

Date: 17 July 2024

To: SJC Planning Commission (PC)
brookes@sanjuancountywa.gov

From: Joe Symons, PhD, Olga WA

Re: Docket request 24-0002

Precis:

I was appointed the chair of the District 2 Orcas Comprehensive Plan Committee by the (then named) Board of County Commissioners (BOCC) in 1992.

When the Comprehensive Plan (CP) passed in 1998, I was one of a very small group of people, all who were either members of the CP committees or who were very active members of the public, who challenged the CP as being in egregious violation of the Growth Management Act (GMA).

San Juan County (SJC) was unable to defend itself against the charges, and, consequently, lost virtually every case. By finding that fundamental parts of SJC's CP were 'egregious', SJC had to endure an "invalidity" order regarding critical land use issues. When the Accessory Dwelling Unit (ADU) issue came up for review in roughly 2005, the litigation carried forward through the Growth Board to the District Court to the Appeals court, where SJC continued to lose. Fearing a likely similar decision by the state supreme court, SJC settled with petitioners over the ADU issue, in roughly 2007.

I hope to clarify this topic in explaining why the Docket request has been both accepted (in 2000 by the PC) and then rejected (2018 on) by the Department of Community Development (DCD) and the PC and the County Council (CC).

Brief summary of SJC comp plan activities and related information from 1970 to date:

- 1970 San Juan County Population (OFM): 3856 (attachment 1)
Note: the US Census began taking count in SJC in 1870. For the 100 year period from 1870-1970, the population of the county was consistent (not much change every 10 years) and in all cases less than 4000 people.
- 1979 First CP for SJC passes
See editorial Attachment 4
- 1990 SJC population (OFM): 10035 (attachment 1). Percentage Population Growth during the 20 year period 1970-1990: 260%

- 1990 SJC_Community-Opinion-Survey_1990.pdf, Executive Summary (attachment 2). The summary plays well with the Vision Statement (which at that time had not been imagined). I encourage you to read the summary for the flavor of what the residents desire.
- 1992 SJC population (OFM): 11300 (attachment 1)
Note: the population growth from 1970 to 1992 (when the CP process began) was 293%, i.e., almost 3 times larger than in 1970. This is full time residents and does not include visitors.
- 1992 CP Committees were formed and the formal process of rewriting the CP began. At the convocation in Friday Harbor (FH) that the BOCC held to welcome the district CP committees, who had been told that SJC was going to *redo the **entire** CP according to the newly passed GMA*, committee members were told that we could discuss *anything we wanted **except density***. When the next day I asked the long range planner running the project, Darcie Nielsen (who subsequently would become a council member) what the buildout population was, she said she didn't know because it wasn't on the CP revision table. No further discussion on this topic ever took place.
- 1994 CP Vision Statement approved by the BOCC. (doebay.net/cpupdate/CPVisionStatement.pdf) It took the CP committees a year of work to craft the vision statement. The reader is invited to review the statement and highlight key words and concepts.
- 1998 CP passed by BOCC
- 1999 CP challenged before Western Washington Growth Management Hearings Board (WWGMBH)
- 1999-~2007 litigation over CP. (All the material relating to the litigation is available at doebay.net/appeal)
- 2001 [Docket Request](#) to SJC Planning Commission in 2001 requesting a "truth in planning" document outlining the buildout population and impacts. [PC unanimously approved](#) the docket request; CC ignored it. Similar docket requests were filed in 2018 and [2019](#): in both cases the DCD, PC and CC ignored the request, as were similar subsequent docket requests including the 2024 request.
- 2016 Update to CP due (GMA requires CP updates every 8 years). The CP update was to cover the 20 year period 2016-2036. The update was not completed until 2023, 7 years after it was due. The next CP update, due this year in 2024, has not been started; it is intended to cover the period 2024-2044. It appears that only minor revisions will be made to accommodate the Climate change provisions newly added to the Scope of Work.
- 2018 SJC updates and approves the Vision Statement ([2018 SJC Vision Statement](#)). A review of the 1994 and 2018 Vision Statements reveals that they are quite similar, implying that the vision sentiments of the public have not changed in 24 years. If you include the 1990 survey and the

comments regarding the 1979 CP's growth concerns (attachment 4), it is clear that the public does not want the county to change much from its "small, slow, quiet, rural, isolated" nature.

2019 Using SJC tax parcel (TPN) data, the buildout population assuming all non-exempt lands were developed to their legal capacity, and not counting either visitors or the ADU "bump", comes to over 130,000 people. See the Gross Developmental Land Inventory (GDLI) [summary of information](#). This spreadsheet summarizes the buildout potential in SJC by GDLI categories.

2021 The population buildout number was discussed with Councilperson Wolf. She wrote the following in an email to me on 10 May 2021 (Cindy references Erika Shook, former head of DCD):

"Erika explained this to me and that there were few remedies short of vacating the platt (sic) and potentially bankrupting the county with lawsuits. Everyone believes you because you are correct. No one seems to know what to do about it. My head is still swimming from figuring this out three weeks ago."

The point that needs emphasis here is that DCD and CC **knew** that the buildout population was extreme and, through DCD's efforts to avoid being incinerated by some in the community who would raise property takings challenges, appeared to choose to simply bypass the political storm regardless of the >50 year history of the public saying "Keep the county the way it is" and, in a continued violation of both public trust and the WWGMHB (referencing the GMA requirement that a CP cannot be internally inconsistent), thought that no one would notice if they just said "no" to perhaps the biggest CP challenge in SJC's sad history of allowing a vocal minority to dominate over a much larger, but silent, majority.

Fatal Flaw:

The WWGMHB, in its Final Decision and Order (FDO) of 1999, included the following:

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 (editor note: 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 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 (editor note: Uniform Development Code) 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. 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 you know, a county’s CP cannot be internally inconsistent. The 1999 FDO made the following observation:

“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/½ac. 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.”

Vision Statement:

The Introduction to the CP (at https://www.sanjuancountywa.gov/DocumentCenter/View/27602/Section-A_Intro_Vision_12-12-2022_CLEAN), similar to the introduction to the CP in the 1998 plan, speaks to the importance of the Vision Statement as the controlling policy directive for the CP:

“The Comprehensive Plan (Plan) is San Juan County’s principal planning document. It guides future growth and has been prepared to comply with the Washington State Growth Management Act (GMA). Implementation of the Plan prepares the County to manage future growth. It helps the County meet people’s needs and maintain the high quality of life found in the islands. 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.***” (emphasis mine)

Does it then occur to you that a population potential well in excess of 100000 people in a county whose 100 year history from 1870-1970 consistently held less than 4000 people, whose residents have consistently said they don’t want growth and they don’t want to lose what they came here for, might be worthy of an investigation, since the challenging issues in SJC have one basic common denominator: more people=more problems? Note that there are no restrictions on the number or location of building permits issued by SJC at any time (excluding ADU permits) so there is no regulatory means of controlling growth consistent with the vision statement and/or the decades-long desires of the residents.

DCD, PC, CC Action

Why would the PC in 2001 [unanimously approve](#) my docket request, recommending to BOCC that it have “the highest priority of government”? Why would subsequent DCD and PC decisions reject the Docket outright, regardless of public support (well over 100 letters sent to PC) and in-hearing testimony, for the docket?

It's not because it would take a lot of resources. While never acknowledging any formal process that DCD did to validate the contention that the buildout number was high, it is clear from the email from Cindy Wolf that DCD clearly knew, (otherwise how could Erika say “everyone believes you because you are correct”)?

It's not because GMA prohibits planning departments from planning for longer than 20 years. As PC members, you were required to take the Department of Commerce Short Course on Local Planning, and in those 10 videos you would have heard that CP's can plan for more than 20 years. GMA was built in 1990 around the staggering in-migration of residents from outside Washington State. The growth challenges faced by (in particular) Western Washington urban counties was huge. Those WW counties (except San Juan County) have plenty of expansion space. SJC is composed entirely of islands: there is no expansion space. Thus the ideas associated with GMA expansion in order to concentrate development in already-built areas (Urban Growth Areas, or UGA's)—(GMA principle 1)—and to keep rural lands rural (GMA principle 2) assumed that counties would need to upzone densities in order to accommodate growth. These would typically have been rural lands densities assigned to ag lands surrounding cities. In SJC's case, before the 1979 CP, there were thousands of tiny platted parcels (of the about 13000 rural lands parcels, about 9000 are non-conforming, in which the actual acreage of a tax parcel was far below the density assigned to that parcel). SJC didn't need to worry about having to upzone because there was so much available land (think parcels, not acres). That those parcels were in rural lands was, well, a problem to be ignored.

The GMA rule about internal inconsistency still applies, and I doubt anyone who looks at this unique situation thoughtfully could ever argue that the current density map is consistent with the Vision Statement. Indeed, that's what DCD came to realize (tho not disclose) and so their recommendation to PC was to table my docket request. Remarks made by a CC member during a recent CC meeting with DCD discussing briefly the docket requests could easily be interpreted that CC has already made up its mind.

It's not because DCD and CC doesn't know what is at stake.

It's not because the Land Capacity Analysis (LCA) trumps any other argument about “land capacity”. The LCA is entirely inscrutable: no one I know who has been in the land use arena here in SJC either understands or accepts it. It's a planning chimera. Smoke and Mirrors. If you have an undeveloped parcel anywhere in any land use designation in SJC, you have a “reasonable use” option to build a Single Family Residence (SFR). LCA is irrelevant.

Rather,

It's because of a fear of upsetting an apple cart that was built under duress, under minority pressure, and known at the time to be way too large and now, 4 plus decades later, the chickens are coming home to roost. The basic choices are to: 1) Redo the density map to conform to public sentiment, vision statement, and GMA OR 2) kick the can down the road.

What the docket request is saying, simply, is that we, the public, are entitled to know what's on the books and what that *means* for our experience of living here. It doesn't mean that SJC is required to do anything. Residents can *feel* the pressure in many daily living experiences, from ferry access to wells running dry or salt water intrusion or no place to park or no fun at a restaurant because the owners can't get employees because there is no housing. The list as you all know is long and getting longer.

It's also clear that SJC does not want to reveal information that has been made public, such as the:

[Cost of Community Services](#) (COCS); 2004. Very short version: more people, higher taxes. For every dollar of tax revenue from new residential construction, it costs SJC \$1.32 to provide services to that new structure. Where does that \$0.32 come from? Higher taxes and lower services.

["Nantucket Study"](#) / Study of Socioeconomic Impacts of Growth Pressure in Selected Seasonal/Resort Communities, 2000. Very short version: SJC is on precisely the same evolutionary pathway as elite resort communities everywhere in the U.S. Note that while SJC paid for this study, it is neither mentioned nor linked anywhere on the SJC web site.

Conclusions from the DCD transmittal letter to BOCC:

"Staff's expectation from this analysis was that the consultant might find some characteristic of the San Juan Islands that differentiated it from the situations in these communities that have transitioned to a dual market in which long-term residents and local workers are squeezed into narrower choices and disrupted lives. The report does not provide such hope for the San Juans. On the contrary, the similarities in size, scale, access, environment, and trends make us look very much like these communities as they were 20 to 30 years ago.

The San Juans appear to be headed the direction of Aspen and Nantucket."

It's now 24 years after the report was written. We are fulfilling the elitist exclusive dream. That's not what the people want. It's what *some people* want.

The only place in the world that the COCS study and the 'Nantucket' study are made available online is at doebay.net/appeal. Wouldn't those studies be important public info that should be on the SJC web site?

Given the political climate, it is fairly obvious that this docket request will be once again rejected by CC. However, it does not need to be rejected by PC.

You have the opportunity to make a statement. You have the opportunity to represent wisdom and the consistent will of the majority. You have the opportunity to think about your own future and that of your descendants, neighbors, community, island, and county.

You not only have the opportunity, you have the obligation to blow the wheat from the chaff, the smoke out of the room, and to really learn about where we (as a county) were, how far we've come, where we are now, and where we are going. Right now SJC has a death by 1000 cuts strategy along with a sweep it under the rug approach.

I can only guess that DCD, PC and CC members figure they'll be dead or gone by the time the public really experiences the betrayal imposed on them by their elected representatives' refusal to be proactive regarding *carrying capacity* and *economic reality* as well as the public's critically important *Vision Statement* aspirations. The CP as written today has a rural lands buildout average density of 1 du/4 acres ("du" is an abbreviation for 'dwelling unit'). By GMHB case rulings, this is called "sprawl", (which is illegal in rural lands), as the "bright line" of when sprawl begins is a density greater than 1 du/5 acres.

By going along with the charade that SJC has no long term planning problems, you risk being another group in the crowd watching the King ride by with no clothes on. Wouldn't you rather be the kid who calls out the truth?

Attachments:

1. Data from 1998 CP, Appendix 1, page 1, population projections. PDF available upon request (SJC population CP appndx 1 1998.pdf) OFM is the Office of Financial Mangement
2. SJC Community Opinion Survey 1990 Executive Summary:

EXECUTIVE SUMMARY

- A total of 1060 questionnaires were sent to a random selection of San Juan County registered voters. 760 were returned, for a response rate of 72%.
- Respondents ranged in age from 18 years old to eleven people who were 85 years old or older. More than half (56%) of the respondents had lived in San Juan County for more than ten years. Fifty-eight percent were in the work force (employed or seeking employment), and 27% had somebody under 18 years old living in the household.
- The physical environment (the air, water and land around us) and the socio/cultural environment (the pace of life, friendliness of the community and freedom from crime and violence) were of greatest importance to most respondents. When asked "for what reason or reasons, if any, would you ever consider moving away from San Juan County," 41% of all respondents cited because the friendly, relaxed rural atmosphere is disappearing. Protection of the natural environment ranked the highest priority when respondents were asked to prioritize their goals for the future of the islands.
- Respondents were satisfied with most aspects of their life in the San Juans, but 59% indicated that they expect the islands will become less desirable to them as a place to live in the next few years.
- Respondents were concerned about growth and wanted population growth to slow or stop. Fifty-three percent indicated they would like county population to stay the same or decrease, while 36% were supportive of growth, but at a slower rate. Seventy-two percent of those responding disagreed with the statement "San Juan County government should allow growth to take its natural course, not try to manage or control growth and development any further."
- The majority of respondents wanted restrictions on growth and development. Seventy-seven percent of the respondents agreed with the statement "There should be limits on the amount of growth in the county," and 55% agreed that "San Juan County government should enact stricter land use laws to regulate new development." Only 13% of those responding agreed that county government has done a good job of managing growth.
- Preservation of open space was a top priority goal for most respondents and most respondents (69%) were willing to pay additional taxes to

preserve open space.

■ Respondents wanted to see traditional industries (farming and commercial salmon fishing) and cottage industries encouraged, but felt that local government should not be responsible for attracting businesses to the island or for assisting businesses.

■ Most respondents were negative about the tourism industry. Fifty-six percent said that, for them, the disadvantages of tourism outweighed the benefits, compared to 15% who said the benefits outweighed the disadvantages. When asked "how do you feel about advertising and promotion of the San Juans as a tourist destination," 65% checked *opposed* or *strongly opposed*. Respondents indicated it should not be county government's responsibility to promote tourism.

■ After environmental issues, the most important issues or concerns varied with the respondent. Retirees were very much concerned with health care and taxes. Workers were concerned with the cost of living, job opportunities, and wages. Respondents with children in the household were concerned with the cost of living and with housing. Forty-four percent of all respondents with children in the household and 43% of all workers indicated they would consider moving away from the county *because it is too expensive to live here*.

■ About a third of the work force (those respondents employed or seeking employment) were in some way dissatisfied with their jobs. Reasons most often cited were *low hourly pay* (31% of the dissatisfied workers) and *low annual pay* (37%). Workers were generally satisfied with the hours they were working, the nature of their jobs, and with the seasonality. Thirty-one percent of those in the work force were working part-time, 11% at several part-time jobs, 4% were working part-time who wanted to work full-time, and 3.6% were unemployed.

■ Orcas Islanders were most positive about the need for public transportation. Thirty-five percent of Orcas respondents said there was a need for public transportation on their island, compared to 28% for San Juan and 21% for Lopez.

■ When asked whether improving the ferry system should be a goal for the future of the San Juans, 76% of those responding said it should be a *high priority goal* or a *medium priority goal*. When it was suggested that improvement in the ferry service might create more growth and tourism, 63% still *strongly favored* or *favored* improvement.

■ The changes in the ferry system given the highest priority by respondents: *preferential loading for residents, boats running on time, and commuter books that don't expire.*

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■ Nearly half of the respondents (51%) indicated that they were bothered by airplane noise. Lopez respondents were bothered the most, most frequently citing planes from Whidbey Naval Air Station as the cause. Orcas Islanders also cited Whidbey most frequently, while respondents from San Juan most frequently cited a nearby airport as the source.

■ Eighty-five percent of all respondents indicated that their housing need were currently being met. However 30% indicated they were not satisfied with the availability of housing, and 10% said they would consider moving away from the county because it was too hard to find adequate housing. Fifteen percent of the respondents in the work force said they would consider moving because of housing. For those respondents whose housing needs were not being met, 47% checked *I cannot find affordable housing to buy* as the reason.

■ In the written comments to the survey, concern about growth and its effect on the lifestyle and environment of the islands was the most frequently mentioned issue.

3.

US Census data:

<https://www.census.gov/quickfacts/fact/>

Population, percent change - April 1, 2020 (estimates base) to July 1, 2023, (V2023) 4.4%

Population estimates, July 1, 2023, (V2023) 18,566

Note: these estimates reflect full time residents only. They do not include part time residents or visitors (including service workers commuting to the islands).

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Editorial about Density concerns during the CP construction process in 1977

EDITORIALS

★ Opinions Letters ★



The Future Density

At the plan hearing in Friday Harbor both Dick Franck and Jack Powell, co-owners of the Wooden Shoe Farm, protested the forty-acre density restriction on their property. Dick Willard, owners of the Blazing Tree Ranch, also protested the plan restrictions, and implied he would sue. Many others in Friday Harbor and on Orcas and Lopez similarly objected very strongly to the density restrictions.

Yet the proposed forty-acre density on the Wooden Shoe would result in something over a twelve-fold increase in density. The proposed ten-acre density on most of the Blazing Tree would result in a seventy-fold increase in density. The five-acre density asked for by Franck and Powell would be a hundred-fold increase in density.

A twelve-fold density increase on all land in the county would provide for 78,000 people, if the current population is used as a base. Summer population would be in addition to this.

A fifty, seventy, or hundred-fold increase in population is all but incomprehensible. That probably is not what Franck, Willard, and the others had in mind, except for their own property.

But the plan, restrictive as it is considered, does provide for a very substantial increase in population. Just how many it does provide for, in addition to the existing divided parcels, is not stated. No one has asked that question, but it should be asked.....and answered!

Any plan, and particularly this plan, should have some specified objectives. Population is one we can all understand.

The projected population under the comprehensive plan could be spelled out in fairly concrete — or rather “flesh and blood” — terms. Nearly everyone can relate to that in terms of people in ferry lines, people drawing water from the ground, and perhaps a twelve, fifty, or hundred fold increase in the size of the garbage dumps.

It would be the work of not more than a day or two with a scale to compute the area of each density zone and calculate the potential population, then add them up to get the potential population island by island, and for the county.

In the case of those areas designated “base” this could not be done since density in those areas is, for all practical purposes, unlimited. Perhaps “unlimited development district” would be a more appropriate term than “base.”

The figure could be further refined, at the expense of some additional time, to include the already developed parcels within each zone which are “grandfathered” in. The existing potential population then could be added to the “planned” potential population to give us the maximum the plan provides for.

This would doubtless be a startling figure indeed.

It would put the plan in perspective. In fact, it is difficult to see how any further evaluation of the plan can take place at all without this figure. It is the only way we can evaluate the limitations owners are being asked to accept against the problems of the future population.