growth Area (UGA)? Lopez Village, Eastsound and the Town of Friday Harbor are the only UGAs in the County.

- Yes, indicate UGA _____
- No

These regulations apply throughout the county. While a property owner within a UGA might apply for acceptance into the program, most properties in the program are in rural areas.

6. Does this proposal increase population or employment capacity?

No.

Shireene Hale
P.O. Box 693
Friday Harbor, WA 98250
shireeneh@yahoo.com
360-378-9797

San Juan County Council
350 Court Street, No. 1
Friday Harbor, WA 98250

Re: Public Benefit Rating System Amendments for 2017 docket

Dear Chairman Hughes and members of the San Juan County Council,

The attached document presents suggested amendments to San Juan County Code Chapter 16.50, the county's Public Benefit Rating System (PBRs). These amendments are in response to the Community Development Department's notice requesting submissions for consideration in the 2017 "docket". The amendments were prepared with input from a knowledgeable group of citizens including several members of the San Juan County Open Space Advisory Team; two former county planners, one of which is now a private land use consultant; a local land use attorney; and a local marine scientist.

The county's Public Benefit Rating System establishes tax incentives for property owners who protect resources and take actions determined to be of value to the citizens of San Juan County. Those who qualify for the program receive points for various resources and actions, with each point equivalent to a 1% reduction in their property taxes. These property taxes are then shifted to other county taxpayers. According to Vicki Griffin in the Assessor's office, this program results in a shift of approximately \$490,000 of property taxes out of a total of \$45,380,000. As a result, those who do not participate in the program pay approximately 1% more in property taxes to make the program possible. Vicki also provided the following statistics:

Acres enrolled in program	4,180
Properties enrolled in program	174
Properties exceeding currently allowable 70% reduction in taxes (because legally required re-evaluation has not been completed)	33
Properties receiving 70% tax reduction	11
Properties receiving tax reduction of 50-69%	59
Properties receiving tax reduction of 30-49%	71

Under SJCC sections 16.50.050 and 16.50.430, the planning commission and open space advisory team are to periodically evaluate and provide recommendations on the PBRs. Though the planning commission is required to review the program every three years, it has been many years since the entire program was evaluated. These proposed amendments could be used as a starting point for the required program review.

Objectives of the proposed amendments include:

- Bring county regulations into conformance state laws governing Public Benefit Rating Systems by meeting the requirements of RCW 84.34.055(b)-(d). This section of law requires the county to give priority consideration to lands with native vegetation buffers. The county was required to do this before July 1, 2006.
- Address concerns that in some cases the public is not receiving a fair benefit for taking on additional property taxes, particularly with regard to public access to properties in the program.
- Make tax shifts for properties with wetlands, lakes, streams, and marine shorelines contingent on protecting adjacent vegetation necessary for good water quality and fish and wildlife habitat.
- Ensure that protecting important marine features such as feeder bluffs, forage fish spawning beaches and pocket beaches is an action eligible for points and a tax shift.
- Add protecting "Fish and Wildlife Habitat Conservation Areas" as an action eligible for points.
- Consolidate related provisions and prevent "double dipping" (i.e. granting points for the same resource in multiple categories).
- Add dedicating trail easements as an action eligible for points and a tax shift.
- Remove and/or correct out-of-date terms, definitions, and references.
- Clarify ambiguous and confusing sections including those using multipliers shown in brackets.

Several issues were discussed that did not result in amendment recommendations. This occurred for one of two reasons: insufficient time to work out the details, or lack of agreement on how to proceed. The county council may wish to address some of these items.

- Lower the number of points needed for acceptance to the program so smaller properties can qualify. This would provide an incentive for those protecting shoreline, wetland, stream and wildlife habitat, but would increase property taxes for those not in the program. If more people apply for the program, county costs for processing applications and administering periodic re-evaluations would also increase.
- Add a category giving points for not developing areas that may be inundated as sea levels rise.
- Clarify how points are assigned to adjacent parcels that are part of one application (typically from one property owner). Points for resources on all the parcels can be added together and applied to all the parcels, or they can be apportioned parcel by parcel (so a parcel would only receive points and a tax reduction for the resources it contains). Over the years this has been done both ways, resulting in inconstant shifts in property taxes. There are benefits and drawbacks to each approach, that we would be happy to discuss with you.
- To reduce permit costs and more fairly administer the program, allow adjacent, different land owners to submit one, joint application with one permit fee.
- Further increase the allowable points and tax reduction for dedicating a trail easement to the county.
- Specify that the re-evaluation required after the PBRS regulations are amended be limited to the sections of the regulations that changed. While this would limit changes in taxes for those in the program, it would not correct errors and inconsistent application of points (and tax shifts) that occurred over the years.

- In SJCC 16.50.230(3) clarify what qualifies as a geologically hazardous area by specifically referencing them from the critical area regulations (SJCC 18.35.060). There are several categories of geologically hazardous areas, some more serious than others (e.g. one category applies county wide due to our earthquake risk).
- If permissible under the law, establish a simpler, less time consuming, less costly re-evaluation process for properties in the program. It appears the re-evaluations that were required after the regulations were amended in 1998 and 2011 still have not been completed. During the intervening years, some paid too little property tax, while others paid too much. A simpler process would allow the county to meet the re-evaluation requirement in a more cost effective and timely manner.

We urge you to use these suggested amendments as a starting point for public discussion, and to include them in the 2017 docket. This would provide a significant public benefit by bringing the regulations into conformance with existing legal requirements and by correcting problems that have been identified. After review and update of the regulations is completed, properties currently in the program should undergo the long overdue re-evaluation required by RCW 84.34.037(3), 84.34.55(3) and WAC 458-30-330 so that property taxes will be apportioned fairly and in accordance with legal requirements.

Thank you for your consideration.

Sincerely,

Shireene Hale

On behalf of:

Debby Clausen	Tina Whitman
Tim Clark	Charles McCarty
Jeff Otis	

1 Chapter 16.50
2 OPEN SPACE PROGRAM*

3 Sections:

4 16.50.010 Purpose.

5 16.50.020 Goals.

6 16.50.030 Authority.

7 16.50.040 Applicability.

8 16.50.050 Program review.

9 16.50.100 Definitions.

10 16.50.200 Designation categories and conditions.

11 New Section. Conservation Easements

12 16.50.210 Resource category – Natural and scenic resources.

13 16.50.220 Resource category – Water resources.

14 16.50.230 Resource category – Fragile resources.

15 16.50.240 Resource category – Lands abutting property of public value.

16 16.50.250 Resource categories – Compatible recreational use areas.

17 16.50.260 Historic sites.

18 16.50.265 Farm and agricultural conservation land.

19 16.50.270 Resource category – Open space within communities.

20 16.50.275 Public access category – Level of access.

21 16.50.280 Resource protection category.

22 16.50.300 Public benefit rating system.

23 16.50.310 Open space classification questionnaire.

24 16.50.320 Valuation criteria – Point score and public benefit rating.

25 16.50.330 Assessed valuation schedule.

26 16.50.340 Addition of property to existing open space agreement.

27 New Section. Re-evaluation after enhancement of resources.

28 16.50.350 Noxious weeds.

29 16.50.400 Administration roles.

30 16.50.410 County council.

31 16.50.420 County assessor.

32 16.50.430 Open space advisory team.


33 16.50.440 Administrator.

34 16.50.450 Planning commission.

35 16.50.500 Application processing.

- 1 **16.50.510 Submittal and fee.**
 2 **16.50.520 Eligibility for review.**
 3 **16.50.530 Application review.**
 4 **16.50.540 Public notice.**
 5 **16.50.550 Public hearing.**
 6 **16.50.560 County council's decision.**
 7 **16.50.570 Procedures on approval.**
 8 **16.50.580 Procedures on denial.**
 9 **16.50.590 Processing time.**
 10 **16.50.600 Open space taxation agreement.**
 11 **16.50.605 Continued eligibility.**
 12 **16.50.610 Transfer of ownership.**
 13 **16.50.620 Revision of conditions.**
 14 **16.50.630 Increasing public benefit commitment.**
 15 **16.50.700 Change in use/withdrawal.**
 16 **16.50.800 Removal from classification.**

17 * Prior legislation: Ords. 6-1996, 3-1991, 41-1990 and Res. 2-1988.

18 **16.50.010 Purpose.** 

19 The state has adopted three programs for current use taxation under Chapter 84.34 RCW. These
 20 programs provide taxation benefits to qualifying (1) farm and agricultural land; (2) timber land; and
 21 (3) open space land. Open space land is defined in RCW 84.34.010(1). The purpose of the open
 22 space program is to encourage landowners to dedicate land containing valued resources/features
 23 to open space classification, and to:

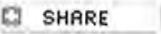
- 24 A. Rate the public benefit of land so dedicated;
 25 B. Provide for proportionate abatement of assessed value on land so dedicated; and
 26 C. Regulate the use of land so dedicated. (Ord. 4-2011 § 1; Ord. 5-1998)

27 **16.50.020 Goals.**

28 The open space program intent is to preserve systems essential to the quality of life on the islands
 29 and to the enjoyment and nurture of current and future generations. The open space goals are as
 30 follows:

- 31 A. To conserve and enhance natural or scenic resources;

- 1 B. To protect streams or water supply;
- 2 C. To create and enhance recreational opportunities for public use and enjoyment;
- 3 D. To promote conservation of soils, wetlands, beaches or tidal marshes;
- 4 E. To enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves,
- 5 nature reservations or sanctuaries or other open space;
- 6 F. To reduce residential density;
- 7 G. To preserve historic sites;
- 8 H. To preserve visual quality along public roads, ferry corridors, and scenic vistas;
- 9 I. To retain in its natural state tracts of land not less than one acre situated in urban areas and
- 10 open to public use on such conditions as may be reasonably required by the legislative body
- 11 granting the open space classification; and
- 12 J. To preserve farm and agricultural conservation land. (Ord. 5-1998)

13 **16.50.030 Authority.** 

14 San Juan County adopts the ordinance codified in this chapter under the authority of
 15 Chapter 84.34 RCW on Open Space Current Use Assessment. (Ord. 5-1998)

16 ***Note: The following is consistent with how conflicts in other sections of the land use***
 17 ***regulations are handled. It is problematic if they all say they take precedence because then***
 18 ***conflicts are not resolved. Also, land use regulations must be consistent with the***
 19 ***comprehensive plan, so any conflicts need to be worked out before the regulations are***
 20 ***adopted.***

21 **16.50.040 Applicability.**

22 The open space program applies to all taxable properties within San Juan County. If there is a
 23 conflict between The provisions of the program, Unified Development Code (SJCC Title 18),
 24 activity center plans, or subarea plans, the more restrictive requirement shall prevail. ~~over any~~
 25 ~~conflicting provision of other portions of the Comprehensive Plan, Shoreline Master Plan, and other~~
 26 ~~currently existing subarea plans.~~ (Ord. 5-1998)

27

1 **16.50.050 Program review.**

2 The open space program shall be reviewed at least once every three years by the planning
3 commission, who will advise the County council of their findings. (Ord. 4-2011 § 2; Ord. 5-1998)

4 **16.50.100 Definitions.**

5 The following definitions apply only to the open space program:

6 1. "Archaeological site" means a documented area of ancestral human use such as middens, burial
7 grounds, earthworks, etc.

8 2. "Assessed valuation schedule" means the conversion of point scores to percentage of
9 assessment abatement under the public benefit rating system.

10 ***Note: The following definition of "critical habitat" is not used and should be removed. The***
11 ***term "critical areas" is used and that cross reference should be added. If the terms***
12 ***associated with the endangered species act are no longer needed (i.e. because they are***
13 ***replaced with the term "Fish and Wildlife Habitat Conservation Area"), then those***
14 ***definitions should also be removed.***

15 ~~3. "Critical habitat" means an area or type of environment that is of limited quantity, and is therefore~~
16 ~~of crucial importance to the perpetuation of the organism or biological population which normally~~
17 ~~lives or occurs there.~~

18 3. "Critical areas" means geologically hazardous areas, frequently flooded areas, critical aquifer
19 recharge areas, wetlands, and fish and wildlife conservation areas, all as defined in SJCC 18.20
20 and regulated in SJCC 18.35.020 through 18.35.140.

21 4. "Cultural area" means a site or item of symbolic significance to a cultural group, community,
22 and/or society, such as a religious site, a national boundary marker, a legendary site, etc.

23 5. "Current use" means the use to which land is presently being put.

24 6. "Department" means the Department of Community Development.

25 7. "Development" is defined in SJCC Chapter 18.20.

26 ***Note to code reviser: Renumber remaining definitions.***

27 6. "Ecological balance" means the pattern of relations between organisms and their environment
28 when left in their natural state.

- 1 7. "Endangered" means a species which is in danger of extinction throughout all or a significant
2 portion of its range (classified by the State Department of Wildlife, WAC 232-12-014 and the
3 Department of Natural Resources, State of Washington Natural Heritage Plan).
- 4 8. "Management conditions" are conditions the County may impose for developing, managing, and
5 maintaining land classified as open space.
- 6 9. "Monitor species" means species of special interest at the state level because they have, for
7 example, significant popular appeal, require limited habitat during some portion of their life cycle,
8 are indicators of environmental quality, require further field investigations to determine population
9 status, have unresolved taxonomic problems which may bear upon status classifications, or were
10 justifiably removed from endangered, threatened, or sensitive classifications (Washington
11 Department of Wildlife, Nongame Program definition).
- 12 10. "Noxious weed" means a plant that when established is highly destructive, competitive, or
13 difficult to control by cultural or chemical practices.
- 14 11. "Noxious weed list" means a list of noxious weeds adopted by the State Noxious Weed Control
15 Board. The list is divided into three classes:
- 16 a. Class A consists of those noxious weeds not native to the state that are of limited
17 distribution or are unrecorded in a region of the state and that pose a serious threat to
18 the state; and
- 19 b. Class B consists of those noxious weeds not native to the state that are of limited
20 distribution or are unrecorded in a region of the state and that pose a serious threat to
21 that region; and
- 22 c. Class C consists of any other noxious weeds.
- 23 12. "Passive recreation" means nonmotorized recreational uses such as hiking, biking or
24 picnicking, with the exception of motorized wheelchairs or similar modes of transportation for
25 mobility-impaired individuals.
- 26 13. "Public benefit" means for the good or the improvement of the general welfare of the
27 community, in keeping with the goals set forth in SJCC 16.50.020.
- 28 14. "Public benefit rating" means the relative value to the public of resources/features existing on
29 the land, as determined by the public benefit rating (a point value assignment) system.

1 15. "Public benefit rating system" means the process by which the relative value of
2 resources/features on application lands are evaluated.

3 16. "Sanctuaries" are places of refuge for plants and animals.

4 17. "Sensitive species" are species that could become threatened if current water, land, and
5 environmental practices continue (classified by the Department of Wildlife, Nongame Program, and
6 the Department of Natural Resources, State of Washington Natural Heritage Plan).

7 18. "Threatened" means a species that is likely to become an endangered species within the
8 foreseeable future (classified by the Department of Wildlife, Wildlife Policy No. 602, and the
9 Department of Natural Resources, State of Washington Natural Heritage Plan).


10 19. "Unique habitat" means an area or type of environment supporting an organism or population
11 that is rare, endemic, or limited within San Juan County.

12 20. "Valuation criteria" means the standards which will be applied during the review of
13 resources/features to determine the point value assignment score.

14 ***Note: To ensure use of the legally required definition of wetlands, the definition in the***
15 ***Unified Development Code should be referenced.***

16 21. "Wetlands" are defined in SJCC 18.20.230. ~~lands transitional between terrestrial and aquatic~~
17 ~~systems where the water table is usually at or near the surface or the land is covered by shallow~~
18 ~~water. Wetlands must have one or more of the following three attributes: (a) at least periodically,~~
19 ~~the land supports predominantly hydrophytes; (b) the substrate is predominantly undrained hydric~~
20 ~~soil; and (c) the substrate is nonsoil and is saturated with water or covered by shallow water at~~
21 ~~some time during the growing season of each year (Cowardin et al., 1979). (Ord. 5-1998)~~

22 ***Note: Since these are regulations, the terms "may be" and "recommendations" should be***
23 ***replaced with terms that are more definitive. This gives more certainty about what will be***
24 ***considered when applications are reviewed, and reduces the chance of inconsistent***
25 ***decisions. A cross reference to a list of useful maps is added to assist applicants in finding***
26 ***information about their property.***

27 **16.50.200 Designation categories and conditions.** 

28 The categories designated in this section describe the resources and/or features that ~~may be~~ are
29 considered in evaluating land eligibility for open space classification under the public benefit rating
30 system. The categories define these resources/features and provide criteria for eligibility. The

1 development restrictions and type of public access allowed ~~are recommendations for~~ are deemed
2 ~~appropriate use on~~ for land having the particular resource/feature. These ~~recommendations~~
3 restrictions and allowances are to be considered in determining appropriate conditions to be placed
4 on land classified as open space. When more than one resource/feature appears on the land, the
5 discrete ~~recommendations~~ restrictions and allowances are to be reasonably weighed with
6 appropriate overall use(s) in determining management conditions.

7 ~~Some~~ Most of the resources/features are weighted with a priority multiplier. The priority multiplier
8 reflects the level of importance of a given resource/feature ~~and is identified in brackets at the end~~
9 ~~of the criteria section in most of the resource/feature categories, i.e., [3].~~ The priority multiplier is
10 used in conjunction with the resource point value to determine the total value of a resource/feature
11 (see SJCC 16.50.320). Priority multipliers are not added to public access or resource protection
12 categories. The point allocation for public access and resource protection is identified in the criteria
13 section of the respective categories. The resources/features are divided into three broad
14 categories: resources, resource protection, and public access. No more than 40 points shall be
15 granted for the resource category, and no more than a total of 70 points shall be granted for any
16 one application. ~~The number of points awarded for the resource protection and public access~~
17 ~~categories are not restricted by a cap.~~ A minimum of 30 total points is required to qualify for open
18 space classification.

19 The resources and features eligible for points under this program include some "critical areas":
20 geologically hazardous areas, frequently flooded areas, critical aquifer recharge areas, wetlands,
21 and fish and wildlife conservation areas. SJCC 18.10.040.D. contains a list of maps that may be
22 used as guides for identifying these areas. In all cases, however, conditions on the ground control.
23 (Ord. 5-1998)

24 ***Note: The following new section is added to clarify who may hold conservation easements***
25 ***(for those granted points for having a conservation easement).***

26 **New Section. Conservation Easements.** Conservation easements are one tool commonly used
27 to protect land in perpetuity, while providing a tax benefit to the property owner. To ensure the
28 protection remains in place in perpetuity, to receive points under this public benefit rating system,
29 the easement must be dedicated to, and accepted by the San Juan Preservation Trust, the San
30 Juan County Land Bank, or a non-profit nature conservancy corporation or association as defined
31 in RCW 84.34.250.
32

1 **16.50.210 Resource category – Natural and scenic resources.** SHARE

2 A. Definition/Purpose. Conserves and enhances natural and scenic resources such as sanctuary
3 lands providing habitat for flora and fauna, natural shorelines, and vistas.

4 B. Criteria.

5 1. "Natural" designations as described under SJCC 18.20.140, 18.30.010(D)
6 and 18.50.070(D), [2]. Points shall be awarded in one category as follows:

7 a. ~~Three~~ Six (6) points where more than two-thirds of the shoreline, the uplands, or
8 a combination thereof, is located within a natural designation.

9 b. ~~Two~~ Four (4) points where one-third to two-thirds of the shoreline, the uplands,
10 or a combination thereof, is located within a natural designation.

11 c. ~~One~~ Two (2) points where a portion of the property totaling less than one-third of
12 the shoreline, the uplands, or a combination thereof, is located within a natural
13 designation.

14 2. Visual Quality of the Site. This category addresses the visual quality of the site as
15 seen from roads and/or ferry routes. One-half point shall be awarded for each of the
16 resources noted below that are visible from public ~~arterial roads, ferry routes, public~~
17 ~~collector roads and waterways, and from public access roads.~~ Those resources visible
18 from public major ~~or minor arterial~~ collector roads or ferry routes shall be multiplied by
19 three for a maximum of nine points; those resources visible from public minor collector
20 roads shall be multiplied by two for a maximum of six points; and those resources visible
21 from other public access roads or waterways shall be multiplied by one for a maximum
22 of three points. Points in the various categories are then added together. Road
23 classifications shall be as noted in the Transportation Element of the SJC
24 Comprehensive Plan:
25

1

Visible Resources	X Visibility Multiplier	<u>Points for category</u>
Pasture land (0.5 pts)	3 – Major or minor arterial <u>collector</u> roads or ferry routes	
Steep slopes (0.5 pts)	2 – <u>Minor</u> Collector roads	
Wetlands or shoreline (0.5 pts)	1 – <u>Other public</u> Access roads or waterways	
Forest lands (0.5 pts)		
Compatible development (barns or other agriculturally related structures, or historical structures which add to the visual quality of the site) ÷ (0.5 pts)		
No or minimal visible development (except compatible development) ÷ (0.5 pts)		
<u>Total points for all resource categories</u>		

2

3 ***Note: The following was combined with, and relocated to section 16.50.230, another section***
4 ***that awards points for upland plant and wildlife habitat.***

5 ~~3. Significant wildlife area that provides habitat for numerous species of flora and fauna~~
6 ~~{3}. Points shall be awarded as follows:~~


7 ~~a. Three points where there is evidence of at least three undisturbed and separate~~
8 ~~habitats.~~

9 ~~b. Two points where there is evidence of at least two undisturbed and separate~~
10 ~~habitats, or a variety of disturbed habitats.~~

11 ~~c. One point where there is evidence of at least one habitat, or lower quality~~
12 ~~habitats.~~

13 C. Development Restrictions. No further development.

14 D. Public Access. Limited to those activities which will not threaten or destroy the resource/feature.
15 (Ord. 14-2000 § 7(OO); Ord. 5-1998)

1 **16.50.220 Resource category – Water resources.** 

2 A. Definition/Purpose. Protects functional watersheds, streams, stream corridors, wetlands, marine
3 waters and associated habitat and supporting wetlands.

4 *Note: The group that prepared these amendments felt the 1988 San Juan County Watershed*
5 *Ranking Report is outdated, difficult to apply (e.g. the boundaries are hard to see) and not*
6 *readily available. The current approach to protecting priority watersheds is to protect them*
7 *through the critical area regulations. Since points for protecting both fresh and marine*
8 *waters are given in other areas, it was determined this section could be eliminated.*

9 B. Criteria.

10 ~~1. Lands within a priority watershed are identified on the San Juan County Shoreline~~
11 ~~Master Program Designated Environments Map, or recognized in the San Juan County~~
12 ~~Watershed Ranking report [3]. Points shall be awarded as follows:~~

13 ~~a. Three points where the entire property is within a priority watershed.~~

14 ~~b. Two points where two-thirds or more of the property is within a priority~~
15 ~~watershed.~~

16 ~~c. One point where one-third or more of the property is within a priority watershed.~~

17 *Note to code reviser: Renumber remaining sections.*

18 *Note: As is, the following sections allow property owners to receive points for simply*
19 *having wetlands or streams even if they do not protect the vegetation necessary for wildlife*
20 *habitat and good water quality. The following amendments improve consistency with the*
21 *critical area regulations and allow property owners to obtain points for protecting native*
22 *vegetation buffers, which is required by RCW 84.34.055(b) - (d). The deadline for meeting*
23 *this requirement was July 1, 2006.*

24 ~~2. Fresh water such as wetlands, lakes and/or streams/stream corridors as determined~~
25 ~~by San Juan County wetland maps, a qualified wetland specialist, and/or DNR stream~~
26 ~~types [3]. critical areas and associated habitat. This includes fresh water wetlands~~
27 ~~(wetlands are defined in SJCC Chapter 18.20 and must be verified by a qualified~~
28 ~~professional); naturally occurring ponds under 20 acres and their submerged aquatic~~
29 ~~beds that provide fish or wildlife habitat; lakes (water bodies equal to or greater than 20~~
30 ~~acres in size); and streams as defined in SJCC Chapter 18.20. Those resources with a~~

1 primarily native vegetation buffer twice the minimum size specified in the critical area
 2 regulations shall be multiplied by three (3); those with a buffer 50% larger than the
 3 minimum shall be multiplied by two (2); those meeting the minimum size shall be
 4 multiplied by one (1); and those less than the minimum size shall be multiplied by zero
 5 (0) and shall receive no points under this category. For wetlands these provisions are
 6 based on habitat buffer widths found in SJCC Table 18.35.100-3; for ponds, lakes, and
 7 streams these provisions are based on water quality buffers found in SJCC Table
 8 18.35.130-1. To receive points buffer areas cannot contain structures or development.

9 Resource Points shall be awarded as follows:

- 10 a. Three points where a Category I wetland or type F or Np stream is located on the
 11 property.
- 12 b. Two points where a Category II wetland and/or a Type III or IV stream is located
 13 on the property.
- 14 c. One point where a Category III or IV wetland and/or a Type Ns V stream is
 15 located on the property.
- 16

<u>Fresh Water Resource</u>	<u>X Protective Buffer</u>	<u>Points for</u>
	<u>Multiplier</u>	<u>Category</u>
<u>Cat. I wetland or Type F or Np stream (3 points for each)</u>	<u>3 – Buffer size twice minimum requirement</u>	
<u>Cat. II wetland (2 points for each)</u>	<u>2 – Buffer size 50% larger than minimum requirement</u>	
<u>Cat. III or IV wetland or type Ns stream (1 point for each)</u>	<u>1 – Buffer size meets minimum requirement</u>	
	<u>0 – Buffer size less than minimum requirement</u>	

Total Points for all Resource Categories

To qualify for points buffer areas must consist of primarily native vegetation with no structures or development.

3. ~~Salt water such as tidal marshes and estuaries [3].~~ Areas with on-site or adjacent salt water critical areas or other marine resources. This includes tidal marshes; estuaries; shellfish areas; mudflats; kelp and eelgrass beds; documented herring, smelt, sand lance and other forage fish spawning and holding areas; potential forage fish spawning areas; intertidal habitats with vascular plants; pocket beaches; and bluff backed beaches, critical areas and associated habitat. Those resources with a primarily native vegetation water quality buffer twice the minimum size specified in the critical area regulations (SJCC Table 18.35.130-1) shall be multiplied by three (3); those with a water quality buffer 50% larger than the minimum shall be multiplied by two (2); those meeting the minimum size shall be multiplied by one (1); and those less than the minimum size shall be multiplied by zero (0) and shall receive no points under this category. To receive points buffer areas cannot contain structures or development.

Resource Points shall be awarded as follows:

- a. Three points where a wide variety of salt water resources exist, such as salt water marshes, tide pools, estuaries, coves, and beaches.
- b. Two points where the variety and size of resources are limited but the quality is high.
- c. One point where the resources are uniform and without unique features.

<u>Salt Water Resource (select no more than one category)</u>	<u>X</u>	<u>Protective Buffer Multiplier</u>
<u>Wide variety of salt water resources (3 points)</u>		<u>3 – Buffer size twice minimum requirement</u>
<u>Variety and size of resources are limited but quality is high (2 points)</u>		<u>2 – Buffer size 50% larger than minimum requirement</u>
<u>Resources are uniform and without unique features (1 point)</u>		<u>1 – Buffer size meets minimum requirement</u>
		<u>0 – Buffer size less than minimum requirement</u>

To qualify for points buffer areas must consist of primarily native vegetation with no structures or development.

- 1 C. Development Restrictions. No subdivision, no additional construction.
- 2 D. Public Access. Limited to those activities which will not threaten or destroy the resource/feature.
- 3 E. A resource/ habitat management plan must be provided explaining how the resource/ habitat will
 4 be managed and protected. Plans must be prepared by a qualified professional (see SJCC 18.20
 5 for definition of qualified professional) (Ord. 4-2011 § 3)

6 ***Note: The following amendments are intended to improve consistency with the critical area***
 7 ***regulations. If desired, this section could be broken into three sections, one for upland plant***
 8 ***and animal habitat, one for hazard prone sites, and one for geologic resources.***

9 **16.50.230 Resource category – Fragile resources.** SHARE

10 A. Definition/Purpose. Resources which are fragile and therefore more susceptible to
 11 degradation/loss. These include ~~unique or critical wildlife and native plant habitat (species and their~~
 12 ~~habitat that are classified “endangered”, “threatened”, “sensitive” or “monitor”);~~ upland, non-aquatic
 13 species and habitats listed in SJCC 18.35.115 as Fish and Wildlife Habitat Conservation Areas and
 14 buffers required to protect these areas; delicate geological features such as feeder bluffs and
 15 accretion shoreforms; and other fragile and unique areas crucial to the ecological balance of the
 16 island environments.

17 B. Criteria.

18 ~~1. Special animal sites (designated by State Department of Natural Resources Natural~~
 19 ~~Heritage Program as having state significance, designated sites of “endangered,”~~
 20 ~~“threatened,” “sensitive” or otherwise “listed” species under the State Department of~~
 21 ~~Wildlife Nongame Program (WAC 232-12-011 and 232-12-014), other species that may~~
 22 ~~be locally rare or otherwise deemed of importance to San Juan County, or determined to~~
 23 ~~be eligible for the above programs by a qualified professional and substantiated by the~~
 24 ~~affected agency). [3].~~ Upland, non-aquatic animal species listed in SJCC 18.35.115 as
 25 Fish and Wildlife Habitat Conservation Areas. Three points shall be granted where it is
 26 documented that a special listed animal inhabits the property and the site is managed in
 27 accordance with the protection recommendations and requirements of SJCC 18.35.135.

28 ~~2. Special plant sites (designated by State Department of Natural Resources Natural~~
 29 ~~Heritage Program as having state significance, other species that may be locally rare or~~
 30 ~~otherwise deemed of importance to San Juan County, or determined to be eligible for~~
 31 ~~the above programs by a qualified professional and substantiated by the affected~~
 32 ~~agency) [3].~~ Upland, non-aquatic plant species and habitats listed in SJCC 18.35.115 as

1 Fish and Wildlife Habitat Conservation Areas. Three points shall be granted where it is
 2 documented that a special-listed plant or habitat exists upon the property, and the site is
 3 managed in a manner meeting the protection recommendations and requirements of
 4 SJCC 18.35.135.

5 ***Note: The following section was relocated from above. To simplify the point assessment,***
 6 ***the priority multiplier was integrated and the total points for each category are now shown.***

7 3. Significant wildlife area providing habitat for numerous species of flora and fauna.
 8 Resource points shall be awarded as follows:

9 a. Nine (9) points where there is evidence of at least three undisturbed and
 10 separate habitats.

11 b. Six (6) points where there is evidence of at least two undisturbed and separate
 12 habitats, or a variety of disturbed habitats.

13 c. Three (3) points where there is evidence of at least one habitat, or lower quality
 14 habitats.

15 ***Note to code reviser: Renumber following sections.***

16 3. Hazard prone sites are identified by the Coastal Zone Atlas of Washington, FEMA
 17 Flood Hazard Boundary Maps, state or County databases, or by a qualified professional)
 18 [4]. Three (3) points shall be granted where it is documented that the entire property is
 19 within a hazard prone site and will remain unimproved while classified open space. To
 20 obtain points in this category, the entire property must be located in a hazard prone site.

21 4. Geological/geomorphological features such as fossils, waterfalls, unique works of
 22 glaciation, feeder bluffs, sediment transport zones and ~~or~~ accretion shoreforms such as
 23 spits, points, and barrier berms (documented by Washington Interagency Committee for
 24 Outdoor Recreation, inventory by state or local databases, San Juan County, or by a
 25 qualified professional) [2]. Points shall be awarded as follows:

26 a. ~~Three~~ Six (6) points where the property contains a minimum of three geological
 27 features, or a single unusual or unique geological feature, or is a significant part of
 28 a prominent geomorphical feature or landmark.

29 b. ~~Two~~ Four (4) points where the property contains at least two geological features,
 30 or encompasses a lesser portion of a prominent geomorphical feature.

1 c. ~~One~~ Two (2) point where the property contains one geological feature or is a
 2 small part of a prominent geomorphical feature.

3 C. Development Restrictions. ~~No development in sensitive ecosystems, or near~~
 4 ~~endangered/threatened species habitat. Otherwise, residential development in species habitat~~
 5 ~~subject to limitations imposed by state and federal guidelines/recommendations. No development~~
 6 in protected plant and animal habitat and required or recommended native vegetation buffers. A
 7 resource/ habitat management plan must be provided explaining how the resource/ habitat will be
 8 managed and protected. Plans must be prepared by a qualified professional (see SJCC 18.20 for
 9 definition of qualified professional). Otherwise residential development limited to one residence.
 10 Commercial development prohibited.

11 D. Public Access. Limited to educational opportunities and wildlife study in areas sensitive to
 12 human disturbance. Less sensitive areas, such as accretion beaches, etc. may be open to public
 13 recreational use as deemed appropriate for the resource. (Ord. 5-1998)

14 **16.50.240 Resource category – Lands abutting property of public value.**

15 A. Definition/Purpose. Enhances the value to the public of abutting or neighboring parks, forests,
 16 wildlife preserves, natural reservations or sanctuaries, or other open space.

17 B. Criteria. Lands adjacent to federal, state, or other publicly owned properties, and/or lands held in
 18 trust for the public benefit by a duly authorized organization such as a land preservation trust.
 19 Points shall be based on the extent to which the property proposed for open space classification
 20 would enhance the adjacent property in regard to public access, size, and resource values. Points
 21 shall be awarded as follows (maximum of six points possible):

	High	Medium	Low	None	Points
	(2	(1.5	(1pt)	(0)	for
Category	pts)	pts)			<u>Category</u>
Public Access					
Size of Property					
Variety and					
Quality of					
Resources					
<u>Total Points for</u>					
<u>all Categories</u>					

1 C. Development Restrictions. No subdivision and no commercial development. Residential
 2 development limited to one residence.

3 D. Public Access. Limited or general access. (Ord. 5-1998)

4 **Note: To improve clarity and prevent duplication, the following section is combined with**
 5 **SJCC 16.50.275.**

6 ~~16.50.250 Resource categories—Compatible recreational use areas.~~

7 A. Definition/Purpose. Enhances recreational opportunities by opening access to beaches, rural
 8 open spaces, and other areas for compatible recreational uses.

9 B. Criteria. Provides opportunities for passive and recreational enjoyment compatible with the
 10 resource, such as hiking, biking, boating, fishing, picnicking, and nature study. To receive points in
 11 the category, applicants must allow public access and, if group access is proposed, must
 12 designate groups that have a high likelihood of using the recreational values of the property
 13 (typically, other than research and education groups). Points shall be awarded as follows
 14 (maximum of nine points possible):

Category	High (3-pts)	Medium (2 pts)	Low (1-pt)	None (0)
-	-	-	-	-
Public Access	(Unlimited)	(With Notification)	(Group)	-
Variety of Activities	-	-	-	-
Variety and Quality of Resources	-	-	-	-

15

16 C. Development Restrictions. No subdivision or further development of the land. Construction
 17 limited to facilities desirable for passive recreational needs, as determined at the time of land
 18 classification.

19 D. Public Access. General public access available. (Ord. 5-1998)

20

1 **16.50.260 Historic sites.**  SHARE

2 A. Definition/Purpose. Archaeological sites, cultural areas, historic farms, historic buildings, and
3 improvements of local historic/cultural significance.

4 B. Criteria.

5 1. Archaeological sites (documented by the Washington State Office of Archaeology and
6 Historic Preservation or San Juan County, or identified by a qualified professional and
7 substantiated by the affected agency) [3]. Points shall be awarded as follows:

8 a. Three (3) points where the property contains one or more significant
9 archaeological resources recognized by the State Archaeologist or a qualified
10 professional.

11 b. Two (2) points where the property contains less important archaeological
12 resources recognized by the State Archaeologist or a qualified professional.

13 c. One (1) point where the property contains midden material or other features of
14 archaeological interest.

15 2. Historical sites include buildings, property, informative markers, interpretive trails,
16 and/or literature. Historical buildings and properties must be documented and
17 recognized by federal, state, or local registers or historical societies. Interpretive
18 information or trails must provide information about a documented historical site,
19 building, or event [3]. Points shall be awarded as follows:


20 a. ~~Three~~ nine (9) points where the property encompasses all or most of a significant
21 historical site or historical structures registered by the federal or state governments;
22 structures must be well preserved and in excellent condition. Points may also be
23 awarded for well-placed informative and compatible historical markers, including
24 educational materials such as interpretive trails, literature, or markers available on
25 site.

26 b. ~~Two~~ six (6) points where the property contains less significant historical sites or
27 structures registered by the federal or state governments, or recognized by a local
28 historical society; structures must be in good condition. Points may also be
29 awarded for historical markers and interpretive information which is less detailed
30 than noted above.

1 c. One three (3) points where the property contains a historical site or structures of
 2 minor historical significance, and is recognized by a local historical society, or
 3 where a historical marker is located on the site.

4 C. Development Restrictions. Development restricted as necessary to preserve the integrity of the
 5 archaeological, historic, cultural and historic farm resource.

6 D. Public Access. General access available when such access will not endanger the feature being
 7 preserved. (Ord. 4-2011 § 4; Ord. 5-1998)

8 **16.50.265 Farm and agricultural conservation land.** 

9 A. Objectives. The objective of the farm and agricultural conservation land component of the open
 10 space program is to preserve suitable land that is not currently used for agriculture, so that it is
 11 available for commercial agriculture in the future. The intention is that farm and agricultural
 12 conservation land either be returned to active farming under RCW 84.34.020(2) within 20 years or
 13 be permanently protected as an open space resource by a conservation easement prohibiting
 14 development inconsistent with agricultural uses.

15 B. To be eligible for public benefit points under this subsection a property must meet all of the
 16 following criteria:

17 1. Properties must meet the definition of "farm and agricultural conservation land" as
 18 defined in RCW 84.34.020(8).

19 2. *Repealed by Ord. 6-2014.*

20 3. Applications must be accompanied by a statement of intent, which includes all interim
 21 measures that will be followed to protect and manage the land in a manner that allows
 22 resumption of commercial agricultural use. The statement shall provide the following
 23 information:

24 a. The tax parcel number of the subject property;

25 b. The size of the subject property;

26 c. The historical use of the property for farming;

27 d. A nontechnical soils description and a listing as a prime or other important
 28 agricultural soil as assigned in the most recent San Juan County Soil Survey,

1 published online by the Natural Resources Conservation Service and available
 2 online at: <http://soildatamart.nrcs.usda.gov/manuscripts/wa055/0/SanJuanWA.pdf>;

3 e. A map of the property showing improvements and areas to be maintained as
 4 farmland under this program;

5 f. A description of existing vegetation including the presence of noxious weeds;

6 g. A copy of the published soils map showing the boundaries of the subject
 7 property;

8 h. A schedule of measures that are and will be used to accomplish the goals and
 9 purposes of this chapter, including a commitment to prevent the encroachment of
 10 noxious plant species onto the open space land; and the objectives of this section
 11 of the County code;

12 i. The measures to be taken to maintain the agricultural character of the open
 13 space lands, such as maintenance of existing fences, farm buildings and periodic
 14 mowing of pastures and hayfields.

15 C. Public Benefit Rating Points.

16 1. Public benefit rating points for farm and agricultural conservation lands shall be
 17 awarded based on soil classifications and parcel size. Additional points are available
 18 under SJCC 16.50.275(B) (4 5) and (5 6).

19 2. Properties that have soils identified as prime farmland or important farmland in the
 20 Soil Survey of San Juan County published by the Natural Resources Conservation
 21 Service shall be awarded points based on parcel size in accordance with the following
 22 table:

**Resource Value Points Table for Farm
 and Agricultural Conservation Lands**

**Size of Property
 Subject to Open**

Space

Points Awarded

**Resource Value Points Table for Farm
and Agricultural Conservation Lands**

Size of Property Subject to Open Space	Points Awarded
5 – 19.99 Acres	30 points
≥ 20 Acres	35 points

1

2


3

4

5

3. The property size shall be calculated based on the amount of land available for agriculture. Land developed with structures, except for agricultural structures, shall not be included in the calculation of parcel size. Up to 20 percent of the land can be devoted to incidental use compatible with agriculture. (Ord. 6-2014 § 1; Ord. 4-2011 § 5)

6

16.50.270 Resource category – Open space within communities. 

7

8

A. Definition/Purpose. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use.

9

10

B. Criteria. Within an “Urban” designation or similar classification in a subarea plan [4]. Three points shall be granted for any parcel that meets this criteriaion.

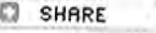
11

C. Development Restrictions. As appropriate for resource.

12

D. Public Access. General access available. (Ord. 5-1998)

13

16.50.275 Public access category – Level of access. 

14

A. Definition/Purpose. Provide public access to land classified as open space.

15

16

17

18

19

B. Criteria. A minimum of 20 resource points is required to qualify for public access points. The level of public access allowed ~~by the landowner and~~ must be appropriate for the resources. Points awarded for public access shall vary within each category according to the ease of physical access. Points shall only be awarded in one category. Properties which are easily accessible to the most people shall be awarded the highest points.

20

1. No access (0).

1 2. Group access (limited to appropriate use groups; permission from landowner
 2 required. The property owner County shall notify the ~~appropriate~~ listed use groups that
 3 access to the property is available; a minimum of five San Juan County based groups is
 4 required, of which San Juan County public and private schools must be one of the
 5 groups). Access must be allowed at least 5 times per year. Points will be based on a
 6 sliding scale from one to 10 according to how accessible the property is, the types of
 7 groups that are being granted public access (number of members, proximity of the group
 8 to the site, is the group specialized or general interest), the type of restrictions proposed
 9 (severity of the restrictions and effect on the accessibility of the property), and the
 10 variety of resources:

	High (2.5 pts)	Medium (1.5 pts)	Low (1 pt) (0)	None (0)	<u>Points for Category</u>
Category					
Accessibility					
Type of Groups					
Restrictions					
Resource					
Variety					
<u>Total Points for all Categories</u>					

11

12

1 3. Access with notification to landowner (access cannot be denied if the request is
 2 compatible with the open space agreement and would not endanger open space
 3 resources). Points will be based on a sliding scale from 11 to 20 according to how
 4 accessible the property is, the types of restrictions proposed (severity of the restrictions
 5 and effect on the accessibility of the property), and the variety of resources:

Category	High (6.66 pts)	Medium (5.66 pts)	Low (4.66 pts)	None (0)	<u>Points for Category</u>
-----------------	----------------------------	------------------------------	---------------------------	---------------------	---------------------------------------

Accessibility

Restrictions

Resource Variety

Total Points for all

Categories

6 4. Unlimited access (no permission required from the landowner). Use of the property
 7 shall be limited to passive recreation which is compatible with the open space
 8 agreement. Points will be based on a sliding scale from 21 to 30 according to how
 9 accessible the property is, the type of restrictions proposed (severity of the restrictions
 10 and effect on the accessibility of the property), and the variety of resources:

Category	High (10 pts)	Medium (9 pts)	Low (8 pt)	None (0)	<u>Points for Category</u>
-----------------	--------------------------	---------------------------	-----------------------	---------------------	---------------------------------------

Accessibility

Restrictions

Resource Variety

Total Points for all

Categories


11 5. No public access points shall be given for farm and agricultural conservation land
 12 except for permanent unlimited public access to deeded public trail easements.

13 ***Note: The following are recommended to a) ensure those who are willing to dedicate a trail***
 14 ***easement have the opportunity to obtain points and a tax reduction, b) to ensure public***
 15 ***access provisions are clear, and c) to ensure the public knows about areas they may***
 16 ***access.***

1 6. Public Trail Easement. When the property is identified in the San Juan County Parks,
 2 Trails and Natural Areas Plan as a location for a new trail corridor, 10 points shall be
 3 awarded when a trail easement is dedicated to, and accepted by San Juan County.

4 C. Access Plan. An access plan is required. The plan must include a vicinity map; a map of the
 5 property showing where access is and is not allowed; a contact person; the type of access allowed;
 6 when access is allowed; and a method for notifying those with access of their rights. To receive
 7 points access must be allowed at least 5 times per year.

8 D. The permit-center department shall publish and post on the county web site a booklet identifying
 9 open space parcels with public access. This publication will unlimited access and access with
 10 notification and describing how to locate the parcels and the terms and frequency of access using
 11 information from the access plan. The booklet shall be available to the general public. The
 12 applicant may be required to provide property and vicinity maps for the booklet. (Ord. 4-2011 § 7;
 13 Ord. 5-1998)

14 **16.50.280 Resource protection category.** 

15 A. Definition/Purpose. Maintain the integrity of open space resources by encouraging landowners
 16 to classify large tracts of land as open space, by protecting resources in perpetuity with a
 17 conservation easement ~~or other appropriate instrument~~, and by reducing the density associated
 18 with the parcel.

19 B. Criteria.

20 1. Conservation Easement Bonus. Provide a conservation easement ~~or other~~
 21 ~~appropriate instrument~~ which protects open space resources in perpetuity. The
 22 conservation easement ~~or other appropriate instrument~~ should must limit development
 23 to the less sensitive areas of the site and restrict development and other activities which
 24 would impact the open space resources. Points given for resource categories protected
 25 by a conservation easement ~~or other appropriate instrument~~ shall be increased by 20
 26 percent of the total points calculated for resources.


27 2. Density Reduction. Points shall be awarded for density units reduced in perpetuity by
 28 a conservation easement ~~or other appropriate instrument~~ as follows:
 29
 30

Number of Units Reduced	Points Awarded
a. 1 – 2 units =	3
b. 3 – 4 units =	6
c. 5 – 7 units =	9
d. 8 – 10 units =	12
e. 11+ units =	15


1 3. Parcel Size. Except for farm and agricultural conservation land, points shall be
2 awarded for parcel size as follows:

Parcel Size	Points Awarded
a. 0 – 5 ac	.5
b. > 5 – 19 ac	1
c. > 19 – 49 ac	2
d. > 49 – 99 ac	3
e. > 99+ ac	4


3 4. Points for the parcel size and density reduction of farm and agricultural conservation
4 land are incorporated into the basic resource value points set out in SJCC 16.50.265.
5 No additional resource protection points, including points for conservation easements,
6 will be awarded for farm and agricultural conservation land under this section. (Ord. 4-
7 2011 § 8; Ord. 5-1998)

8 **16.50.300 Public benefit rating system.** 

9 All new applications and existing open space properties will be reviewed and rated under the public
10 benefit rating system (PBRs) as provided in RCW 84.34.055. The PBRs is a process by which the
11 relative value of a specific property's resources/ features are evaluated, and an assessment
12 abatement is applied in direct proportion to the public benefit received. (Ord. 5-1998)

13 **16.50.310 Open space classification questionnaire.** 

14 An "open space classification questionnaire" shall be used for application to the open space
15 program and subsequent evaluation under the PBRs. On the questionnaire the applicant shall
16 indicate the resources/features present on the land, and provide all accompanying materials and
17 documentation requested. When completed the questionnaire is used in conjunction with a site
18 inspection, resource verification documents, and professional expertise to evaluate the property
19 under established valuation criteria and point scoring system. (Ord. 5-1998)

1 **16.50.320 Valuation criteria – Point score and public benefit rating.** 

2 A. Resource Values. The open space advisory team shall conduct a site inspection of properties
3 proposed for open space classification, identify resource features as per SJCC 16.50.200, and rate
4 the resources based on their value and/or condition. Point values for the underlying resource
5 category are awarded as set out below:

6 1. All categories of resource lands except for farm and agricultural conservation land.
7 Points will be awarded on either a varying scale from zero (no value) to three (high
8 value), or on an all or nothing basis (zero or three). Each of the resource features are
9 weighted (priority multiplier) according to their importance to the public, and multiplied by
10 the point value to determine the value of a resource. The multiplier is set out in brackets
11 within the applicable code section.

12 2. Farm and agricultural conservation land. Resource value points are awarded as set
13 out in SJCC 16.50.265.

14 3. Except for farm and agricultural conservation land, nothing shall prevent a property
15 owner from applying for points in more than one resource category.

16 B. Total Public Benefit Rating Points.

17 1. Total points are the sum of the points for resource values plus any additional points
18 for public access awarded under SJCC 16.50.275 and resource protection points
19 awarded under SJCC 16.50.280.

20 2. Notwithstanding the above, the total points for farm and agricultural conservation land
21 shall be the total of points awarded for resource values under SJCC 16.50.265 and
22 public access points awarded under SJCC 16.50.275.

23 3. A minimum of 30 points is necessary to qualify for open space classification. No more
24 than 40 points shall be granted for the total of the resource points, and no more than a
25 total of 70 points shall be granted for any one application.

26 C. Applicants shall identify the location and area, in square feet, of all existing and proposed
27 improvements. This shall include all areas of the site which are not a part of the natural
28 environment, such as structures, pools, tennis courts, decks, paved areas, gardens and lawns. The
29 open space agreement shall limit improvements to those originally identified by the applicant. Any
30 improvements not contemplated at the time of application and requested at a later date shall be
31 reviewed by the administrator for compliance with the open space agreement (refer to

1 SJCC 16.50.570). Improvements and the land beneath and surrounding the improvements shall be
2 assessed at fair market value.

3 D. The County council shall not approve any application for open space classification when, at the
4 time of application, the landowner has failed to satisfy any judgment the County has obtained
5 against the landowner, or where there is a violation of any state law or County ordinance on the
6 property. (Ord. 4-2011 § 9; Ord. 5-1998)

7 **16.50.330 Assessed valuation schedule.**

8 The valuation criteria and point scoring shall be used to determine the land's public benefit rating
9 percentage under the assessed valuation schedule. Public benefit rating points shall be converted
10 to public benefit rating percentage at a 1:1 ratio. The public benefit rating percentage shall be
11 applied by the assessor to land accepted into the open space program for reduction in the
12 assessed value as follows:

13
$$V_{cu} = (100\% - PBR\%) \times V_{fm}$$

14
$$V_{cu} = \text{current use (as open space)}$$

15
$$V_{fm} = \text{fair market value}$$

16
$$PBR = \text{public benefit rating percentage}$$

17 (Ord. 5-1998)

18 **16.50.340 Addition of property to existing open space agreement.**

19 Additions of parcels to properties currently in open space shall be rated separately from the parent
20 parcel and granted points only for those resources actually on the property proposed to be put into
21 open space. (Ord. 5-1998)

22 **New Section. Re-evaluation after enhancement of resources.** If open space resources are
23 enhanced (e.g. by replanting buffer areas with native vegetation) the property owner may request
24 re-evaluation. This re-evaluation shall be performed by county staff and presented to the San Juan
25 County Council for approval.

26 **16.50.350 Noxious weeds.**

27 No application for open space shall be approved until all Class A and Class B designated noxious
28 weeds on the site are removed or a noxious weed abatement plan is approved by the County
29 noxious weed coordinator. (Ord. 5-1998)

1 **16.50.400 Administration roles.**

2 The purpose of this section and SJCC 16.50.410 through 16.50.450 is to clarify responsibilities
3 under the open space program and to ensure that all persons affected by the program are treated
4 in a fair and equitable manner. (Ord. 5-1998)

5 **16.50.410 County council.**

6 The County council shall have the authority to:

- 7 A. Establish and amend the open space program and public benefit rating system;
- 8 B. Approve an assessed valuation schedule developed by the County assessor;
- 9 C. Appoint the citizen members of the open space advisory team;
- 10 D. Set the application fee (following provisions in RCW 84.34.030); and
- 11 E. Approve or deny each open space application, establishing the land's public benefit rating, and
12 attaching terms and/or management conditions as appropriate. (Ord. 4-2011 § 10; Ord. 5-1998)


13 **16.50.420 County assessor.**

14 The County assessor shall implement open space current use assessment on classified lands and
15 shall monitor in conjunction with the administrator whether compliance with the open space
16 taxation agreement has been met. He/she shall:

- 17 A. Submit notice of application approval and the signed open space taxation agreement to the
18 County auditor for recording within 10 days of the board's action;
- 19 B. File notice of current use land value with the County treasurer, who shall record such notice;
- 20 C. Adjust the land's assessment to current use value and maintain the appropriate current use
21 assessment;
- 22 D. Monitor classified open space land for compliance with open space taxation agreements by
23 observing land status during normal re-evaluation cycles;
- 24 E. Inform the administrator of changes in open space lands that may or would require
25 administrative or legislative action;
- 26 F. Remove land from open space classification as provided under Chapter 84.34 RCW and this
27 chapter;

1 G. Impose payment of additional taxes, penalties, and interest when necessary, as provided under
2 Chapter 84.34 RCW and this chapter; and

3 H. Develop the "assessed valuation schedule," which converts point scores to percentage of
4 assessment abatement, for the public benefit rating system. (Ord. 5-1998)

5 **16.50.430 Open space advisory team.**  SHARE

6 A five member open space advisory team shall be established, consisting of a balanced interest
7 mix of local citizens appointed by the County council pursuant to WAC 458-30-330(6) to act as its
8 agent in recommending priority rating points to all land classified as open space using the rating
9 system adopted in this chapter. Members shall be appointed to a five-year reinstatable term, with
10 one member's term ending each year. In the selection of the citizen members, preferably, they
11 should have some professional expertise in fields relative to open space such as environmental
12 planning, hydrology, archaeology, biology, geology, etc. However, interested citizens without
13 professional expertise in such fields are not excluded from consideration. The purpose of the
14 advisory team is to provide an objective and diversified review and evaluation of the
15 resources/features under consideration. Understanding this, the advisory team shall perform the
16 following functions:

17 A. Develop and recommend to the planning commission and County council, with the professional
18 assistance of the administrator, "valuation criteria" for open space resource/feature scoring under
19 the public benefit rating system;

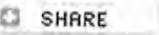
20 B. Conduct site inspections (following adequate notification of the applicant), review application
21 materials and resource documents, and obtain professional expertise as needed to evaluate the
22 land's relevant benefits to the general welfare;

23 C. Apply the valuation criteria to review and evaluate the land's resources/features and assess all
24 relative benefits associated with classification of the land and obtain a total public benefit rating
25 system point score;

26 D. Summarize their findings regarding the land's eligibility, public benefit rating, and appropriate
27 conditions of approval for inclusion in the staff report to the planning commission and County
28 council; and

29 E. Advise the planning commission and County council, as needed, on matters pertaining to the
30 open space program and public benefit rating system process. (Ord. 4-2011 § 11; Ord. 5-1998)

31

1 **16.50.440 Administrator.** 

2 The County permit-center department director, or his/her appointee, shall be the administrator for
3 the open space program and shall be vested with the responsibility of processing applications for
4 open space classification. The duties of the administrator shall be to:

- 5 A. Provide preapplication advice on property eligibility;
- 6 B. Receive and compile all necessary materials for application review;
- 7 C. Arrange necessary on-site inspections by the open space advisory team;
- 8 D. Facilitate the open space advisory team's review of the application under the public benefit
9 rating system;
- 10 E. Provide professional advice to the open space advisory team, planning commission, and County
11 council as needed;
- 12 F. Draft staff reports on the application and forward them in a timely manner to the applicant, and
13 planning commission and/or council members;
- 14 G. Advertise public hearings;
- 15 H. Attend and present the staff report at public hearings before the planning commission and
16 County council;
- 17 I. Complete follow up notifications of either denial or open space taxation agreement forms, as
18 appropriate, on decisions of the granting body;
- 19 J. Develop means to monitor compliance and notify the County assessor when noncompliance with
20 conditions of open space taxation agreements is identified;
- 21 K. Advise and confer with the County assessor, open space advisory team, planning commission,
22 and County council on matters pertaining to general administration of the program and application
23 processing;
- 24 L. Monitor the functioning of the open space program and provide written recommendations to the
25 planning commission and County council as needed; and
- 26 M. Compile, review, and provide a map of open space properties, shade the different designations,
27 provide copies to the public, and update information annually. (Ord. 4-2011 § 12; Ord. 5-1998)

1 **16.50.450 Planning commission.**

2 The planning commission's duties shall be to:

3 A. Review the open space program when requested to do so by the County council, making written
4 recommendation to the County council on the following matters:

5 1. The functioning of the process itself, including such issues as administration, and the
6 processing of applications;

7 2. The workability of the implementation elements of the public benefit rating system
8 including application questionnaire, resource/feature valuation criteria, point value
9 assignment system, etc.

10 B. Conduct public hearings on specific applications and make written recommendation to the
11 granting body regarding application approval or denial, with terms and/or conditions as appropriate,
12 and recommend a public benefit rating. (Ord. 4-2011 § 13; Ord. 5-1998)

13 **16.50.500 Application processing.**

14 New applications for open space classification shall follow processing procedures outlined in this
15 section and SJCC 16.50.510 through 16.50.590 and shall be acted upon in the same manner in
16 which an amendment to the Comprehensive Plan is processed. (Ord. 5-1998)

17 **16.50.510 Submittal and fee.**

18 A. Any property owner may complete and submit an application for open space land classification
19 of his/her property. An application consists of the following materials:

20 1. Application form (supplied by the ~~permit center~~ department);

21 2. Open space questionnaire (supplied by the ~~permit center~~ department);

22 3. Filing fee, payable to the County ~~permit center~~ department at the time of filing the
23 application. The fee is not refundable;

24 4. Certification of a nondelinquent property tax account, issued by the San Juan County
25 treasurer;

26 5. Supporting Documentation. Attach a sketch map of the parcel(s). The sketch map
27 shall be to scale and shall accurately identify the area, in square feet, of all existing and
28 proposed improvements. This shall include all areas of the site which are not a part of
29 the natural environment, such as structures, pools, tennis courts, decks, paved areas,

1 gardens and lawns. Attach a copy of the assessor's map showing the parcel(s). Attach
2 any other maps, photographs, or information that helps substantiate the existence of
3 resources on the property;

4 6. Legal Description. After lands have been approved for classification by the County
5 council, the applicant shall provide a legal description of the subject property; and

6 7. No person may apply to have classified as open space land, land that has previously
7 been denied such classification until one year has elapsed from the date the initial
8 application was received.

9 B. Application must be made during the calendar year preceding that in which classification as
10 open space is to begin (RCW 84.34.030). Prior to applying, property owners expressing interest in
11 open space classification would be advised to obtain a preapplication review at the permit-center
12 department. (Ord. 4-2011 § 14; Ord. 5-1998)

13 **16.50.520 Eligibility for review.**

14 The administrator, or his/her appointee, shall review the application materials for completeness,
15 and shall determine whether the land meets the requirements of the open space program. Land
16 which qualifies for further review must contain one or more of the resources/features identified in
17 the program. (Ord. 4-2011 § 15; Ord. 5-1998)


18 **16.50.530 Application review.**

19 The open space advisory team shall conduct a site inspection of land determined to be eligible for
20 review and may consult with appropriate professionals for assistance in evaluating the land's
21 resources/features. Should additional research become necessary to substantiate the existence or
22 condition of resources/features on the land, the applicant shall be notified of this need and shall be
23 responsible for its obtainment. Following review of the application and supporting documentation,
24 site inspection, and any necessary professional consultation, the team shall summarize their
25 findings regarding the land's eligibility for classification, its public benefit rating, and appropriate
26 terms or conditions of approval for inclusion in the staff report prepared by the permit-center
27 department. (Ord. 5-1998)


28 **16.50.540 Public notice.**

29 The permit-center department shall cause to be published a legal notice stating by whom and when
30 the application was submitted, the subject of the request, the time, date and place at which the
31 request will be heard by the planning commission, and advising all interested persons that timely
32 comments on the proposal will be accepted. The notice of public hearing shall be published one

1 time in a newspaper of general circulation within San Juan County at least 10 days prior to the
2 scheduled public hearing on the application. (Ord. 4-2011 § 16; Ord. 5-1998)

3 **16.50.550 Public hearing.** 


4 The planning commission and applicant shall receive the staff report 10 days prior to the hearing
5 date. At the hearing, public comment on the land's suitability for open space classification will be
6 taken. Subsequently, the planning commission shall, in their statement of findings and decisions,
7 recommend to the County council approval (with determined public benefit rating, and with or
8 without terms and/or management conditions attached) or denial of the application. (Ord. 4-2011
9 § 17; Ord. 5-1998)

10 **16.50.560 County council's decision.** 

11 The County council shall consider the planning commission's recommendation under
12 RCW 36.70.400 and as required by RCW 84.34.037, and may conduct additional public hearings if
13 necessary. Applications for classification of land in an incorporated area shall be acted upon by a
14 determining authority composed of the three members of the County council and three members of
15 the city legislative body in which the land is located. They shall approve the application, with or
16 without terms and/or conditions, and set the public benefit rating for assessment abatement, or
17 deny the application. In so doing the following provisions will apply:

- 18 A. They shall rate the land applying for classification according to the public benefit rating system;
- 19 B. They may approve the application with respect to only part of the land which is the subject of the
20 application;
- 21 C. If any part of the application is denied or conditions attached the applicant may withdraw the
22 entire application;
- 23 D. In approving any part or all of an application for classification of land, it may also be required
24 that certain conditions be met, including but not limited to the granting of easements, and opening
25 of land to public access; and
- 26 E. Denial of an application for classification of land to open space by the council may be appealed
27 to the superior court (WAC 458-30-250). (Ord. 4-2011 § 18; Ord. 5-1998)

28

1 **16.50.570 Procedures on approval.** 


2 A. Within five calendar days of the County council's decision approving an application the
3 administrator shall send the applicant an "open space taxation agreement" defining the terms and
4 conditions for approval of the classification. The agreement shall be sent by certified mail, return
5 receipt requested.

6 B. The applicant, and all persons having a fee interest in the land, including, for community
7 property, husband and wife, must sign the agreement. The applicant shall return the signed
8 agreement to the ~~permit-center~~ department within 30 days of the date the ~~permit-center~~ department
9 mailed it to the applicant or the agreement shall be deemed rejected.


10 C. Upon receipt of the signed open space taxation agreement form, the administrator shall within
11 10 days obtain the County council's signature and file notice of the approval with the County
12 assessor (RCW 84.34.050(2)). The agreement shall become effective commencing upon the date
13 the administrator receives the signed agreement from the property owner.

14 D. The assessor shall note the land's open space assessed value on the tax roll. He/she shall
15 submit notification of open space status to the County auditor for recording within 10 days of
16 notification from the administrator (RCW 84.34.050(3)). The assessor shall also file notice of
17 classification with the County treasurer (RCW 84.34.050(4)) and send a reassessment notice to the
18 landowner.


19 E. The agreement shall apply to the parcel(s) of land described in the agreement and the
20 conditions and requirements shall be binding upon the heirs, successors, and assignees of the
21 parties thereto. (Ord. 4-2011 § 19; Ord. 5-1998)

22 **16.50.580 Procedures on denial.** 

23 The administrator shall within 10 days of the board's action send written notice to the applicant
24 explaining reasons for the denial. (Ord. 5-1998)

25 **16.50.590 Processing time.** 

26 The County council must act on an open space application no later than six months from the date
27 the complete application is received by the ~~permit-center~~ department. Complete applications must
28 be received no later than December 31st of any year to receive a review and classification decision
29 within the following year. (Ord. 4-2011 § 20; Ord. 5-1998)


30 **16.50.600 Open space taxation agreement.** 

31 A. Lands receiving open space classification may be developed only under the terms and
32 conditions contained in the open space taxation agreement. Agreements governing land receiving

1 open space classification as farm and agricultural conservation land shall terminate after 10 years
2 unless the land is protected as open space by a conservation agreement. Nothing in this section
3 shall prevent a landholder from applying for participation in another current use taxation program
4 under Chapter 84.34 RCW.


5 B. Landholders shall abide by all terms and conditions of open space status that have been
6 defined in the open space taxation agreement.

7 C. Failure to comply with the open space taxation agreement will cause the land to be removed
8 from open space classification in accordance with RCW 84.34.080 and 84.34.108, and will result in
9 imposition of all taxes, penalties, interest and other sanctions authorized by law. (Ord. 4-2011 § 21;
10 Ord. 5-1998)


11 **16.50.605 Continued eligibility.** 

12 A. The assessor may require an owner of land classified under this chapter to submit data relevant
13 to the use of the land and other relevant information pertinent to the appraisal of the land or that
14 will assist him or her in determining whether the land is eligible for continued classification.

15 B. Relevant data shall include information that allows the assessor to determine whether the owner
16 is in compliance with the open space taxation agreement. (Ord. 4-2011 § 22)


17 **16.50.610 Transfer of ownership.** 

18 Open space land transferred to a new owner will be removed from open space classification if the
19 County assessor does not, prior to sale or transfer, receive from the new owner a notice of
20 continuance as provided in RCW 84.34.108 and WAC 458-30-275. The assessor shall consult with
21 the administrator prior to acting on the notice of continuance in order to determine if the transfer
22 would comply with the open space agreement. (Ord. 4-2011 § 23; Ord. 5-1998)

23 **16.50.620 Revision of conditions.** 

24 A landowner or the County may request to have the conditions on lands classified as open space
25 revised. Such a request shall be made to the County council. A notice of public hearing shall be
26 published one time in a local newspaper at the expense of the requesting party 10 days prior to the
27 council's review. The council may approve a request for revised conditions if it determines that the
28 proposed changes do not alter the purpose for which the classification was granted. (Ord. 4-2011
29 § 24; Ord. 5-1998)

30

1 **16.50.630 Increasing public benefit commitment.**  SHARE

2 A landowner may at any time ask to increase, but not decrease, the classified land's public benefit
3 and/or commitment conditions, in which case a new application must be filed and the application
4 will be reviewed and additional assessment benefits assigned if appropriate. When a landowner
5 seeks to increase public benefit, the administrator shall request submittal of an additional open
6 space classification questionnaire containing only the proposed public benefit additions and all
7 supporting documentation, with descriptive text as needed, to explain the proposed change.
8 Additional application fees will be charged and application processing will proceed in the same
9 manner as outlined for new applications for classification, but shall be subject to the following
10 stipulations:


11 A. The proposed change(s) must be complementary to the original classification.

12 B. "Complementary to the original classification" means all of the following:

13 1. All designated resources/features will remain so designated; and


14 2. The approval of proposed changes will cause no significant change in the protection
15 of the resources/features on the land classified in open space.

16 C. Proposed changes that do not comply with the above "complementary" conditions shall not be
17 eligible for consideration as an increase in public benefit commitment. (Ord. 4-2011 § 25; Ord. 5-
18 1998)

19 **16.50.700 Change in use/withdrawal.**  SHARE

20 A. Change in Use. The owner of land classified as open space shall notify the County assessor,
21 within 60 days, of any change in use of classified land. Change in use shall result in imposition of
22 all taxes, penalties, interest, and other sanctions authorized by law (RCW 84.34.080).

23 B. Withdrawal. Once land has been classified as open space land the owner may withdraw all or a
24 part of it from classification only in accordance with RCW 84.34.070. Withdrawal from classification
25 will result in the imposition of all taxes, penalties, interest, and other sanctions authorized by law.
26 (Ord. 4-2011 § 26; Ord. 5-1998)

27 **16.50.800 Removal from classification.**  SHARE

28 A. The County assessor shall remove land classified as open space in accordance with
29 RCW 84.34.108. The owner of land removed from open space classification shall be subject to
30 imposition of all taxes, penalties, interest, and other sanctions authorized by law.

- 1 B. When, because of withdrawal by the owner, transfer to a new owner who does not accept
2 compliance with the open space taxation agreement, or change of use, land is removed from open
3 space classification, the assessor shall determine the difference between the property tax paid as
4 open space land and the amount of property tax otherwise due and payable for the seven years
5 last past had the land not been classified; plus, impose interest and a 20 percent penalty on the
6 additional tax and interest, as required by RCW 84.34.080 and 84.34.108.
- 7 C. When only part of a parcel classified in open space is removed from classification, the
8 remainder of the parcel will be removed from open space classification unless it satisfies the
9 requirements for original classification (WAC 458-30-285). This determination will be made by the
10 County assessor in a review of the public benefit rating. Upon the request of the assessor, the
11 planning commission shall provide reasonable assistance to the assessor in making this
12 determination. The remaining portion shall be reviewed and evaluated under the same procedures
13 as for new applications.
- 14 D. The seller, transferor, or new owner may appeal the new assessed valuation to the County
15 board of equalization (RCW 84.34.108). (Ord. 4-2011 § 27; Ord. 5-1998)