



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250
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Date Received

02/24/21

 SJC Department of
 Community
 Development

Comprehensive Plan Text/SJC Code* Amendment Request

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

APPLICANT INFORMATION:			
Name of Applicant:	<u>Joe Symons</u>	Name of Agent:	<u>n/a</u>
Address	<u>3222 Pt. Lawrence Rd</u>	Address	_____
City, State, Zip	<u>Olga, WA 98279</u>	City, State, Zip	_____
Phone	<u>360 378 7577</u>	Phone	_____
E-mail	<u>joesymons@me.com</u>	E-mail	_____

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.		
_____ <i>Signature</i>	Joe Symons _____ <i>Printed Name</i>	24 Feb 2021 _____ <i>Date</i>
_____ <i>Signature</i>	_____ <i>Printed Name</i>	_____ <i>Date</i>

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.

In 2001 I submitted a formal request to the Planning Commission (PC) via the annual Docket process. The request did not ask for a specific change in the SJC Comprehensive Plan (CP). Rather, *the request asked for a thorough and comprehensive explanation of the CP in layman's terms.* This could be described as a "truth in planning" document. The formal request, conforming to the docket format at the time, is available at



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<http://www.doebay.net/forthcoming.html>. The PC reviewed the request and unanimously voted that it should be done and be given the highest priority of county government. The PC finding is available at <http://www.doebay.net/SJCPCfindingsOct2001.pdf>. The BOCC (former term for the County Council) ignored the PC recommendation. Subsequent to this request, no action has been taken by DCD, PC or CC to re-explore, consider, implement or otherwise achieve the intent of this request.

Given that there have been significant changes experienced by SJC in the past 20 years since the original request was made, and that County Council rejected my essentially-identical docket applications requesting a truth in planning section in 2018 and 2019, I re-submit a request for a comprehensive "truth in planning" component of the CP specifically geared to communicate in language understood by residents not formally trained in law or land use planning, and located right up front in the CP rather than buried in an Appendix.

There is new urgency. There is a new Council. Past decisions do not set precedent.

The current request builds upon but is not limited to the previous requests. The current request suggests that a new component to be added to the CP, analogous to an "executive summary", which would include a summarized "Build-Out Analysis" (BOA) in which the impacts on county finances, community cohesiveness, environmental challenges and experience of living in the San Juan Islands is examined. That is, the Build Out Analysis (the full documentation of which would be located in the CP's Appendix 1) would not be limited to the 20 year planning horizon but would run forward to illuminate what the full set of impacts are likely to be when all development potential currently on the books (i.e., the current density map) is exhausted.

Here's a section from the FDO (Final Decision and Order) (<http://www.doebay.net/appeal/fdo.html>) by the WWGMHB (Western Washington Growth Management Hearings Board) 1999:

"At the very inception of the GMA process in 1992, the Board of County Commissioners (BOCC) made a policy decision that existing densities established in 1979 for the 1980 CP would not be changed and would not be the subject of any discussion. As the County acknowledged at the HOM <Hearing on the Merits>, this policy decision was made without any analysis from staff, the public or the BOCC themselves.

A great deal of time in public hearings thereafter involved repeated requests for the BOCC to reverse this policy. The frustration this decision caused was eloquently summarized in the introduction of the brief of *amici* as follows:

"It is common knowledge in the San Juan County community that the density zoning enacted in 1979 after years of freedom to develop almost at will, was controversial, aroused passions and involved no evaluation of the cumulative impacts of development on rural character or conservation of natural or cultural resources. The preference of landowners was surely the single most influential



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criteria (*sic*) applied. Though a valid and useful beginning for local planning at that time, it is an understatement to say this process was more arbitrary than evaluative and by no means can be deemed to comply with state law requirements for obtaining the widest range of beneficial uses of the environment, achieving a balance between population and resource use, or providing a rational basis for directing development patterns and accommodating change based on designation of lands and evaluation of impacts. RCW 43.21C.020(2)(c),(f) and 36.70A."

While it would be surprising, it is not impossible for densities adopted in 1980 to comply with the Act. The CP and UDC are clothed with a presumption of validity, RCW 36.70A.320(1), and it is **petitioners' burden to show noncompliance under the clearly erroneous standard.** <emphasis mine> RCW 36.70A.320(2). While a serious argument could be made that the retention of 1980 densities without public input violated RCW 36.70A.140, the parties, including the County, have framed the issues to avoid, and specifically requested that we not simply find, a public participation procedural violation. All parties request that we address compliance of the current CP and UDC with the GMA. We carefully examined the record and reviewed the arguments to determine if this fundamental decision to retain 1980 densities was also a fatal flaw.

CONSISTENCY

As demonstrated above, the official maps that establish various densities for rural and R/L areas are often totally inconsistent with the CP. For example, in rural residential (RR) designations under CP 2.3.B(c), one of the criteria for designation is 2 to 5-acre minimum lot size. The official maps allow maximum densities of 1du/_ac. Petitioner Klein's exhibits demonstrate that one-third to one-half of all CP designations were inconsistent with the official maps' allowable densities. A March 27, 1998 memorandum from the prosecuting attorney to the BOCC (Ex.170925 et. seq.) set forth in detail the various inconsistencies between the CP, UDC and official maps.

Intervenor Symons correctly pointed out that the maps were also significantly inconsistent with the vision statement set forth as the guiding principle for the CP. These inconsistencies, caused by the retention of 1980 densities, do not comply with the GMA.

Additionally, for the same reasons we find that all zoning classifications or basic density allowances that allow for lots less than 5 acres in size in any rural designated zone substantially interfere with goals 1, 2, 8, 9, 10, 12 and 14 (RCW 90.58.020) RCW 36.70A.480. "

The words "substantially interfere" mean that the density map for rural areas is under an "invalidity" order, which means that SJC cannot proceed with the CP without "fixing" these



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densities. The WWGMHB doesn't tell them how to fix it; they have to do something and then come back to see if it passes the smell test. Thus began multiple rounds of litigation that did not "resolve" until 2007 and "resolve" meant that SJC settled over the guest house (ADU) issue. That said, the resulting density map remains both unexamined and likely substantially inconsistent with the Vision Statement. It's been that way to this day.

What I have been asking and continue to ask for, more or less as an unauthorized and unpaid representative of "wisdom" and the likely aspirations of the vast majority of locals, is that we simply know the truth. The consistency of council decisions to date suggest that the Council does not want to know what our density map permits and in particular does not want the residents to know.

The BOA includes by definition an impact analysis. These impacts focus on themes, expressed in the official Vision Statement, that the residents of San Juan County care about: impacts such as, but not limited to, the environment, transportation, housing, sense of community cohesiveness and the fiscal implications of new development on government services. All of this information should be described with a variety of easily understood maps, charts, graphics, photographs, spreadsheets, narratives, etc.

A "truth in planning" presentation is a layman-friendly term for a BOA. These analyses do not involve rocket science. An excellent article reviewing what a BOA can do is found at <http://conservationtools.org/guides/42-build-out-analysis>. San Juan County has a sophisticated GIS system and highly professional staff that can perform this task.

Supportive material for this request includes the 2004 Cost of Community Services study, funded by American Farmland Trust and the Friends of the San Juans at:

<http://doebay.net/appeal/COCSReportExecSum51804.pdf>

This document demonstrates the tax implications on existing residents for new residential development. The short version is that for every dollar of new tax revenue from a new residence, it costs the county \$1.32. That \$0.32 shortfall is paid for by existing tax payers, who are effectively subsidizing wealthy new second homers.

In addition, in 2000 SJC funded a "Study of Socioeconomic Impacts of Growth Pressure in Selected Seasonal/Resort Communities." located at <http://www.doebay.net/appeal/socioeconomicgrowth.pdf>.

This has been identified as the "Nantucket" study. Its conclusion is stark: SJC is not an exception to the transformation of beautiful small rural communities into havens for the wealthy, but is simply about 20 years behind. We are now 20+ years further down the road than when the study was authored. BOCC and CC have ignored this report. For all I know, the current Council may not even know that this report exists and was funded by the county.

It should be noted that neither of these documents is either mentioned or available on the SJC website.



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These supportive materials reinforce the need for a transparent, comprehensive, easily understood executive summary, located in the CP's Introduction referencing the full BOA located in the Appendix. This executive summary succinctly, explicitly and accurately describes the likely conditions at buildout.

Specifically, the Introduction to the CP at https://www.sanjuanco.com/DocumentCenter/View/21653/Section-A_Intro_Vision_Draft_2020-12-10 states:

“The goals and policies in the *Plan* are the framework within which the County creates and implements development regulations, programs, and other plans. The 2036 Vision, developed by the community, is the *Plan's* North Star, guiding the *Plan* elements and leading the County toward the future we strive for every day. (page 4, lines 31-34)

The Vision is a statement of values that guide the goals and policies of each *Plan* element.” (page 5 lines 3-4)

The islands have limited resources and house unique and fragile natural ecosystems. The effects of climate change may be exacerbated by population growth, as growth requires new development and leads to greater greenhouse gas emissions. Planning for growth has never before been so imperative. (pg 10, lines 15-17)

Given that the CP is being updated, the Introduction (or an Appendix) should include important background material. The current version of the CP avoids mentioning the BOCC decision regarding prohibiting committee conversations about density, says nothing about the litigation and the County's multi-year failure to meet CP compliance under GMA, and fails to mention, much less include, important documents such as the COCS and Nantucket reports.

San Juan County's institutional memory regarding the CP's evolution is essentially non-existent. Multiple staff, PC and CC changes have taken place; virtually no one knows how we got to where we are. A thorough portrait of this history exists only at doebay.net/appeal which includes a detailed record of the litigation, of the political processes and of the context within which the current CP can be interpreted. A glance at the SJC's two paragraph description of the history of the county (at <http://www.sanjuanco.com/668/History>) is entirely inadequate—see for yourself.

It is essential that this proposed executive summary to the CP be located in the Introduction, preferably following the SJC Vision Statement, so that a time-challenged reader can get to the real meat of the CP immediately.

The comprehensive vision statement analysis requested would, located in Appendix 1, *explicitly demonstrate* precisely how the goals, policies and UDC regulations *fulfill and/or fail to fulfill* the SJC certified Vision Statement. Options for how to bring the CP into compliance with the Vision Statement would be offered as part of this 'truth in planning' summary. Given that the CP has been, and will continue to be, crafted under the provisions of the Growth



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Management Act, the BOA and the summary analysis would additionally specifically identify how the CP meets, or fails to meet, the 14 principles of GMA, with particular attention to the Act's first and second principles.

My request specifically and additionally asks that any future CP policy or UDC changes would have to explicitly and comprehensively demonstrate that they account for and ensure that the Vision Statement and GMA goals are specifically referenced and reviewed for compliance and do not remain unmentioned, diluted, ignored, bypassed or marginalized. All future CP modifications would be so identified and concomitantly incorporated in a revised executive summary to insure clarity and consistency with the intent of this addition to the CP.

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.

No specific county code changes are requested at this time.

3. Why is the amendment being proposed?

The current SJC CP fails to communicate the full extent of the development potential inherent in the density map created in 1979. The BOCC "opted in" to create the current CP under GMA in 1992 and established citizen committees in each District to craft a new CP; however, the BOCC prohibited committee discussion of the 1979 density designations. Petitioners challenged the CP before the Western Washington Growth Management Hearings Board (WWGMHB) over a several year period from 1999-2007; in almost all cases, SJC lost. Under duress, SJC made modifications to the density map in order to remove the burden of non-compliance under GMA. The resulting changes, however, have never been articulated in any easy-to-understand summary document and included in the CP. The explosive growth of second homes and tourist accommodations since 1999 shows no sign of deceleration. A first-approximation estimate of the buildout potential under the existing density regulations suggests a buildout population in excess of 70,000 for SJC; this population estimate does not include the impact of visitors (studies have demonstrated that the seasonal impact of visitors more than doubles the resident population). By reference the current estimated population of SJC in 2019 is ~16,000.

As shown on the SJC web site at

<https://www.sanjuanco.com/1753/Comp-Plan-Update-Current-Drafts>

(as of 21 Feb 2021),

“ Appendix 1. Population Forecast and Land Capacity Analysis, *draft coming soon*” <emphasis mine>



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Indicates that DCD has not yet completed it's LCA. The most recent LCA draft is at:

https://www.sanjuanco.com/DocumentCenter/View/19296/2019-11-04_Zack_Memo_w_att_LCA_Report_2nd_Draft_PC-CC_Briefings_11-19

This 246 page document is strikingly difficult to parse. It is unclear to this reader, with a PhD in urban geography from U.W., exactly what is being said about buildout, if anything. Using GDLI data supplied by SJC in 2019, and looking at categories 0-5 (all SJC lands not including the Town of Friday Harbor), under the assumption that a landowner has a right to build a home on any parcel (with possible minor restrictions due to slopes, etc.), the buildout population (not using LCA methodology which may be appropriate for 2036 planning but is not relevant at buildout) is calculated as a bit over 43000, or about 2.5 times the current population of ~16,000. The Town of FH, comprising about 700 acres, is dominated by parcels whose density assignment is 100 development units (du's) per acre, which, if developed, would create a buildout population that, at >90,000, seems little short of insane.

However, this is what SJC data shows. Documentation of my calculations is at:

<http://doebay.net/sunshine/GDLICharts.xlsx>

which I would be happy to explain (if needed) since it was designed to be a quick portrait and not polished up for prime time.

A review of DCD findings in 2019

http://doebay.net/sunshine/2019-04-01_DCD_Annual_Docket_AZ_PC_04-19-2019.pdf

states that this docket request is superfluous because the 2018 Council rejected it:

Staff Analysis:

A request for the same amendment was submitted during the 2018 annual docket process. The 2018 docket was resolved with Resolution 31-2018. At that time, no further action was required because the other components of the Comprehensive Plan such as the Land Capacity Analysis address similar information and are currently included in the Comprehensive Plan Update. (Attachment B.3)

I cannot find any documentation as to why Council overturned the PC's unanimous recommendation that the request be implemented.

The newest version of the LCA is not available; the most recent previous version references maximum buildout in:

E. Calculate and Map Maximum Commercial, Industrial, and Mixed-Use Building Capacity (pg 22, line 4, Appendix 1, LCA methodology)

but does not reference rural lands buildout. Attachment B to Appendix 1 discusses comments submitted by residents (including me). DCD replies suggest that I am not calculating buildout according to the LCA process (which I admit: I don't believe it is applicable. At buildout, market and seasonal occupancy factors do not apply. At buildout, the county is "full".)



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Note that buildout population estimates do not reflect actual impact, as the visitor population is not included in the LCA or any CP analysis. As noted earlier, based on past history, the visitor population is about 2x the resident population during the busy season.

Further, the LCA only talks about land capacity, not livability capacity. There is no discussion about whether the capacities calculated have viability considering carrying capacity limitations (e.g., water, ferries, emergency evacuation,), or whether these capacities meet the Vision Statement standards about what has been collectively chosen as the county's aspirations.

There are very few remaining individuals who followed the litigation starting in 1999 who know that SJC's attempt at providing a "buildout analysis" in the 1998 CP was buried on page 21 of Appendix 1 of the CP in table 20 which, as my 1999 brief (at <http://www.doebay.net/appeal/jsbrief.pdf>) demonstrated, was seriously flawed. Table 20 predicted a buildout population of about 48,000 people. The actual number, validated by the WWGMHB and unchallenged by SJC, was about 175,000 people (not counting visitors).

I am understandably concerned that SJC will again attempt to bury an inaccurate buildout figure in an essentially inconsequential location in the CP, leaving the impression that the Vision Statement, considered the CP's "north star", has been honored.

Consequently it is imperative that the residents of SJC have a comprehensive and thorough portrait of what their future is likely to be, explicitly including the full range of impacts generated by visitors. This portrait needs to be compared with the resident-chosen Vision and GMA and all deficiencies explicitly documented.

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

GMA *requires* that a county's CP be internally consistent. As a specific example, SJC has an obligation to ensure that rural lands in the county are not characterized by sprawl, generally defined by the GMA Hearings Boards as average rural lands densities less than 1 dwelling unit/5 acres. Of the ~17000 legal tax parcels in SJC in 2019, ~8500 are non-conforming in rural land designations, creating an estimated rural lands buildout density for those non-conforming parcels of 1 du/3 acres. By GMA standards, this is sprawl. Current SJC rural lands densities are approximately 1 du/4 acres, which is also by definition sprawl (this can be validated at <http://www.doebay.net/appeal/SJC%20CP%20index%20rural%20lands.pdf>; this legal document was generated, under duress, by SJC during the litigation period.)

Separately, SJC has an obligation to ensure that there is consistency between the vision statement, describing a small rural county not wanting to change much, and its development potential. A truth in planning component as requested would explicitly illuminate these and other discrepancies and provide a solid fact-based platform for public conversation.



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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

6. Does this proposal increase population or employment capacity?

No.