



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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DATE RECEIVED

Comprehensive Plan Text/SJC Code* Amendment Request

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

Table with 2 columns: Applicant Information and Agent Information. Rows include Name, Address, City, State, Zip, Phone, and Email.

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.

Handwritten signature of D. James McCubbin

D. James McCubbin

Feb. 9, 2023

Signature

Printed Name

Date

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

1. Comprehensive Plan amendments (if applicable). Describe proposed amendment and/or attach proposed text changes. List Comprehensive plan section, page numbers, title and policies proposed for amendment.

N/A

2. San Juan County Code Title 15, Title 16 or Title 18 amendments (if applicable). Describe proposed amendment and/or attach proposed text changes. List code sections proposed for amendment.

Revise San Juan County Code, Title 18, section 18.20.020 "B" definitions, definition of "Bed and breakfast residence", as follows (underlining indicates proposed language to be added):

"Bed and breakfast residence" means a hospitality commercial use containing one to two lodging units without cooking facilities, which provides overnight accommodation and must provide daily hot breakfast meals which are prepared on site, in an owner-occupied existing single-family residence that is entirely contained within a single building including the owner-occupied portion and all lodging units.

3. *Why is the amendment being proposed?*

Amendment of the definition of “bed and breakfast residence” is needed to achieve vital public policy goals and consistency among Code provisions. The current definition of “bed and breakfast residence” has been interpreted to allow guest accommodations to be established in multiple buildings, and allows operators of these accommodations a choice of whether or not to provide breakfast meals. The current code language allows land uses which are inconsistent with the legal and policy goals of the Growth Management Act, Comprehensive Plan, and other sections of the County Code. In particular, the current Code language allows establishment of “bed and breakfast residence” accommodations which serve as vacation rentals while bypassing vacation rental regulations, and which encroach upon the County’s resource lands.

- Vacation rentals: The current definition of “bed and breakfast residence” allows for the development of accommodations which operate as vacation rentals, while avoiding regulations applicable to vacation rentals. In May 2022, the San Juan County Council adopted Ordinance 05-2022, which established a cap on permits for vacation rentals, codified at UDC section 18.40.275. Notwithstanding these restrictions, in November 2022, a functional vacation rental was established on Orcas Island through use of “bed and breakfast residence” permitting. A “bed and breakfast residence” permit was issued for an accommodation in a separate building from the owners’ residence. The primary residence does not have a suitable kitchen for preparation of guest meals, and the permit does not require that any breakfasts be served for this “bed and breakfast.” The accommodation includes a complete living space, including cooking facilities. The owners immediately advertised availability of the accommodation as a “vacation rental by owner” on VRBO.com. The accommodation could not have received a vacation rental permit, because the cap for Orcas Island vacation rentals had already been exceeded. Nonetheless, this new and fully functional vacation rental now exists through use of “bed and breakfast residence” permitting as a loophole that avoids the County’s limitation on vacation rentals. (See Permit LANDUSE-22-0058; and VRBO listing at <https://www.vrbo.com/2929360>.) Amendment of the definition as proposed will eliminate this loophole.
- Resource lands: The current definition of “bed and breakfast residence” allows for the development of accommodations in multiple buildings on resource lands. In 2022, the County issued a permit for a “bed and breakfast residence” with guest accommodations in multiple separate buildings, all on agricultural resource lands. (Permit No. LANDUSE-22-0024, affirmed by the County Hearing Examiner in APPEAL-22-0004.) The current definition of “bed and breakfast residence” will allow the establishment of more multi-building commercial accommodations on other resource lands in the future. Multi-building accommodations have a much greater impact on resource lands than a classic true bed and breakfast within a proprietor’s residence. This commercial rural sprawl is inconsistent with the Growth Management Act and inconsistent with the County’s policies to conserve resource lands for agriculture and forestry. The proposed amendments to the definition of “bed and breakfast residence” would limit such operations to a single building, to harmonize policy goals and eliminate code inconsistencies.

The proposed amendments to the definition of “bed and breakfast residence” will clarify that the entirety of a “bed and breakfast residence” must be contained within a single building, and that breakfasts which are prepared on site must be provided to guests. These amendments to the definition will ensure that “bed and breakfast residence” accommodations do not encroach on resource lands, and are not simply vacation rentals under a different name that avoid regulations applicable to vacation rentals.

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

The proposed amendments to the definition of “bed and breakfast residence” are consistent with the policy goals of the Growth Management Act, Comprehensive Plan, and other County Code provisions by protecting designated resource lands, avoiding further development sprawl, and eliminating a loophole that allows avoidance of regulations applicable to vacation rentals. Applicable provisions which are consistent with and most relevant to the proposed amendments include the following:

Growth Management Act:

- RCW 36.70A.020 Planning goals. Particularly (1), (2), and (8):
 - (1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
 - (2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
 - (8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.
- RCW 36.70A.060 Natural resource lands and critical areas—Development regulations. Particularly (1)(c) specifying an intent “to assure the conservation of agricultural, forest, and mineral resource lands”.
- RCW 36.70A.177 Agricultural lands—Innovative zoning techniques—Accessory uses. Particularly subsection (3) requiring that nonagricultural accessory uses of agricultural lands “shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties”.

Comprehensive Plan: (references are to the updated Plan adopted by Ordinance 20-2022, which will take effect prior to any potential adoption of the proposed definition amendments)

- Section A. Introduction and Vision - 2036 Vision - Preamble: “WE THE PEOPLE, citizens of San Juan County, value our healthy natural environment, vibrant and diverse community, self-sufficiency, interdependence, privacy, personal freedom, independence, and stewardship of our common resources.”
- Section A. Introduction and Vision - 2036 Vision - Natural Environment: “As careful stewards of these islands and waters, we conserve resources, preserve open space, and take appropriate action to assure healthy land and marine environments. We recognize the integral role that forests play in the stewardship of our air, soils and water resources.”
- Section A. Introduction and Vision - 2036 Vision - Agriculture: “We invest resources to ensure that agricultural lands are preserved and to maintain and enhance agricultural viability. We recognize the integral role that agriculture plays in the stewardship of our soils and water resources.”
- Section A. Introduction and Vision - County Profile - Key Challenges – Tourism Management: “Communities around the world are learning to manage tourism in order to promote balanced economies, high quality of life for residents, and protection of the natural environment from degradation. Tourism management strategies are needed to protect the quality of life and natural resources on the Islands.”

- Section A. Introduction and Vision - County Profile - Key Challenges - Preserving Rural Character: “With mindful planning, the County can face the challenge of preserving natural beauty, open space, natural resources, wildlife habitat, rural lifestyles and quality of living while accommodating the necessary development that comes with population growth.”
- Section A. Introduction and Vision - Attachment 1 - GMA Planning Goals. Particularly:
 - “Reduce Sprawl -- Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.”
 - “Natural Resource Industries - Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.”
- Section B. Element 2, Land Use and Rural. 2.1 Introduction:
 - “. . . this element is integral in realizing the community vision for land use: Neighborhoods, hamlets, villages, towns, and other activity centers are clearly defined to conserve, rural, agricultural, forest, mineral resource lands and critical areas.”
 - “Under the GMA, the County must designate natural resource lands with long-term commercial significance for the production of agricultural, timber, and mineral resources. Natural resource lands must be preserved from incompatible land uses to ensure that they remain available for resource industries.”
 - Figure 1 Land Use Categories, depicting Natural Resource areas at the far end of the spectrum designated for “Less Intense Built Environment”.
- Section B. Element 2, Land Use and Rural. 2.1.B Land Use Concept. Particularly “. . . the land use concept attempts to preserve open space, protect critical areas, maintain and improve the quality of air, water, soil and land resources, and protect the historic and cultural character of the islands.”
- Section B. Element 2, Land Use and Rural. 2.1.F Growth Management and Resource Protection. “To ensure that critical areas and rural resources are protected, and that urban governmental services will not be required outside of urban growth areas and LAMIRDs, in addition to the density requirements Plan policies address limits on capital facility development in the rural areas, conservation subdivision standards and other site design and performance standards.”
- Section B. Element 2, Land Use and Rural. 2.2.A General Goal and Policies. Policy 11: “*Vacation rental* (short-term, i.e., of less than thirty days) of a principal, single-family residential unit or an accessory dwelling unit should be subject to standards similar to those for hospitality commercial establishments but should be classified as a residential use for purposes of land use regulation.” (italics in original)
- Section B. Element 2, Land Use and Rural. 2.2.A General Goal and Policies. Policy 12: “Limit the number of vacation rental permits on each island via permit caps established in San Juan County Code Title 18.”
- Section B. Element 2, Land Use and Rural. 2.2.F Natural Resource Conservation. Goal: “To preserve nonrenewable natural resources and conserve renewable natural resources for the benefit of existing and future generations.”
- Section B. Element 2, Land Use and Rural. 2.2.F Natural Resource Conservation. Policy 1: “Conserve soils capable of supporting long-term agricultural production identified by the Natural Resources Conservation Service (NRCS).”

- Section B. Element 2, Land Use and Rural. 2.2.F Natural Resource Conservation. Policy 2: “Conserve forest lands in the Washington Department of Natural Resources’ forest grades 1-5 classification for long-term timber production.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. Goal: “To recognize and protect the physical conditions and characteristics of agricultural and forest resource lands, including social and environmental benefits, which are conducive to the use of such lands for long-term commercial production.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. Policy 3: “Preserve natural resource lands for their social, economic, and environmental benefits.
 - a. The economic benefits include but are not limited to:
 - i. employment opportunities;
 - ii. living wage jobs;
 - iii. food security; and
 - iv. a farming community.
 - b. The environmental benefits include but are not limited to:
 - i. carbon sequestration;
 - ii. soil health; and
 - iii. water quality.
 - b. Social benefits include but are not limited to:
 - i. maintaining scenic landscapes; and
 - ii. access to recreation.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. Policy 6: “Establish clearly defined Resource Lands designations which protect and conserve long-term commercially significant agricultural and forest lands, associated uses, and benefits. The designations are: Agricultural, Forest, and Mineral Resource Lands.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. a. Agricultural Resource Lands. Goal: “To ensure the conservation of agricultural resource lands of long-term commercial significance for existing and future generations, and protect these lands from interference by adjacent uses which may affect the continued use of these lands for production of food and agricultural products.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. a. Agricultural Resource Lands. Policy 5: “Limit the location of new roads and road realignments, access routes and other nonagricultural public and private facilities, to the least disruptive locations within agricultural areas.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. a. Agricultural Resource Lands. Policy 6: “Establish development standards for agricultural accessory uses, farmstands, agritourism and farm-based businesses that allow these uses while preventing the conversion of agricultural resource land to permanent incompatible uses.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. b. Forest Resource Lands. Goal 1: “To protect and conserve forest lands of long-term commercial significance for sustainable forest productivity and provide for uses which are compatible with forestry activities while maintaining water quality, water quantity, and fish and wildlife habitat.”
- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. b. Forest Resource Lands. Goal 2: “To protect forest lands that provide significant ecosystem services by protecting air and water quality,

reducing forest fire risks, providing access to recreational opportunities, providing carbon sequestration benefits, and improving wildlife habitat and connectivity for upland species.”

- Section B. Element 2, Land Use and Rural. 2.4 Resource Lands. b. Forest Resource Lands. Policy 5: “Create land use incentives to preserve large parcels and open space in forest resource lands without converting the land to permanent incompatible non-forest uses.”
- Section B. Element 5, Housing. 5.4 Housing Projections and Inventory - Occupancy Status. “The San Juan Islands’ status as a vacation destination affects the occupancy demographics of housing units in the County, as many of the vacant homes have out-of-county owners and are used only seasonally and/or as vacation rentals. According to the 2015 American Community Survey, homes for seasonal, recreational or occasional use make up 81 percent of vacant homes in the County. San Juan County’s housing challenge is not necessarily due to a sheer lack of housing units, but rather, a lack of units available for year-round residents to purchase or rent affordably.”
- Section B. Element 5, Housing. 5.4 Housing Projections and Inventory - Vacation Rentals.
 - “Many island residents are concerned about the potential effects of vacation rentals (VR) and expansion of tourism on the community and the environment. The rise of online vacation rental services has created new pressures on vacation destination community housing supplies, often in unexpected ways.”
 - “Community conversations identified many concerns with vacation rentals. Primary concerns include the saturation levels in certain neighborhoods and subdivisions, development of multiple vacation rentals on one parcel similar to a hotel, nuisances, potential trespassing, corporate ownership of multiple properties, and the potential for vacation rentals to impact the availability of long-term rentals.”

Development Regulations:

- UDC 18.10.020.B.1-4:
 - “B. Purpose. The general purposes of this Unified Development Code are:
 - 1. To encourage land use decision making in accordance with the public interest, protection of private property rights and the public good, and applicable laws of the state of Washington;
 - 2. To protect the general public health, safety, and welfare;
 - 3. To implement the San Juan County Comprehensive Plan goals and policies through land use and other regulations;
 - 4. To provide for the economic, social, and aesthetic advantages of orderly development through harmonious groupings of compatible and complementary land uses and the application of appropriate development standards;”
- UDC Table 18.30.040, which prohibits Bed and Breakfast Inns and Hotels in multiple buildings on resource lands, and generally prohibits commercial uses on resource lands.
- UDC 18.30.053 Development permits and resource lands. Particularly the notation of purpose “to ensure that the use of such lands [adjacent to resource lands] shall not interfere with the continued use in the accustomed manner and in accordance with best management practices of those lands designated for resource purposes.”
- UDC 18.40.120 - 18.40.170, placing limitations on conversions of land to non-forestry use.

- UDC 18.40.260 Hospitality commercial establishments – Bed and breakfast residences.
- UDC 18.40.275.N, codification of Ordinance 05-2022, which established a cap on permits for vacation rentals.

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*

* This proposal does not specifically affect any UGA, but could affect proposed bed and breakfast residences located within a UGA.

6. *Does this proposal increase population or employment capacity?*

No.