SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMO

REPORT DATE:	June 2, 2022
TO:	San Juan County Planning Commission
FROM:	Brooke Sullivan, Planner III BS Sophia Cassam, Planner II SC
SUBJECT:	2022 Annual Docket Information for Public Hearing
HEARING:	Planning Commission: June 17, 2022
ATTACHMENT:	A. 2022 Docket Table of Staff Recommendations B. 2022 Draft Docket Resolution C. Public Comments Received Through June 1, 2022

PURPOSE: To prepare the Planning Commission to make a recommendation on the 2022 Docket to the County Council at a public hearing on June 17, 2022.

PUBLIC COMMENTS: Please send all public comments to BrookeS@sanjuanco.com. Please do not copy the County Council, Planning Commission members, or other County staff. Written public comments received by noon on June 16th will be provided to the Planning Commission before their public hearing on the 17th. Comments should refer to specific 2022 Docket requests.

BACKGROUND: The Growth Management Act (RCW 36.70A.470(2)) and San Juan County Code (SJCC) 18.90.020 allow any interested party to propose amendments to the San Juan County Comprehensive Plan (*Plan*), Official Maps, and Title 18 SJCC Unified Development Code (UDC). The community proposes amendments through the Annual Docket process. The County Council considers the proposals and the staff and Planning Commission recommendations. Ultimately, the County Council decides whether to add the requests to the Department of Community Development (DCD) future work program.

In 2022, DCD received five Docket requests, including 3 requests for text changes to the *Plan* and UDC, and 2 requests for *Plan* Map changes. Staff briefed the Planning Commission on the requests and provided recommendations at the May 20, 2022 Planning Commission meeting. The full applications and staff analysis are available in the May 10, 2022 staff report:
https://www.sanjuanco.com/DocumentCenter/View/25863/.

The role of the Planning Commission in the docket process is to review the docket requests and recommend to the County Council which requests to add to the future DCD work program, including a prioritization of requests.

LOCAL CHOICE: None of the changes requested in the 2022 Annual Docket are required. It is a local choice to add any of these requests to the future DCD work program. The projects the Planning Commission recommends adding to the DCD future work program must be balanced with other projects already on the DCD work program. Table 1 below shows docket requests added to the DCD work plan in past years. These requests will be initiated after the Comprehensive Plan update, starting in early 2023. Past years' requests have not been implemented yet because DCD has been working on the Comprehensive Plan update and other projects prioritized by the County Council.

Table 1. Current Docket Projects and Implementation Timeline

Docket #	Request	Applicant	Year (Quarter)
18-0005, 20-0006	Coastal Cutthroat Trout	Jenny DeGroot	2022 (Q3)
19-0003	Habitat Buffer	Fred Klein	2022 (Q3)
21-0008	Stormwater	Alexandra Gayek	2023 - 2024
21-0001	Composting	Thomas Bennett	2023 - 2024
21-0005	Tree Code	Miles Becker	2024, and with next CAO and SMP updates
21-0006	Eastsound Subarea Plan	EPRC	2024-2025
21-0002	Indoor Tennis	Orcas Tennis Club	2025

Each docketed project requires a commitment of County resources, typically over a 6 to 18-month time period and can extend the DCD work program significantly. The County receives new docket requests each year and new required projects may arise. Because the projects requested in the 2022 Docket are a local choice, the Planning Commission may recommend adding some docket requests of higher priority to the DCD work program and may choose to not recommend other projects.

STAFF RECOMMENDATION: Staff made recommendations for the Annual Docket in the staff report dated May 10, 2022. The recommendations are summarized below in Table 2 and are further detailed in Attachment A. Table 2 summarizes the staff recommendation. Only Request 22-0002 is recommended as a high priority project to undertake after the *Plan* update. Staff is not recommending any further action on requests 22-0001, 22-0003 and 22-0005. Request 22-0004 was withdrawn by the applicant on May 13, 2022.

Table 2. Summary of Staff Recommendations on 2022 Annual Docket.

Request #	Keyword	Recommendation
22-0001	Boathouses and covered moorages	Staff do not recommend further action.
22-0002	Transfer of Development Rights (TDR)	Add a code project exploring options for Transfer of Development Rights to the DCD work program to be initiated after the Comprehensive Plan update;
22-0003	Accessory Dwelling Unit (ADU) Ownership	Staff do not recommend further action.
22-0004	**WITHDRAWN**	**WITHDRAWN**
22-0005	GTB Farms	Staff do not recommend further action.

PROCESS OVERVIEW: SJCC 18.90.020(C) requires that the Planning Commission hold a public hearing on the Annual Docket. At the June 17, 2022 Planning Commission meeting, staff will provide an overview of the 2022 Docket requests and staff recommendations. Then, the Planning Commission will hold a public hearing and receive public testimony. After the public hearing, the Planning Commission will deliberate and make their official recommendation to the County Council.

The Planning Commission will make a recommendation on:

1. Which projects to act on, and

2. The priority of those projects.

The draft resolution in Attachment B reflects the DCD recommendation. If the Planning Commission's recommendation differs from DCD's, the draft resolution can be edited at the public hearing.

The written public comments received to date are included in Attachment C.

SAMPLE MOTION LANGUAGE: The following sample motion can be used to structure the Planning Commission's recommendation to the County Council. The Planning Commission can decide the order of priority and which projects require no further action.

> *I move that the Planning Commission recommend that the County Council add the following request to the Department of Community Development future work program in the following order of priority:*
>
> 1. *22-0002- Transfer of Development Rights*
> 2. *No further action is needed for requests 22-0001, 22-0003, and 22-0005*

NEXT STEPS: Once the Planning Commission has made a recommendation, DCD staff will brief the County Council on the draft resolution two times. Then, the County Council will hold a public hearing and adopt a resolution. The briefings will likely be in late June and early July and the public hearing in August. Dates are to be determined.

ATTACHMENT A. 2022 Annual Docket Summary Table

Request #	Keyword	Proponent	Summary of Request	Type of Amendment	SJCC/Comp Plan Sections	Request Documents	Staff Recommendation	Category
22-0001	Boathouses and covered moorages	Port of Friday Harbor	Change SJCC 18.50.240(B)(6) to allow boathouses and covered moorages to be reoriented or adjusted within marinas to cover less environmentally sensitive areas.	UDC	SJCC 18.50.240(B)(6)	https://www.sanjuanco.com/DocumentCenter/View/25271/	Staff do not recommend further consideration. In order to take action on over-water structures, the County will need to update the SMP. County could inform applicant of the proper process for SMP updates, currently scheduled for 2028.	F
22-0002	Transfer of Development Rights (TDR)	Sean DeMeritt	Allow the transfer of development rights. The applicant proposes this as a method of clustering development and promoting open space within UGAs.	UDC	18.20.010(A) 18.20.200(T) 18.60.050(D) 18.70.060(B)(2)	https://www.sanjuanco.com/DocumentCenter/View/25267/	Staff recognizes the importance of transfer of development rights (TDR) policies as a planning tool that may increase opportunities to conserve open space and promote other desired outcomes from the comprehensive plan. However, to accomplish this, staff recommend developing an inclusive TDR code (SJCC 18.60.40) that will provide applicants with clear guidance for implementing TDR throughout the county and in a variety of circumstances.	D
22-0003	Accessory Dwelling Unit (ADU) Ownership	OPAL	Change SJCC 18.40.240(F)(4) to allow ADUs to be owned by the owner of the principal residence, <u>or the owner of the land if the owner is providing perpetual affordable housing</u> (as defined in SJC 2.27). Currently, ADUs must be owned by the owner of the principal residence. This proposal is to allow landowners to develop ADUs for affordable housing when they are not the owner of the principal residence.	UDC	SJCC 18.40.240(F)(4)	https://www.sanjuanco.com/DocumentCenter/View/25268/	Staff do not recommend further consideration. This change may impact the definition and intent of ADUs. Additionally, there is an existing process for developing housing clusters, planned unit developments (PUDs), condominiums and other binding site plans where the landowners and homeowners may be different entities.	F
LANDUSE-22-0044	Roche Harbor MPR	New RH LLC	Expand the Roche Harbor Master Planned Resort Activity Center to include five parcels currently designated Rural Residential for resort development.	Comprehensive Plan text and official maps	Parcels 462412001000 462411002000 361922001000 462411003000 361922002000	https://www.sanjuanco.com/DocumentCenter/View/25269/	Staff do not recommend further consideration of this request. The applicant does not provide enough detail to demonstrate the need to consider a substantial change to development rights and activities in the Roche Harbor Master Plan (RHMP). The described change is expressly forbidden in the RHMP and as such may be expected to receive substantial public comment, requiring considerable staff time to prepare and evaluate. In addition, the benefit to the landowner may be disproportionate to the effort the County would need to put into making this change to the comprehensive plan. The County could recommend the applicant pursue changes to the RHMP through the next Comprehensive Plan update process scheduled for 2024.	F
LANDUSE-22-0045	GTB Farms	GTB Farms, LLC	Change the land use designation of this parcel from Rural Farm Forest to Rural Commercial.	Official maps	Parcel 350814001000	https://www.sanjuanco.com/DocumentCenter/View/25270/	While staff recognize the importance and value of agritourism, Staff do not recommend further consideration of this application. This change will result in a significant benefit/added value to the landowner and may expand allowable uses beyond forestry and farming related activity. Staff does see value in broadly considering how RFF and agricultural land allowable uses could be updated to increase opportunities for agritourism without broadly converting farms and forests to commercial properties.	F

Categories
Category A – Required by law for GMA Compliance or otherwise
Category B – Items needed to achieve important public policy objectives of a countywide nature
Category C – Items that can be considered as part of a larger Comprehensive Plan Update or subarea planning process
Category D – Items needed to provide clarity and certainty to the Unified Development Code or Comprehensive Plan by removing inconsistencies and/or ambiguities
Category E – Lower priority items to be considered on a future year work program
Category F – Obsolete, previously resolved or not recommended for further consideration

RESOLUTION NO. _____ - 2022

A RESOLUTION SETTING A 2022 DOCKET OF PROPOSED AMENDMENTS TO THE SAN JUAN COUNTY COMPREHENSIVE PLAN (COMPREHENSIVE PLAN) AND TITLE 18 SAN JUAN COUNTY CODE (SJCC).

BACKGROUND

A. The Growth Management Act (GMA) was passed by the State Legislature in April 1990;

B. The Board of County Commissioners voted to plan under the GMA in November 1990;

C. RCW 36.70A.470(2) states:

> "Each county and city planning under RCW 36.70A.040 shall include in its development regulations a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest plan or development regulation amendments. The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130";

D. SJCC 18.90.020 Legislative procedures establishes the procedures for the Annual Docket required by RCW 36.70A.470(2);

E. 2022 Docket applications for Comprehensive Plan or development regulation amendments were accepted by the San Juan County Department of Community Development (DCD) between January 1 and March 1, 2022;

F. Five 2022 Docket requests were received, as shown in Attachment A;

G. On May 6, 2022, applicants were personally notified via email about the June 17, 2022 Planning Commission public hearing, with an invitation and instructions for providing testimony virtually;

H. Staff evaluated the 2022 Docket requests and forwarded recommendations on them to the County Council and Planning Commission in a staff report dated May 10, 2022;

I. On May 13, 2022, request 22-0004 was withdrawn by the applicant;

J. On May 20, 2022, staff briefed Planning Commission on the 2022 Docket applications;

K. On June 7, 2022, staff briefed the County Council on the 2022 Docket applications;

L. The June 17, 2022 Planning Commission public hearing was duly advertised in the *Journal of the San Juan Islands* and the *Islands Sounder* on June 1, 2022;

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M. On June 17, 2022, Planning Commission held a public hearing on the 2022 Annual Docket applications;

N. On June 17, 2022, following the public hearing, the Planning Commission deliberated on public testimony and staff recommendations;

O. The Planning Commission recommended that request 22-000X be added to the Department of Community Development work program after the Comprehensive Plan update;

P. The Planning Commission recommended that no further action be taken on the following 2022 Docket requests: 22-000X;

Q. On June 28, 2022, staff briefed the County Council on the Planning Commission's recommendation and asked the County Council to set a public hearing on the 2022 Docket for August 2, 2022;

R. The County Council set a public hearing on the 2022 Annual Docket for August 2, 2022.

S. On July 12, 2022, staff provided a second briefing to the County Council on the Planning Commission's recommended actions;

T. The August 2, 2022 County Council public hearing was duly advertised in the *Journal of the San Juan Islands* and the *Islands Sounder* on July 13, 2022;

U. On July X, 2022, DCD emailed letters to applicants notifying them of the County Council public hearing and inviting them to provide testimony; and

V. On August X, 2022, following the public hearing, the County Council deliberated on the 2022 Docket applications, Planning Commission recommendations, and staff recommendations.

DRAFT

NOW, THEREFORE, BE IT RESOLVED by the County Council of San Juan County, state of Washington, as follows:

That the 2022 Docket requests shown in Attachment A be addressed as follows:

1. 22-0001: The Council declines to take further action on this request;

2. 22-0002: The Council declines to take further action on this request but directs Community Development to research and determine possible broader Transfer of Development Rights concepts and options to be included in the work plan, after the Comprehensive Plan is completed.

3. 22-0003: The Council declines to take further action on this request;

4. 22-0005: The Council declines to take further action on this request;

ADOPTED this ____ day of_____, 2022.

ATTEST: Clerk of the Council

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

_____
Ingrid Gabriel, Clerk Date

_____
Cindy Wolf, Chair
District 2, Orcas/Waldron

REVIEWED BY COUNTY MANAGER

_____
Michael J. Thomas Date

_____
Christine Minney, Vice-Chair
District 1, San Juan

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: _____

Date

_____
Jamie Stephens, Member
District 3, Lopez/Shaw

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ATTACHMENTS

A. 2022 Docket Summary

DRAFT

Attachment C

OPAL Community Land Trust

P.O. Box 1133
Eastsound, WA 98245

360.376.3191
www.opalclt.org

May 19, 2022

San Juan County Planning Commission
c/o Department of Community Development
PO Box 947
Friday Harbor, WA 98250
Via Email (brookes@sanjuanco.com)

2022 Docket Request no. 22-0003 (ADU Affordability)

Dear Commissioners,

I am writing to provide additional information for OPAL Community Land Trust's docket request. OPAL has been providing permanently affordable housing on Orcas for over thirty years. After OPAL purchases the Northern Heights apartments later this month, OPAL will be providing housing for a total of 204 households on Orcas (110 ownership and 94 rental). People living in OPAL homes represent an estimated 8% of the year-round population, and 27% of the school-aged children on the island.

OPAL's docket request is a narrow and carefully targeted Code amendment that would allow non-profit organizations that provide perpetually affordable housing to provide a few additional affordable housing opportunities in detached accessory dwelling units, or ADUs. These houses would be integrated with existing neighborhoods and would comply with all required development standards.

We understand that the Department recommends against docketing any proposals this year, and we certainly acknowledge that the Department has limited capacity and many important planning projects already underway. *However, our County's affordability crisis is acute, and the human cost is very real. We therefore respectfully ask the Commission to recommend consideration of our DADU affordability proposal this year.*

With due appreciation for the Department's hard work, we respectfully submit that the recommended rejection is based first on an incorrect assumption regarding the proposed development type, and secondly on a rationale that would inadvertently "make the perfect the enemy of the good."

Before addressing the merits of the docket request, I want to take a moment to explain how the community land trust form of ownership works. The non-profit community land trust acquires land and commits to owning that land in perpetuity for the benefit of the community. The most common use of the land is to provide housing for individuals who are unable to own or rent a home in the traditional market. For ownership housing, the community land trust leases a parcel of land to each homeowner, who owns their home and a leasehold interest in the land. The community land trust uses grants and donations to lower the sales price of the home to a level that is affordable. The ground lease contains stipulations including a requirement for owner occupancy and a resale formula to determine the future

sales price. This mechanism perpetuates affordability for successive generations of homeowners. The community land trust is a partner with the homeowner and facilitates each resale.

Now, I wish to address a number of things from the Department of Community Development's analysis.

First, the Department suggests that our proposal would allow for ADUs "that are not associated with the primary residence." In fact, the ADU would be absolutely and closely associated with the primary residence. Both structures would be on land that is owned and monitored by a non-profit organization such as OPAL, that has a legally binding role to monitor and enforce the terms of the ground lease. This close relationship would prevent the kind of unforeseen consequences that are generally referenced in the Department's recommendation. OPAL's team is very experienced in developing and managing utility and access arrangements of this kind, and we would be happy to work with the Department on revised language if it would help alleviate this concern.

The staff's advisory memo suggests that condominiums might be a possible solution instead of the proposed Code amendment. A condominium alone, however, is not a solution for the parcels we are considering. As the land use density designations and code are currently drafted, OPAL could not convey the improvements in the ADU and primary units to separate owners, even if the property were condominiumized. That is why we are asking for this Code amendment.

Another reason the Department recommends against the ADU affordability proposal is that under this model only one new ADU can be constructed per tax parcel. The Department observes that such a parcel-by-parcel development pattern would "limit rapid development of affordable units," and therefore not by itself "result in significantly greater" housing opportunities.

We agree that this proposed tool is but one of many tools needed to address our County's affordable housing crisis. An apt analogy is this: a carpenter would not leave her hammer at home just because she already has a wrench and a screwdriver on the job site. Similarly, the Commission should not dismiss creative and thoughtful new affordable housing options from the County's toolbox just because there are other affordable housing options that already exist on other sites.

To be clear, allowing this ADU affordability amendment would not pull resources from the other potential housing opportunities that we are working to develop. It would make the pie larger, by allowing new affordability opportunities to exist in areas where none do today.

Please recommend docketing this narrow, targeted proposal, so that we may include this tool in our affordability toolbox and provide these housing opportunities to the County's residents.

Sincerely,

Elisabeth C. Byers
Executive Director