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Via E-mail to: sophiac@sanjuanco.com
Sophia Cassam, Planner III
SAN JUAN COUNTY DEPARTMENT OF
COMMUNITY DEVELOPMENT
135 Rhone Street
Friday Harbor, WA 98250

Re: LANDUSE-23-0018

Dear Sophia:

Thank you for your letter of April 5, 2023, and for your offer to refund my client's application fee. My client would like DCD (and the County) to process the application through the Annual Docket process as described in your letter.

I understand that based upon your initial review of my client's application, DCD is concerned that the application does not satisfy SJCC 18.90.030(F)(1)(c) and SJCC 18.90.030(F)(1)(d). However, in preparing your recommendation regarding my client's application, I would ask you to please consider the following:

SJCC 18.90.030(F)(1)(c) states: "The change is consistent with the criteria for land use designations specified in the Comprehensive Plan." The subject property is designated as Rural Farm Forest under the County's Comprehensive Plan. Section 2.5.3 of Element 2, Land Use, identifies goals and policies for Rural Land Use Designations, which includes "providing people with choices of living environments at lower densities or use intensities than those in Activity Centers." The application proposes a modest increase to the assigned density, which if approved, would still result in lower density than that allowed in the Lopez UGA or LAMIRD, and which would bring the subject property into conformity with the established pattern of development in the immediate vicinity.

You point out that Policy 2.5.1.5 and Policy 2.5.3(b)(1)(ii) establish a rural density at the maximum of one dwelling per five acres. While Policy 2.5.1.4 does contemplate a maximum density of one dwelling per five acres, the subject property is already denser than this preference, and the immediately surrounding properties are significantly more dense than the subject property. Policy 2.5.3(b)(1)(ii) states that parcels in the Rural Farm-Forest land use designation "are generally five or more acres in size," but speaks nothing of density. The use of the adverb "generally" highlights that this policy is aspirational, and is not always the case. Certainly, the Comprehensive Plan as a whole is a tool designed to guide local jurisdictions in their land use planning and development, but there will always be unique situations and factual circumstances that warrant deviation from generalized goals and

policies. The County should evaluate the consequence of increasing the maximum density for the subject property, which in this case would allow for the creation of another single-family residence to be located close to the Lopez Village UGA and LAMIRD, and which would help to bring the subject property into conformity with the existing pattern of development. As explained in the application materials, there are five parcels adjacent to, and in the immediate vicinity of, the subject property. There are a total of 9 units on these adjacent properties, which together total 6.54 acres of land. Therefore, the achieved density is 6.85 units per 5 acres ($9 \text{ units} / 6.54 \text{ acres} = 1.37 \text{ units per acre} \times 5 = 6.85 \text{ units per 5 acres}$). This is significantly denser than the maximum residential density currently assigned (one unit per five acres). If the County were to approve of the application (and if the subject property were to benefit from two units), then the achieved density would be **reduced to 6 units per 5 acres**, which would have the effect of bringing existing development more in line with the currently assigned maximum density under the Comprehensive Plan.

More generally, please consider that all site-specific applications for an increase in maximum allowable density will always be “inconsistent with the Comprehensive Plan,” since these applications always seek a change to the Comprehensive Plan’s assigned density. You point out that the subject property is legally nonconforming to the assigned maximum density, which is true; however, the application is asking for the County to consider the unique factual circumstances in this case, and to realize that the requested increase in density will actually have the effect of bringing the subject property into more conformity with the existing and established pattern of development in the immediate vicinity, and help to bring the entire vicinity into greater alignment with the density for the area established by the Comprehensive Plan.

You note that Policy 2.5.3.8 directs the County to consider impacts of incremental changes, but this policy is designed to guide decision-making with regard to “nonconforming uses.” The application is not proposing to alter, modify, or expand a non-conforming use, it is simply seeking a slight increase in the maximum allowable density, so that the subject property can support a total of two single-family residences, and single-family residential uses are preferred uses in the Rural Farm Forest land use designation.

As to your concern arising under SJCC 18.90.030(F)(1)(d), the proposed density increase for this parcel will not afford the owners greater privileges and opportunities than those enjoyed by owners in the vicinity. While the term “vicinity” is not defined in the Code, if the County considers the density of the properties adjacent to the subject property, then it quickly becomes clear that neighboring property owners are currently enjoying greater privileges and opportunities than the subject property.

I very much appreciate your consideration of the foregoing, and ask that you please feel free to contact me if you have any questions or require any additional information to make an informed recommendation to the Planning Commission on the application.

Very truly yours,

The Law Office of James P. Grifo, LLC



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