






SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMO

DATE: February 5, 2020

TO: San Juan County Planning Commission

FROM: Linda Kuller, AICP, Planning Manager 
Adam Zack, Planner III 
Sophia Cassam, Planner I 

SUBJECT: Response to Planning Commission's Growth Management Act (GMA) and Comprehensive Plan (*Plan*) questions

Attachment: Responses to questions submitted to staff by Tim Blanchard and Camille Uhlir

PURPOSE: To answer Planning Commissioners Tim Blanchard and Camille Uhlir questions regarding the *Plan* update, existing *Plan* goals and policies, and the GMA. The questions were emailed to staff in December. The questions and responses are provided in the attached document.

**Answers to Planning Commission Questions
Submitted By Tim Blanchard and Camille Uhlir**

1 Staff responses to questions are provided in black ink and bold.
2 Sometimes the questions are highlighted in red ink because they were buried in long statements.
3

4 **Questions Based on RCW and WAC Provisions**

5
6 1. According to WAC 365-196-300(3)(b)(ii), counties “need not force redevelopment in urban areas not
7 currently developed at urban densities.” **How is this considered in evaluating the need for additional
8 capacity in UGAs (beyond reevaluating potential barriers to development at more intensive levels)?**
9

10 **It is not considered because WAC 365-196-300(3)(b)(ii) indicates that the County “need not force
11 redevelopment in urban areas not currently developed at urban densities.” This WAC is addressing
12 existing conditions that were in place before urban densities were required or have not developed
13 at urban densities. We are not required to and have no authority to force redevelopment on private
14 property. The bottom line is this WAC is not really related to the land capacity analysis.**
15

16 **How is this authority squared with the provision of WAC 365-196-310(4)(b)(E), which says that the LCA
17 “must be based on the assumption that growth will occur at urban densities inside the urban growth
18 area.”?** Also note that the same section also, in apparent contradiction to the initial statement, provides
19 that counties “should consider data on past development, as well as factors which may cause trends to
20 change in the future” and further allow that: “If past development patterns have not resulted in urban
21 densities, or have not resulted in a pattern of desired development, counties and cities should use
22 assumptions aligned with desired future development patterns.”
23

24 **The LCA is required to use the assumption that growth will occur at urban densities. All new
25 development is assumed to meet the maximum urban densities. WAC 365-196-300(3) provides
26 guidance for determining appropriate ranges of ‘urban density’.**
27

28 **WAC 365-196-310 provides direction to analyze capacity using the assumption “that growth will occur
29 at urban densities inside the urban growth area” whereas WAC 365-196-300 allows counties and cities
30 flexibility in assigning density within UGAs. WAC 365-196-310 (4)(b) is about analyzing the UGA using
31 an LCA, WAC 365-196-300 (3)(b) is about implementation through the designations and densities within
32 the UGA. See the code sections posted below:**
33

34 **In most respects, determining the preferred urban density within UGAs is a local choice provided this
35 determination is consistent with the Growth Management Act (GMA). WAC 365-196-300 (3) states:**
36

37 **(3) Determining the appropriate range of urban densities. Within urban growth areas,
38 counties and cities must permit urban densities and provide sufficient land capacity
39 suitable for development. The requirements of RCW 36.70A.110 and 36.70A.115 apply to
40 the densities assumed in the comprehensive plan and the densities allowed in the
41 implementing development regulations.**
42

43 **(a) Comprehensive plans. Under RCW 36.70A.070(1) and in RCW 36.70A.110(2), the act
44 requires that the land use element identify areas and assumed densities sufficient to
45 accommodate the twenty-year population allocation. The land use element should clearly
46 identify the densities, or range of densities, assumed for each land use designation as
47 shown on the future land use map. **When reviewing the urban growth area, the assumed
48 densities in the land capacity analysis must be urban densities.****

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1 (b) Development regulations. Counties and cities must provide sufficient capacity of land
2 suitable for development.

3
4 (i) Development regulations must allow development at the densities assumed in the
5 comprehensive plan.

6
7 (ii) Counties and cities need not force redevelopment in urban areas not currently
8 developed at urban densities, but the development regulations must allow, and should
9 not discourage redevelopment at urban densities. If development patterns are not
10 occurring at urban densities, counties and cities should review development regulations
11 for potential barriers or disincentives to development at urban densities. Counties and
12 cities should revise regulations to remove any identified barriers and disincentives to
13 urban densities, and may include incentives.

14
15 WAC 365-196-310 (4) provides guidance for determining whether UGAs provide sufficient capacity as
16 required in RCW 36.70A.115. The guidelines in WAC 365-196-310 (4)(b)(ii)(E) outline how to prepare a
17 land capacity analysis (LCA) to determine the amount of development capacity in the UGAs. This section
18 provides the process for evaluating capacity and analyzing the UGA. WAC 365-196-310 directs counties
19 and cities to include with the analysis information on existing development to lend greater context to
20 the results. WAC 365-196-310 (4)(b)(ii)(E) states:

21
22 (E) The land capacity analysis must be based on the assumption that growth will occur at
23 urban densities inside the urban growth area. In formulating land capacity analyses,
24 counties and cities should consider data on past development, as well as factors which
25 may cause trends to change in the future. For counties and cities subject to
26 RCW [36.70A.215](#), information from associated buildable lands reports should be
27 considered. If past development patterns have not resulted in urban densities, or have
28 not resulted in a pattern of desired development, counties and cities should use
29 assumptions aligned with desired future development patterns. Counties and cities
30 should then implement strategies to better align future development patterns with those
31 desired.

32
33 The phrase “counties and cities should use assumptions aligned with desired future development
34 patterns” means that the County should use assumptions aligned with the Comprehensive Plan policies
35 and Official Map when conducting an LCA. The Comprehensive Plan densities and designations are the
36 desired future development patterns. The County’s LCA uses assumptions aligned with desired future
37 development patterns because it uses the Official Map designations and densities in the analysis.

38
39 2. We have received public comments asserting that the County has an obligation to provide
40 government services to support development permitted by the Comp Plan, but this does not appear to
41 be supported by the language of the WAC, which discussed the obligation to provide urban services in
42 urban areas, but does not tie the level of service to any particular level other than “to support urban
43 densities.” See WAC 365-196-320(1)(e). Elsewhere, the rules give counties flexibility in establishing LOS
44 for government services. Please confirm that this means we have the ability to use LOS determinations
45 to presence the character of our community even if the LOS selected might be viewed as a disincentive
46 for more intensive development.

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1 Level of Service standards help ensure that adequate government services are being provided where
2 such services are required. GMA has no requirement for rural services. Level of Service (LOS) standards
3 for public services should adequately allow and serve development at densities consistent with the
4 Land Use Element. The County has not used LOS standards to provide a disincentive to growth. It is a
5 tool to help plan for growth.

6
7 The WAC does not set Level of Service standards for government services; therefore, LOS standards are
8 determined locally in the Capital Facilities Element. The WAC 365-196-415 (2)(b)(ii)(C) requires LOS
9 standards to be set for all Category A public facilities, which include solid waste facilities, sewage
10 systems and water systems. LOS standards for Category B services provide benchmarks for determining
11 how well those facilities are operating.

12
13 WAC 365-196-320(1)(d) requires that urban growth areas be provided with adequate “urban
14 governmental services.” At minimum, this must include sanitary sewer systems and public water
15 services. In San Juan County, UGAs are served by the minimum required public services.

16
17 WAC 365-19-425(6)(c)(i)(B) states that “appropriate and necessary levels of public facilities and services
18 not otherwise provided in rural areas may be provided inside the logical outer boundary” of Activity
19 Centers, including LAMIRDs. The SJC *Comprehensive Plan* Land Use Element states in Policy 2.3.B.7 that
20 new development in Activity Centers should be connected to community water and sewage treatment
21 systems.

22
23 3. According to WAC 365-196-325(2)(c): “The land capacity analysis should evaluate what the
24 development regulations allow, rather than what development has actually occurred. Many factors
25 beyond the control of counties and cities will control the amount and pace of actual development, what
26 density it is built at and what types and densities of development are financially viable for any set of
27 economic conditions. Counties and cities need not ensure that particular types of development are
28 financially feasible in the context of short-term market conditions. Counties and cities should, however,
29 consider available information on trends in local markets to inform its evaluation of sufficient land
30 capacity for the twenty-year planning period.” (Emphasis added.) **Accordingly, in the event that high
31 density development is not financially viable under current and anticipated conditions, would it be
32 considered appropriate to provide capacity for additional lower (albeit still urban) densities within the
33 UGA to accommodate projected growth in the near term while expect in greater infill or redevelopment
34 at higher densities when conditions make it viable?**

35
36 **The short answer is yes, GMA allows counties and cities a fair amount of latitude in how UGAs develop
37 provided they do not allow sprawling, low-density residential development. WAC 365-196-330 allows
38 phasing of development in UGAs. This essentially allows designation of areas that are allowed to be
39 developed at urban densities once specific thresholds are met. Phasing is one option available when
40 considering UGAs and addressing capacity.**

41
42 **For reference, WAC 365-196-330 states:**

43
44 **(1) Purpose of development phasing. Development phasing is the sequencing of development
45 subareas within a city or urban growth area over the course of the twenty-year planning
46 period. Development phasing should be considered a way to achieve one or more of the
47 following:**

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1 **(a) Orderly development pursuant to RCW 36.70A.110(3), which states that urban growth**
2 **should first be located in areas with existing urban development and existing service**
3 **capacity; second in existing urban development areas where new services can be provided**
4 **in conjunction with existing services; and third in the remainder of the urban growth area;**
5

6 **(b) Preventing the irreversible commitment of land to urban growth before the provision**
7 **of adequate public facilities. Within the comprehensive plan, the capital facilities element,**
8 **transportation element, and parks and recreation element each must contain a plan to**
9 **provide urban areas with adequate public facilities. The comprehensive plan must identify**
10 **those facilities needed to achieve and maintain adopted levels of service over the twenty-**
11 **year planning period, but only requires a six-year financing plan. Development phasing is**
12 **a tool to address those areas for which capital facility needs have been identified in the**
13 **twenty-year plan, but financing has not yet been identified. Because no irreversible**
14 **commitment of land has been made in the zoning ordinance, if provision of urban**
15 **governmental services ultimately proves infeasible, the area can be removed from the**
16 **urban growth area when reassessing the land use element if probable funding falls short;**
17

18 **(c) Preventing a pattern of sprawling low density development from occurring or vesting**
19 **in these areas prior to the ability to support urban densities. Once this pattern has**
20 **occurred, it is more difficult to serve with urban services and less likely to ultimately**
21 **achieve urban densities;**
22

23 **(d) Serving as a means of developing more detailed intergovernmental agreements or other**
24 **plans to facilitate the orderly transition of governance and public services.**
25

26 **(2) Recommended provisions for development phasing. Comprehensive plan and**
27 **development regulation provisions for development phasing should include the following:**
28

29 **(a) Identification of the areas to be sequenced;**
30

31 **(b) The criteria required to develop these areas at the ultimate urban densities**
32 **envisioned. Criteria may be based on adequacy of services, existing urban development,**
33 **and provisions for transition of governance. Timelines may also be used for sequencing;**
34

35 **(c) The densities and uses allowed in identified areas that have not yet met the criteria.**
36 **Densities and intensities more typical of rural development should be considered to avoid**
37 **hindering future development at urban densities. Such requirements are not inconsistent**
38 **with the obligation to permit urban densities if provisions are made for conversion to**
39 **urban densities over the course of the twenty-year planning period. Regulations should**
40 **ensure that interim uses do not preclude future development at urban densities; and**
41

42 **(d) The review process for transitioning to ultimate urban densities. This should involve**
43 **changes to development regulations, and not require amendments to the comprehensive**
44 **plan.**
45

46 **(3) Additional considerations.**
47

48 **(a) Comprehensive plans may include other tools selected to facilitate phasing.**
49

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1 **(b) Counties and cities should coordinate the phasing of development within portions of**
2 **urban growth areas assigned to cities, and throughout urban growth areas in which cities**
3 **are located. Development phasing polices may be addressed in county-wide planning**
4 **policies.**

5
6 **(c) Counties and cities must still provide sufficient capacity of land suitable for**
7 **development as required in RCW 36.70A.115, but lands subject to sequencing**
8 **requirements should be included in this capacity as long as phasing is implemented during**
9 **the planning period.**

- 10
11 4. **WAC 365-196-480(2)(e) [Staff note: We believe the reference was supposed to be WAC 365-196-**
12 **475], says that evaluating resource land designations review should be done on an area-wide basis,**
13 **but that “to the extent that new information is available or errors have been discovered, the review**
14 **process should take this information into account.” Please confirm that this enables a county to de-**
15 **designate resource land that are found no to satisfy the regulatory criteria for designation and thereby**
16 **create additional capacity in other types of zones.**

17
18 **Yes, resource land can be de-designated if a thorough analysis of the criteria is conducted, the land no**
19 **longer meets the designation criteria or if a mistake is discovered. Natural resource land review is**
20 **limited to the question of consistency with GMA requirements and the Plan.**

21
22 **If the assigned designations are not consistent with the designation criteria, the County has the option**
23 **of changing the designation. It should be noted that any changes to natural resource land designations**
24 **require extensive analysis to ensure that the change in designation clears the GMA criteria for resource**
25 **land designation.**

26
27 **Staff will discuss this in a natural resource lands briefing in March 2020.**

- 28
29 5. **In our case, do WAC 365-196-510 and WAC 365-196-510 require consistency and coordination with**
30 **other jurisdictions other than Friday Harbor? If so, in what respects?**

31
32 **No, GMA does not require use to coordinate with other jurisdictions besides the Town of Friday Harbor**
33 **during comprehensive plan reviews. They are the only other jurisdiction that shares a land boundary**
34 **with the County.**

35
36 **Questions Based on the Economic Analysis of Resource Lands (2017)**

- 37
38 6. **At page 20 the Report suggests considering: “explicitly including a valuation of ecosystem services**
39 **(versus economic development or similar) for future processes related to the designation or de-**
40 **designation of agricultural lands.” How would that be consistent with the regulatory criteria for**
41 **resource land designation?**

42
43 **The specific GMA designation criteria for agricultural resource lands are provided in WAC 365-190-050.**
44 **The County must designate agricultural resource lands in a manner consistent with this section. The**
45 **County does have the authorization to make local choices about planning. Adopting policy related to**
46 **the value of ecosystem services would be an allowed local choice if the proposed policy does not conflict**
47 **with WAC 365-190-050 and other GMA requirements. The important consideration is that any ‘local**

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1 choice policies' are not counter to the agricultural resource land designation requirements. This would
2 be part of the staff analysis of a proposed amendment to the designation criteria.
3

4 7. At page 20 the Report suggests: "Strengthen or reaffirm right-to-farm protections." **What perceived**
5 **weaknesses in these protections exist?**
6

7 The phrase "strengthen or reaffirm right-to-farm protections" comes from the Comprehensive Plan
8 Land Use Element in Policy 2.3.D.3, which states:
9

10 "Strengthen Right-to-Farm and Right-to-Forestry provisions which establish the high priority
11 and favored use of Resource Lands for farming and forestry operations and assure that such
12 uses will not be considered a nuisance or inconvenience to adjacent non-farm uses."
13

14 It is unclear what perceived weakness there is in these provisions but staff is coordinating with the San
15 Juan County Agricultural Resources Committee (ARC) to get more feedback on agricultural issues prior
16 to working on the natural resource lands portion of the Land Use Element. Staff plans to attend three
17 ARC listening sessions in the coming weeks to meet with the agriculture community to discuss relevant
18 issues. The question about right-to-farm is expected to be part of that discussion.
19

20 Washington State is a 'right-to-farm' state, which means that the state has adopted laws that:
21

22 "seek to protect qualifying farmers and ranchers from nuisance lawsuits filed by individuals
23 who move into a rural area where normal farming operations exist, and who later use
24 nuisance actions to attempt to stop those ongoing operations. (National Agricultural Law
25 Center, <https://nationalaglawcenter.org/state-compilations/right-to-farm/>)"
26

27 The National Agricultural Law Center provides more detailed information about Washington's right-to-
28 farm laws at: <https://nationalaglawcenter.org/wp-content/uploads/assets/righttofarm/Washington.pdf>
29

30 8. At page 20 the Report suggests: "Relax regulations on farm-related and accessory facilities (e.g.
31 commercial kitchens, composting facilities) that are stricter than statewide standards." **In what ways are**
32 **our current regulations stricter than statewide standards? Are they stricter than those of other counties?**
33

34 Prior to the adoption of the Shoreline Master Program update, the County's definition of Agricultural
35 activities was broader and included agritourism and the County had related definitions. These
36 definitions were deleted and replaced with the definition needed for compliance to the Shoreline
37 Management Act. The scope of work for the 2036 update includes looking at policies for the use of
38 agritourism and value added types of businesses that could be addressed in policy and development
39 regulations. It is well known that farmers, particularly small farmers rely on multiple businesses to make
40 a living and that there is a connection between tourism and farms on the islands.

41 SJCC 18.20.010 "A" definitions.

42 "Agricultural activities" means agricultural uses and practices defined in RCW [90.58.065](#).

43 RCW [90.58.065](#) Application of guidelines and master programs to agricultural activities.

44 (2) For the purposes of this section:

45 (a) "Agricultural activities" means agricultural uses and practices including, but not limited to:
46 Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops;

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1 allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left
2 unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural
3 market conditions; allowing land used for agricultural activities to lie dormant because the land is
4 enrolled in a local, state, or federal conservation program, or the land is subject to a conservation
5 easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural
6 equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement
7 facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under
8 production or cultivation;

9
10 SJC Code Definition Prior to the SMP Update

11
12 "Agricultural activities" means agricultural uses and practices including, but not limited to: agritourism;
13 producing, breeding, or increasing agricultural products; rotating and changing agricultural crops;
14 allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left
15 unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural
16 market conditions; allowing land used for agricultural activities to lie dormant because the land is
17 enrolled in a private, local, state, or federal conservation program, or the land is subject to a
18 conservation easement; conducting agricultural operations including but not limited to land
19 preparation for agricultural purposes, such as clearing, grading, contouring, ditching, fencing, plowing,
20 tilling, planting, cultivating, agricultural composting, fertilizing, weed/pest/disease control, spraying,
21 pruning, trimming, harvesting, processing, packing and agricultural sales; livestock management, such
22 as breeding, birthing, feeding, grazing, and care of animals, birds, honey bees, shellfish and fish;
23 maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing
24 agricultural facilities and structures for the repair, maintenance, and storage of farm equipment, animal
25 husbandry operations, storage of agricultural products and machinery, and maintaining agricultural
26 lands under production or cultivation.
27

28 There are many definitions of agricultural activities in the State RCWs depending on the topic.

29 [RCW 7.48.310](#) Agricultural activities and forest practices—Definitions. For the purposes of
30 [RCW 7.48.305](#) only:

31 (1) "Agricultural activity" means a condition or activity which occurs on a farm in connection
32 with the commercial production of farm products and includes, but is not limited to, marketed produce
33 at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation
34 pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers,
35 canals, and drains, and use of water for agricultural activities; ground and aerial application of seed,
36 fertilizers, conditioners, and plant protection products; keeping of bees for production of agricultural
37 or apicultural products; employment and use of labor; roadway movement of equipment and livestock;
38 protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings,
39 fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of stream banks
40 and watercourses; and conversion from one agricultural activity to another, including a change in the
41 type of plant-related farm product being produced. The term includes use of new practices and
42 equipment consistent with technological development within the agricultural industry.

43
44 9. At page 20 the Report suggests the need for a larger conversation regarding water rights. We should
45 have a primer regarding water rights generally.
46

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1 See the PowerPoint from the WA Department of Ecology presentation made at the Ag Summit posted
2 under the Water Element tab on the Comp Plan Update Elements webpage:
3 <https://www.sanjuanco.com/DocumentCenter/View/19699/WA-Dept-of-Ecology-Water-Rights-Presentation>
4

5 10. At page 21 the Report states: "Future growth of agricultural employment in San Juan County is
6 estimated based on the compound annual growth rate of agricultural employment in Northwest
7 Washington." **What is the basis for concluding that this is a valid approach for projecting growth in our
8 situation remote from the rest of Western Washington and subject to the additional cost factors identified
9 in the report?**
10

11 The Washington State Employment Security Department (ESD) prepares employment forecasts for
12 regions in the state called workforce development areas (WDA). San Juan County is in WDA 3 –
13 Northwest Washington, which includes Whatcom, Skagit, and Island counties. ESD has not prepared
14 employment forecasts specifically for San Juan County. The county-specific information in the report is
15 provided to supplement the information in the employment forecast. More information on the ESD
16 employment projections is provided here: <https://esd.wa.gov/labormarketinfo/projections>.
17

18 A problem that consistently comes up when analyzing data in San Juan County is that there are limited
19 sources. San Juan County is a small, geographically isolated jurisdiction and, in general, does not
20 generate the same quantity of information that other larger jurisdictions do. GMA includes allowances
21 for smaller jurisdictions like San Juan County that do not have the same quantity and quality of data
22 and studies available as some of the larger jurisdictions. For example, WAC 365-196-050 (4) states:
23

24 (4) In general, smaller jurisdictions will not be expected to engage in extensive original
25 research, but will be able to rely upon reasonable assumptions derived from available data
26 of a statewide or regional nature or representative of jurisdictions of comparable size and
27 growth rates.
28

29 11. At page 22 the Report suggests that "both the number of farms and the total employment are
30 either increasing, or are projected to increase, in San Juan County in the coming years." **Isn't that forecast
31 subject to the methodology issues raised in the previous question?**
32

33 The ESD forecast is the best available economic forecast in the area. This statement is based on the
34 assumption that growth in jobs and farms in San Juan County will increase at a similar rate to the
35 projected regional growth from the ESD forecast. This is a reasonable assumption derived from
36 available data of a regional nature (WAC 365-196-050 (4)).
37

38 12. At page 22 the Report addresses the performance of certain commodity groups on a per-acre basis.
39 How is per-acre performance relevant to land use planning for our Comp Plan?
40

41 Per-acre productivity may not directly link to land use planning. It does relate the economic
42 productivity of the County's natural resource lands. The Report is an economic analysis of natural
43 resource lands, not just analysis of land use issues.
44

45 13. At page 22 the Report concludes that: "Taken together with additional feedback about the cultural
46 importance of local agriculture, agricultural resource lands are economically viable in specific
47 circumstances and are likely to remain an important component of agricultural production in San Juan
48 County." **Is "economic viability in specific circumstances" equivalent to the regulatory standard of "long-
49 term commercial significance"?**
50

51 **No, long-term commercial significance is defined in RCW 36.70A.030 (13) as follows:**

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1
2 "Long-term commercial significance" includes the growing capacity, productivity, and soil
3 composition of the land for long-term commercial production, in consideration with the land's
4 proximity to population areas, and the possibility of more intense uses of the land."
5

6 The Viability Assessment on page 22 of the report is a general discussion of the economic performance
7 of agriculture. It is not a policy statement. In the full paragraph, the report acknowledges that farms in
8 the County are not typically single-use but that farmers rely on a variety of farm and non-farm uses to
9 make ends meet. The sentence directly preceding the quote above says:
10

11 "Stakeholder feedback indicates that most farms are not single-use, and benefit from
12 diversified and non-farm revenue streams to supplement farm income."
13

14 Furthermore, the guidelines for designating agricultural resource lands in WAC 365-190-050 focus on
15 the necessity of ensuring that the economic viability of agriculture be maintained and enhanced by the
16 designation of natural resource lands. This means that economic factors beyond soils, parcel size, and
17 current use could be considered to ensure that agriculture remains economically viable.
18

19 The need for diversity in allowed uses may not only factor in to designation criteria. When
20 implementing the Plan update, the County may want to examine what uses are allowed in San Juan
21 County Code to ensure that the agricultural resource lands regulatory structure does not limit uses that
22 would make agriculture economically viable. Farm stands are one example of a type of commercial use
23 that enables to farms to generate income and remain economically viable but are not directly related
24 to the GMA definition of long-term commercial significance.
25

26 14. At page 25 the Report suggests that: "The fact that there are currently non-designated lands in
27 current use for agricultural production in San Juan County suggests that there is greater demand for
28 agricultural land than there are designated agricultural resource lands." What is the basis for this
29 assertion, unless the currently designated resource lands are under-utilized, which would itself appear to
30 undermine the asserted conclusion?
31

32 In San Juan County, agricultural uses are allowed in almost every land use designation outside of UGAs
33 and Activity Centers. There are properties currently outside of the Agricultural Resource designation
34 that are being used for farming. For example, there are around 102 parcels in the Rural Farm Forest
35 land use designation with Agricultural or farming related assessor's use codes. A more accurate
36 statement may have been something along the lines of, "The fact that there are currently non-
37 designated lands in current use for agricultural production in San Juan County suggests that there is
38 demand for agricultural lands outside of the currently designated agricultural resource lands."
39

40 Exhibits A21 and A22 of the report (pages 26 and 27) show that there is a fair amount of designated
41 agricultural resource land that are not currently being used for agricultural production according to the
42 assessor's use codes. That there are farms outside of agricultural resource lands and that there are non-
43 farm uses in agricultural resource lands can both be true. San Juan County Code allows for a breadth
44 of uses in AG and non-AG designations. The key is to ensure that the allowed uses prevent the
45 conversion of designated AG land to permanent uses that would preclude the future use of the land for
46 agriculture.
47

48 15. At pages 26 and 27 the maps report that a great deal of land currently designated as Ag Resource
49 does not actually meet the regulatory criteria for that designation. The report does not provide tables
50 breaking down by island or otherwise reporting the number of parcels or the acreage of currently

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1 designated lands that do not meet the criteria. **Do we know the answers, can that data be provided and**
2 **why was such an obviously relevant type of data omitted from the report?** I suggest that the information
3 reported on Exhibits A-21 and A-22 of the report should be presented in tabular form by island including
4 both number of parcels and acreage.
5

6 **The relevant data is available and will be provided during the additional analysis of natural resource**
7 **land designations. The tables that constitute GIS data typically are large and do not lend to printing.**
8 **For example, one of the four GIS shapefiles used in creating these two maps has 479 rows of**
9 **information. Staff will provide more information about this data during the natural resource lands**
10 **review portion of the Comprehensive Plan Update. This information can be provided per island.**
11

12 15. At page 28 the Report recommends (or reports the recommendation of “stakeholders”
13 participating in its preparation): “broadening the criteria for conservation of agricultural resource lands
14 beyond “long term commercial significance”, to include the aesthetic quality and pastoral appearance of
15 the land, the wider economic impacts engendered by this rural character (e.g. within the tourism
16 industry), and ecosystem services such as soil quality, water quality and aquifer recharge, and carbon
17 sequestration.” Is the suggestion that the criteria for resource land designation should be changed? If so,
18 what would be the authority to SJC to change State law definitions? Or, is the suggestion developing other
19 ways of protecting current land used for (or potentially some broader classification of land) for future
20 agricultural use? In that case, what are our options? Are there options in addition to the approaches
21 suggested on page 29, including “purchase or transfer of development rights program, special tax
22 assessment programs, conservation easements, and conservation site design options for residential land
23 divisions and boundary line modifications,” and how might such approached work to accomplish the
24 objective? The Planning Commission also needs a thorough briefing regarding the details of the current
25 use programs and potential uses and limitations for the Comp Plan update.
26

27 **See the response to question 13 above.**
28

29 16. At page 28 the Report reports “that farm labor housing remains a challenging issue. Consider
30 evaluating adopted code for sufficiency and implementation. Stakeholders perceive inflexibility in farm
31 labor housing standards.” What specific current requirements or limitation are the source of the reported
32 problems?

33 **The AG community’s main concern is that farm stay and farmworker accommodations are only allowed**
34 **on properties that have applied for and qualified to be in the agricultural open space tax program. The**
35 **draft Housing Element addresses this concern in Goal 1, Policy 5.**
36

37 **18.40.230 Farm stay and farm worker accommodations.**
38

39 **A. Farm Stay Accommodations. The following standards apply to all farm stay accommodations:**

40 **1. Farm stay accommodations may be provided for up to six persons at any one time.**

41 **2. The site must currently be in the assessor’s tax category of agricultural open space.**

42 **3. Farm stay accommodations must be consistent with bed-and-breakfast residence requirements (see**
43 **SJCC 18.40.260), except that farm stay accommodations may serve three meals a day to overnight**
44 **guests only.**

45 **4. Accommodations shall be clearly subordinate to the agricultural activities on site or in the affected**
46 **agricultural area and shall not detract from the rural environment.**

47 **5. Accommodations shall be located on no more than one acre of the farm parcel and shall be located**
48 **so as to minimize the amount of agricultural land loss.**

49 **6. Accommodations shall not require the extension of public sewer and water services. On-site sewage**
50 **disposal systems and water supplies shall be adequate to support the facility.**

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1 7. Accommodations are characterized by providing a maximum of 100 days annually for participation
2 in farm operations and a maximum of 100 days annually for farm education programs.

3 B. Farm Worker Accommodations. The following standards apply to all farm worker accommodations:

4 1. Farm worker accommodations may be provided for up to 10 persons.

5 2. The site must currently be in the assessor's tax category of agricultural open space.

6 3. Accommodations are provided only to persons who are directly involved in agricultural activities and
7 paid by the farm operator.

8 4. Accommodations shall be clearly subordinate to agricultural activities on site or in the affected
9 agricultural area and shall not detract from the rural environment.

10 5. Accommodations shall be located on no more than one acre of the farm parcel and shall be located
11 so as to minimize the amount of agricultural land loss.

12 6. Accommodations shall not require the extension of public sewer and water services: on-site sewage
13 disposal systems and water supplies shall be adequate to support the facility.

14
15 17. At page 37 the Forest Resource section of the Report states: "Due to limitations in data availability,
16 this section of the report explores trends in forestry at the regional level and applies these trends to San
17 Juan County." This appears highly inappropriate based on the unique factors specifically identified in the
18 report. How can this regional data be considered relevant?

19
20 **There are limits to the data available for forestry in the County. In the consultant's professional opinion,**
21 **the industry information provided in the report is the best available information on the forestry**
22 **industry in our region. It is the most relevant data we have. The limitations of the data should be taken**
23 **into account when considering the implications but that does not mean there is not valuable**
24 **information in regional data. See also the response to questions 11 and 13 above and WAC 365-196-**
25 **050 (4).**

26
27 18. At page 42 the Report notes the importance of current use programs. The Planning Commission needs
28 a thorough briefing regarding the details of the current use programs and potential uses and limitations
29 for the Comp Plan update.

30
31 **Julie Thompson and Bill Shanks will provide a briefing at the February Planning Commission meeting.**

32
33 19. At page 42 the Report suggests that: "Adopted policy should recognize the positive externalities not
34 directly associated with forestry lands (such as revenues and employment related to tourism) that
35 partially rely on the rural character of the islands." **Is the suggestion that the criteria for resource land**
36 **designation should be changed? If so, what would be the authority to SJC to change State law definitions?**
37 **Or, is the suggestion that these factors can properly be considered in evaluating the "long-term**
38 **commercial significance for the commercial production of timber," RCW 36.70A.170(b), because that is**
39 **the legal standard (not simply "forestry").? If so, on what legal basis and how? Or, is the suggestion**
40 **developing other ways of protecting current forest land?**

41
42 **The suggestion is not that all of the criteria for designating forestland should be changed. The County**
43 **does not have the authority to change state law, including the definition of long-term commercial**
44 **significance. The Report is suggesting that the County should consider the secondary benefits of**
45 **forestland when determining the best way to protect designated forestland. More information about**
46 **considering secondary benefits is provided below.**

47
48 **'Adopted policy' extends beyond designation criteria. The County must comply with the requirements**
49 **of the GMA. We do not have any authority to change the definition of long-term commercial**
50 **significance. The quoted statement acknowledges that forests provide other economic benefit beyond**

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1 the timber yield. The GMA allows counties to consider these as secondary benefits from forestlands
2 when assigning designations and adopting protective strategies.

3 The secondary benefits cannot be used alone as a basis for designating forestlands. WAC 365-190-060
4 (3) states:

5
6 “Counties and cities may also consider secondary benefits from retaining commercial forestry
7 operations. Benefits from retaining commercial forestry may include protecting air and water
8 quality, maintaining adequate aquifer recharge areas, reducing forest fire risks, supporting
9 tourism and access to recreational opportunities, providing carbon sequestration benefits,
10 and improving wildlife habitat and connectivity for upland species. These are only potential
11 secondary benefits from retaining commercial forestry operations, and should not be used
12 alone as a basis for designating or de-designating forest resource lands.”
13

14 During the *Plan* update, the County can consider additional policies to protect forestlands. The
15 Report is not suggesting specific policy changes per se but suggests that there are additional
16 values provided by forestland beyond timber harvest. The County is authorized to consider these
17 secondary benefits when deciding why and how to protect forestlands.
18

19 20. At page 44 the Report includes a discussion based upon the 0.7% per year across all industries in the
20 County. How is the growth of other industries relevant to the forecasting of growth in “commercial
21 production of timber”?
22

23 The growth rate in all sectors is provided for contrasting context between all sectors and the forestry
24 sector. Though the overall economy grew by 0.7 percent between 2004 and 2016, forestry employment
25 and number of establishments receded by 3.1 percent. It is relevant that even though the overall
26 economy grew during the study period, forestry employment and establishments fell during the same
27 period.
28

29 21. At page 45 the Report states, after concluding that there is little demand for Forest Resource land in
30 the County: “However, there appears to be support from citizens for the preservation of forest lands, and
31 there are landowners currently enrolled in the current use taxation program for forestry. Those factors
32 influence land demand for forestry.” (Emphasis added.). Assuming that is true, *is the suggestion that the*
33 *criteria for resource land designation should be changed? If so, what would be the authority to SJC to*
34 *change State law definitions? Or, is the suggestion that these factors can properly be considered in*
35 *evaluating the “long-term commercial significance for the commercial production of timber,” RCW*
36 *36.70A.170 (b), because that is the legal standard (not simply “forestry”)? If so, on what legal basis and*
37 *how? Or, is the suggestion developing other ways of protecting current forest land?*
38

39 For information about the secondary benefits of designated forestland, see the answer to question 20
40 above. The implication is that there are values in designated forestland, specifically economic value,
41 beyond the ‘productivity’ measures such as board feet per acre. In other words, the timber harvest is
42 one aspect of the benefits that forestland confer. These benefits can be considered as secondary criteria
43 per WAC 365-190-060 (3).
44

45 22. At pages 46 and 47 the maps report that a great deal of land currently designated as Forest Resource
46 does not actually meet the regulatory criteria for that designation. The report does not provide tables
47 breaking down by island or otherwise reporting the number of parcels or the acreage of currently
48 designated lands that do not meet the criteria. *Do we know the answers, can that data be provided and*
49 *why was such an obviously relevant type of data omitted from the report?* I suggest that the information

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1 reported on Exhibits F14 and F15 of the report should be presented in tabular form by island including
2 both number of parcels and acreage.

3
4 **The relevant data is available. It will be provided during the additional analysis of natural resource land**
5 **designations. The tables that constitute GIS data typically are large and do not lend to printing. For**
6 **example, one of the four GIS shapefiles used in creating these two maps has 479 rows of information.**
7 **Staff will provide more information about his data during the natural resource lands review portion of**
8 **the Comprehensive Plan Update. This additional information can be provided per island.**

9
10 23. At page 48 the Report present arguments for considering benefits of forestry to the local economy
11 other than timber and concludes: "However, the economic impacts of those non-resource-related or non-
12 extractive businesses are not attributed, in whole or in part, to the forest lands. In this way, a focus on
13 long-term commercial significance could allow the inherent logistical and economic difficulties in forestry
14 and logging in San Juan County lead to an erosion of protections for these lands." In this way, the Report
15 appears to suggest conflating the value of forests with the value of Forest Resource designated land in a
16 manner inconsistent with the clear regulatory requirement for Forest Resource designation (i.e., "long-
17 term commercial significance for the commercial production of timber," RCW 36.70A.170(b)). **Have we**
18 **evaluated the strength of legal arguments supporting such a position?**

19 **See the answer to question 20.**

20
21 **We have not evaluated the strength of legal arguments that would support amending the definition of**
22 **long-term commercial significance. The report is not proposing a change to the primary designation**
23 **criteria. In fact, on page 49 of the report, next to the policy for designating forest resource land, the**
24 **recommendation is for no change to the criteria.**

25
26 **Forest resource land goals and policies can address issues other than designation criteria. The County**
27 **can keep in mind the other values of forestland when considering policy options. The Skagit County**
28 **Comprehensive Plan, for example, includes many other policies to address forestland issues beyond**
29 **long-term commercial significance. Skagit County includes polices directed at wildfire prevention,**
30 **allowable uses, and preserving the forestland base.**

31
32 <https://www.skagitcounty.net/PlanningAndPermit/Documents/CompPlan2016/comp-plan-2016-adopted-text-only.pdf>
33

34 24. At page 62 the Report suggests considering "the need to proactively plan for mining lands after
35 extraction activities cease. Consider an addition to the existing policies that includes language about
36 planning for the adaptive reuse of mining resource lands once productive potential has been exhausted
37 or extraction activities cease." **What tools are available to plan in advance for these eventualities?**

38 **DNR requires reclamation plans. The use of such lands can be evaluated with updates to the Plan.**

39
40 [Questions Regarding the Open Space Program\(s\)](#)

41
42 25. **Is there a current database of parcels subject to agreements under the open space programs, the**
43 **terms and conditions of those specific agreements and the applicable termination/notice dates?**

44
45 **Julie Thompson and Bill Shanks will report at the February Planning Commission meeting.**

46 26. **Has the County actively implemented these programs or essentially relied upon landowner-initiated**
47 **applications for the administration of these programs?**

48
49 **Julie Thompson and Bill Shanks will report at the February Planning Commission meeting.**

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Questions Regarding Provisions of the Current Land Use Element

27. At page 3, General Policy 6 states: “Investigate the development of a program to allow for the transfer of residential density from Rural and Resource Lands to Activity Centers and other approved receiving areas as appropriate to protect rural and resource lands. Transfer of residential density within Activity Centers should also be allowed.” **Did this investigation happen? If so, what were the findings and was such a program implemented?**

Julie Thompson who has the most institutional knowledge does not believe it ever happened. There is a definition in SJCC 18.20.200 placeholder in 18.60.040 Transfer of development rights. The code section is reserved (Ord. 2-1998 Exh. B § 6.4). Transfer of Development Right programs are complicated and labor intensive to develop. Consequently, even in larger jurisdictions, they are difficult to implement. San Juan County also has the conservation design standards that is used in land divisions in resource land, conservancy, and rural designations (outside of areas of more intensive rural development), and all shoreline areas must protect open space and scenic resources as well as natural resources by using these design and development requirements. Because there is no minimum lot size for development, clustering of density on larger parcels often occurs which helps keep larger open spaces.

28. At page 3, General Policy 8 states: “Residential densities specified on the Official Maps indicate the maximum allowable density for any given parcel.” **Since this is not strictly correct for parcels subject to conservation and other development-limiting easements and agreements, is there a database that reflect the actual development that take place legally on a parcel-by-parcel basis?**

Policy 8 refers to the maximum density allowed by the Comprehensive Plan, not site-specific restrictions. Conservation and other development-limiting easements and agreements are site-specific restrictions to development. No change to this language is needed.

Residential densities specified on the Official Maps indicate the maximum allowable density for any given parcel in a land use designation. It does not say it provides detailed density information about specific property owner agreements. Easements such as conservation easements are agreements made for each parcel with unique details per-agreement. Conservation easements are private agreements and not regulatory. The County does not have a specific database of all easements and agreements in the County. The Land Bank and SJ Preservation Trust likely have their databases. The Land Bank has a map of their public lands and easements. <http://sjclandbank.org/your-protected-lands/> This information, along with other recorded documents per-parcel, is on file with the Auditor’s Office. Recorded documents can be searched at <https://www.sanjuanco.com/171/Recorded-Documents-Search>. This database includes more than easements and agreements.

29. At page 8, Policy 8 states: “Incorporate low impact development standards and guidelines (based on the Technical Guidance Manual for Puget Sound, Puget Sound Action Team, 2005) into implementing regulations for critical areas, rural and resource lands, special districts, activity centers and growth areas.” **Is considered to have been done and is the cited reference still current and appropriate?**

This policy is no longer relevant. The County manages stormwater by applying the Western Washington Stormwater Management Manual (Manual) adopted by the WA Department of Ecology to implement the Clean Water Act and for compliance with the National Pollutant Elimination Discharge System (NPDES permit). Low impact development techniques are now required by the Manual. Thus low

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1 impact development techniques are required in all development across the County. Critical area
2 regulations also limit vegetation and tree removal.
3

4 30. At page 9, Policy 1 refers to the County's "Open Space and Conservation Plan." What is the current
5 version of this Report and Plan?
6

7 This Plan is posted on DCD's Comprehensive Plan webpage Please scroll to the bottom list:

8 <https://www.sanjuanco.com/510/Comprehensive-Plan>
9

10
11 31. At page 11, Policy 8 states that "New residential development in growth areas should include a full
12 range of single- and multi-family housing types." Is there a reason that this should continue to be the
13 policy?
14

15 Yes, a GMA Planning Goal in RCW 36.70A.020 states:
16

17 "4) Housing. Encourage the availability of affordable housing to all economic segments of the
18 population of this state, promote a variety of residential densities and housing types, and
19 encourage preservation of existing housing stock."
20

21 Also, the community's 2036 Vision is:
22

23 HOUSING: Adequate, safe, affordable and stable housing helps our community thrive. There
24 are diverse housing types and we use innovative strategies to meet the various housing needs
25 of our community.
26

27 A variety of housing types is essential to meeting the housing needs of different household types and
28 the needs of the entire population. Multi-family housing is primarily appropriate for development in
29 urban growth areas because they have the water system capacity.
30

31 32. At page 12, Policy 9 and Page 15 Policy 10 refer to "Open space design standards." What exactly does
32 this mean?
33

34 These standards are adopted in 18.70.060 Subdivision and short subdivision design and development
35 standards. As you might recall, there is an amendment in the code correction ordinance related to
36 these standards.
37

38 10. Conservation Design Requirements. All land divisions in resource land, conservancy, and rural
39 designations (outside of areas of more intensive rural development), and all shoreline areas shall
40 protect open space and scenic resources as well as natural resources by meeting the following design
41 and development requirements:
42

43 a. ~~At a minimum, 60 percent of the area of the parcel to be divided shall be maintained as open~~
44 ~~space area from which all construction related to residential use (houses, residential outbuildings,~~
45 ~~parking and residential landscaping) shall be excluded. Wells, septic systems, biofiltration, and~~
46 ~~ponds approved as pumper supply points, may be placed within the nonbuilding area of a parcel.~~
47 To be deleted in code correction ordinance.
48

49 b. The significance and sensitivity of open space resources shall be identified for the entire parcel to
50 be divided using the landscape information in Parts III and IV (Open Space Atlas and Map Folio) of
51 the San Juan County Open Space and Conservation Plan (SJCC [18.30.190\(F\)](#)) and the criteria and
52 rating scales in Part III of that plan.
53

54 c. The land division design shall adhere to the following principles to the extent practicable:

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- i. Establish nonbuilding portions of new parcels to be contiguous with one another and to contain the most sensitive open space features of the site within them.
- ii. Establish the location of roads, individual driveways, houses and outbuildings, and utilities, to minimize intrusion on the most sensitive open space features of the site.
- iii. Maintain existing orchards, meadows and pasture areas.
- iv. Leave ridgelines and contrasting edges between landscape types unbroken by structures.
- v. On rolling open or steep open slopes, locate building areas so that buildings will be screened by existing vegetation or terrain.
- vi. Ensure that the protection of features such as wetlands and wildlife habitat.

d. Use and management provisions for the nonbuilding area of each parcel shall be specified on the face of the plat.

e. Building and nonbuilding locations of each parcel shall be indicated on the face of the plat.

f. Alternative Design.

i. At least 60 percent of the entire parcel to be divided may be retained within a single tract maintained as open space from which all construction related to residential use (houses, residential outbuildings, parking, and residential landscaping) shall be excluded. Wells, septic systems, biofiltration, and ponds approved as pumper supply points, may be placed within the conservation area. Individual building lots shall be clustered or otherwise located in a manner consistent with the principles in subsection (B)(10)(c) of this section.

ii. The open space area shall be owned and managed as a single entity. The open space tract or easement may be transferred as indivisible open space to a conservation organization, held in perpetuity as an indivisible portion of one of the lots, or held by the lot owners in common. Use and management provisions for the conservation tract shall be specified on the face of the plat.

iii. If the conservation tract is created as a lot separate from a residential lot it may be leased for agricultural or forest management uses. Outbuildings other than structures for human habitation may be provided for to support agricultural activity on land in agricultural use.

iv. All other requirements of this subsection (B)(10) shall apply.

33. At page 12, Policy 12 refers to "smart growth principles." **What exactly does this mean?**

Wikipedia sums it up fairly well:

"Smart growth is an urban planning and transportation theory that concentrates growth in compact walkable urban centers to avoid sprawl. It also advocates compact, transit-oriented, walkable, bicycle-friendly land use, including neighborhood schools, complete streets, and mixed-use development with a range of housing choices.^[1] The term "smart growth" is particularly used in North America. In Europe and particularly the UK, the terms "compact city", "urban densification"^[2] or "urban intensification" have often been used to describe similar concepts, which have influenced government planning policies in the UK, the Netherlands and several other European countries.

Smart growth values long-range, regional considerations of sustainability over a short-term focus. Its sustainable development goals are to achieve a unique sense of community and place; expand the range of transportation, employment, and housing choices; equitably distribute the costs and benefits of development; preserve and enhance natural and cultural resources; and promote public health."

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1 Smart Growth – EPA

2
3 "Smart growth" covers a range of development and conservation strategies that help protect
4 our health and natural environment and make our communities more attractive, economically
5 stronger, and more socially diverse."
6

7 Smart Growth America: <https://smartgrowthamerica.org/our-vision/what-is-smart-growth/>

8
9 "Smart growth is an approach to development that encourages a mix of building types and
10 uses, diverse housing and transportation options, development within existing
11 neighborhoods, and community engagement. The 10 principles below are considered the
12 foundation of a smart growth approach

- 13 1. Mix land uses
- 14 2. Take advantage of compact design
- 15 3. Create a range of housing opportunities and choices
- 16 4. Create walkable neighborhoods
- 17 5. Foster distinctive, attractive communities with a strong sense of place
- 18 6. Preserve open space, farmland, natural beauty, and critical environmental areas
- 19 7. Direct development towards existing communities
- 20 8. Provide a variety of transportation choices
- 21 9. Make development decisions predictable, fair, and cost effective
- 22 10. Encourage community and stakeholder collaboration in development decisions"
- 23

24 34. At page 12, Policy 14, discussed seawater intrusion into the Lopez village UGA water supply. **Has this**
25 **been addressed, and does it remain an issue to be addressed in the Comp Plan?**
26

27 **Saltwater intrusion is addressed in the Water Element and the Lopez Village Subarea Plan.**
28

29 Draft Water Element

30
31 **4.4.2 Seawater Intrusion**

32 **In 2007, the San Juan County Board of Health revised SJCC Chapter 8.06 to include a Seawater Intrusion**
33 **Protection section. This ensures that projects that have a potential to cause or contribute to seawater**
34 **intrusion are evaluated to determine their impacts on the groundwater resource prior to a project**
35 **decision being made. If the project is determined to have an impact on groundwater, the Health Officer**
36 **will approve with conditions designed to prevent degradation. Projects that cannot mitigate the impact**
37 **of seawater intrusion on the groundwater resource may be modified or denied.**
38

39 Lopez Village Plan

40
41 **Critical Aquifer Recharge Areas**

42
43 **All areas of the County are considered a critical aquifer recharge area and are subject to critical area**
44 **regulations. The area's ground water aquifer is the Village's only fresh water source. It is recharged**
45 **solely by rainwater. Because freshwater resources are limited and there is a potential threat of**
46 **saltwater intrusion, an adaptive management program regarding seawater intrusion into the Lopez**
47 **Village Urban Growth Area water supply is in place. Under this program, evaluations are made to**
48 **determine the quality and quantity of groundwater used for public water supplies in the Village. This**
49 **program supplements other County water quality protections. If monitoring points out further**
50 **degradation, the County may take appropriate action to cease the issuance of building permits in the**
51 **Village until action is taken to prevent further seawater intrusion.**
52

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Water Systems: Groundwater Monitoring

San Juan County Health and Community Services (H&CS) established groundwater quality monitoring networks in high priority areas of North Lopez in 2008 utilizing grant funding. The monitoring network on Lopez is monitored and maintained by H&CS staff at a low level with available staff and funding. The monitoring networks consist of data loggers installed in multiple wells, which gather static water level information. In addition, nitrate, chloride and conductivity parameters have been analyzed periodically since 2008 to assess impacts from seawater intrusion and human related nitrate loading to the aquifers.

35. At page 14, Policy 1.d., regarding Residential Activity Centers, the elements refers to “non-rural levels of capital facilities or services.” **How has this been interpreted and what is the basis of that interpretation?**

Community water and sewage systems are non-rural services that serve Residential Activity Centers. WAC 365-196-425(6)(c)(i)(B) states that “appropriate and necessary levels of public facilities and services not otherwise provided in rural areas may be provided inside the logical outer boundary” of Activity Centers. As allowed by this state code, *SJC Comprehensive Plan* Land Use Element Policy 2.3.B.7 says new development in Activity Centers should be connected to community water and sewage treatment systems. See the answer to question 2 above for more information on levels of service.

36. At page 15, Policy 8 provides that high density industrial uses should be located within activity canters. **Why would that make sense?**

For reference, Land Use Element Policy 2.3.B.8 states:

8. Mixed-uses, high-density residential uses, commercial, industrial, and public uses, should be located within activity centers where adequate facilities, services, utilities and improvements exist or are planned to support the level and type of development identified, as appropriate to the existing levels and patterns of development, and the established range of uses.

This may be a simple grammatical error. The ‘high-density’ in policy 8 seems to refer only to residential use. It should be noted that ‘high-density’ is relative. Activity Centers typically have a density between 0.5 to 2 dwelling units per acre. This is ‘high-density’ in a rural context but hardly high-density in an urban context. The County can consider changing the wording of this policy during an update.

It should also be noted that activity centers are limited areas of more intense rural development (LAMIRD). One of the purposes of LAMIRD is to allow commercial and industrial uses outside of UGAs to support rural economies and ways of life, see RCW 36.70A.070 for more information about LAMIRD. Typically, these areas have infrastructure and government services that can better serve industrial uses than other rural areas.

37. At page 14, Policy 9 states that: “Residential development in activity centers, except Island Centers and Master Planned Resort activity centers, should allow a full range of single- and multi-family housing types.” (Emphasis added.). **Why should that be so and is this still an appropriate policy?**

The GMA includes a statewide planning goal for housing in RCW 36.70A.020 (4) which states:

“Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.”

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1 In addition to GMA Goal 4, the [SJC Vision](#) adopted in 2018 foresees there being “diverse housing
2 types...to meet the various housing needs of our community.” Allowing single- and multi-family housing
3 types in Activity Centers is a way of accomplishing this part of the Vision and GMA Goal 4. Activity
4 Centers allow more dense and intensive uses in a defined area to preserve rural character in rural areas
5 as growth occurs.
6

7 38. At page 17, Policy 3 refers to “Conversion Option Harvest plans.” **What does this mean?**
8

9 **18.40.180 Conversion option harvest plan (COHP) – General regulations.**

10
11 **A. A COHP is a voluntary plan developed by the landowner and approved the County that indicates**
12 **the limits and types of harvest areas, road locations, and open space. This approved plan is**
13 **submitted to the WDNR as part of a Class II, Class III, or Class IV Special forest practice application,**
14 **and is attached to and becomes part of the conditions of the permit approved by the WDNR.**

15
16 **If the requirements of the COHP are continuously met by the landowner, the COHP maintains the**
17 **landowner’s option to convert to a use other than commercial forest product production; that is, it**
18 **releases the landowner from the six-year moratorium on future development (see**
19 **SJCC [18.40.160](#) (B)) without having to file a Class IV General application (WAC [222-20-050](#)(2)).**
20 **Failure to meet the requirements of the COHP requires the imposition of the six-year moratorium,**
21 **and conversions under such circumstances are illegal conversions; see subsection (F) of this section.**

22
23 **B. All applications for a COHP shall be submitted to the administrator in a form to be determined**
24 **by the administrator. COHPs will be processed and reviewed in the same manner as “Prov” permit**
25 **review for compliance with development and performance standards, SJCC [18.80.070](#)(E). The**
26 **application shall include:**

- 27
28 **1. The application checklist, including a legal description of the property.**
29 **2. The COHP agreement form.**
30 **3. The application fee.**
31 **4. Maps and drawings of the property detailing the following:**
32 **a. Location of existing and proposed roads, yarding areas, and access points;**
33 **b. Location and types of vegetation, old growth trees, and snags;**
34 **c. Location and type of soils;**
35 **d. Location and type of water bodies, drainage ways, or wetlands;**
36 **e. Location and type of critical habitat areas and other environmentally sensitive areas (see**
37 **SJCC [18.35.020](#) through [18.35.050](#) et seq.);**
38 **f. Comprehensive Plan designation for the property;**
39 **g. Intended use(s), if known;**
40 **h. Approximate limits of conversion option harvest area;**
41 **i. Specific plans to modify or conduct forest practice activity for future conversion options;**
42 **j. Location and approximate dimensions of all clearcut areas; and**
43 **k. Parcel boundaries and dimensions.**
44 **5. Maps sufficient to describe any and all off-site improvements or access roads, together with**
45 **evidence that all property owners of record, and all easement holders, for the off-site areas and**
46 **access roads have signed an agreement to the use of the off-site area(s) and access roads.**
47
48
49

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1 C. All COHPs shall meet the following minimum standards:
2

3 1. No more than 40 percent of the number of standing merchantable trees and trees 12 inches
4 diameter-at-breast-height (dbh) or greater may be harvested under a COHP. All stumps and
5 understory shall remain undisturbed as much as possible. No brush raking is permitted. Additional
6 harvesting within six years from the date the COHP harvest is completed will require submittal of a
7 State Environmental Policy Act (SEPA) checklist and SEPA review by the County (see
8 SJCC [18.80.050](#)).

9 2. A COHP shall preserve a 50-foot-wide buffer along the perimeter of the site. With the exception
10 of approved road access points, no more than 30 percent of the total number of standing
11 merchantable trees and trees 12 inches dbh or greater may be removed within the buffer; provided,
12 that no portion of the buffer shall be clearcut.

13 3. A COHP shall preserve a 50-foot-wide buffer along all roads adjoining or abutting the subject
14 property. A 15-foot-wide buffer shall be preserved along roads within the subject property. With
15 the exception of approved road access points, no more than 30 percent of the total number of
16 standing merchantable trees and trees 12 inches dbh or greater may be removed within the buffer;
17 provided, that no portion of the buffer shall be clearcut.

18 4. All roads in a COHP shall be designed to accommodate the potential for future development and
19 subdivision of the property. Roads and skid trails shall minimize total road length. All roads in a
20 COHP shall meet the design and construction standards specified in Chapter [18.60](#) SJCC. All roads
21 which propose to cross a stream shall be required to obtain an hydraulic project approval (HPA)
22 permit, as determined by the Washington Department of Fish and Wildlife, prior to submittal of the
23 COHP.

24 5. A COHP shall minimize the number and size of clearcut areas. No individual clearcut areas may
25 exceed 10 percent of the total acreage, up to a maximum of two acres.

26 6. A COHP shall contain written authorization from the property owner agreeing to San Juan County
27 enforcement of nonforestry-related conditions of the COHP permit issued by the WDNR.

28 7. All COHP harvest activities shall be completed within two years from the date the COHP forest
29 practice permit is issued by the WDNR.

30 8. Where evidence of unstable soils (as defined by the WDNR) exists, no trees or other vegetation
31 will be removed on slopes exceeding 30 percent. On slopes of 15 percent to 30 percent, no
32 undergrowth shall be removed and tree removal shall not exceed 25 percent of the total number
33 of trees.

34 9. Where soils are documented as stable, tree removal shall not exceed 30 percent of the total
35 number of trees on slopes between 20 percent and 40 percent. Tree removal and removal of
36 vegetative cover is not permitted on slopes exceeding 40 percent.

37 10. All trees over 125 years old shall be retained where practical. Snags shall be retained where they
38 do not pose a safety hazard.

39 11. Trees remaining on the site after the harvest will represent all species and size classes existing
40 on the site before harvest.

41 12. Trees remaining on the site will be of sufficient quality (good crown cover, deep root system,
42 and healthy condition) to survive after the harvest is complete.

43
44 D. Any COHP which exceeds the minimum requirements of subsection (C) of this section, or exceeds
45 thresholds listed below, shall be submitted in the same manner described above but will also
46 require (1) a site inspection by the County to evaluate the potential impacts of the COHP; and (2)
47 the preparation of a SEPA checklist. Note: the standard for the preparation of a checklist for forest
48 practices is the "potential for substantial impact on the environment." If the site inspection and

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1 checklist indicate that there will be probable significant impacts, a determination of significance
2 shall be issued unless the impacts can be sufficiently mitigated for an MDNS (see SJCC [18.80.050](#)).
3

4 The thresholds for review are:

- 5 1. The total property included in the COHP is greater than 20 acres, or any portion is classified as
6 designated forest land or is located within a forest resource land use district.
- 7 2. The COHP includes harvest on slopes exceeding 40 percent.
- 8 3. The COHP includes any clearcut areas exceeding two acres.
- 9 4. The COHP has potential for substantial adverse impacts on wildlife, as determined by the
10 Washington Department of Fish and Wildlife.
- 11 5. The COHP has potential for substantial adverse impacts on archaeological resources, as
12 determined by the Washington Office of Archaeology and Historic Preservation or a qualified
13 professional.
- 14 6. The COHP has potential for substantial adverse impacts on Class 1 or 2 regulated wetlands,
15 includes fill in wetlands, or is located where no natural wetland buffering vegetation is present.
16

17 E. The WDNR shall review and take action on all permit applications that have approved COHPs
18 attached within 30 days from the date of a complete application. Failure of the WDNR to take action
19 within 30 days shall result in the COHP being approved as submitted.
20

21 F. Failure to Comply with the Terms of a COHP.

- 22 1. An approved COHP may not be altered or revoked by the permittee without written agreement
23 by the administrator, or by the County without agreement by the permittee, and in either case must
24 be approved by the WDNR.
- 25 2. If a landowner fails to comply with the requirements of the conversion option harvest plan, the
26 County shall impose the six-year moratorium of SJCC [18.40.160](#)(B) from the date the application for
27 the permit was given final approval by the WDNR or by the County (if approval jurisdiction had been
28 transferred to the County) (RCW [76.09.060](#)(3)(b)(i)(F)).
- 29 3. If a landowner fails to comply with the requirements of the conversion option harvest plan, any
30 conversion that occurs constitutes an illegal conversion that is subject to the enforcement
31 provisions of SJCC [18.40.170](#)(A)(2) and (3).
32
33

34 G. Improvements Subject to this Code. If any off-site or on-site improvements are subject to
35 development or performance standards or permit requirements of this code, such requirements
36 shall be met before a COHP approval is granted by the County. (Ord. 14-2000 § 7(EEE); Ord. 2-1998
37 Exh. B § 4.12.7)
38

39 Note: Forest Practice rules are found in RCW Chapter 76.09
40 <https://app.leg.wa.gov/RCW/default.aspx?cite=76.09>
41

42 WAC 222-20-040 *Approval conditions.

43 (1) Whenever an approved application authorizes a forest practices activity which, because
44 of soil condition, proximity to a water course or other unusual factor, has a potential for causing
45 material damage to a public resource, as determined by the department, the applicant shall, when
46 required as a condition on the approved application, notify the department two business days
47 before the commencement of actual operations.

48 (2) All approvals are subject to any conditions stipulated on the approved application and
49 to any subsequent additional requirements set forth in a stop work order or a notice to comply.

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1 **(3) Local governmental entity conditions—Class IV-general applications.**

2 **(a) RCW 76.09.240(6) allows a local governmental entity to exercise limited land use**
3 **planning or zoning authority on certain types of forest practices. This subsection is designed to**
4 **ensure that local governmental entities exercise this authority consistent with chapter 76.09 RCW**
5 **and the rules in Title 222 WAC. The system provided for in this subsection is optional.**

6 **(b) This subsection only applies to applications on lands that are being converted to a use**
7 **other than commercial timber operations.**

8 **(c) After determining that an application is Class IV-general, the department shall transmit**
9 **the applications to the appropriate local governmental entity within two business days from the**
10 **date the department officially receives the application.**

11 **(d) The department shall condition the application consistent with the request of the local**
12 **governmental entity if:**

13 **(i) The local governmental entity has adopted a clearing and/or grading ordinance that**
14 **addresses the items listed in (e) of this subsection and requires a permit;**

15 **(ii) The local governmental entity has issued a permit under the ordinance in (i) that**
16 **contains the requested conditions; and**

17 **(iii) The local governmental entity has entered into an interagency agreement with the**
18 **department consistent with WAC 222-50-030 addressing enforcement of forest practices.**

19 **(e) The local governmental entity conditions may only cover:**

20 **(i) The location and character of open space and/or vegetative buffers;**

21 **(ii) The location and design of roads;**

22 **(iii) The retention of trees for bank stabilization, erosion prevention, and/or stormwater**
23 **management; or**

24 **(iv) The protection of critical areas designated pursuant to chapter 36.70A RCW.**

25 **(f) The local governmental entity shall file its conditions with the department within twenty-**
26 **nine days of the department's official receipt of the application or within fourteen business days of**
27 **the transmittal of the application to the local governmental entity or one day before the**
28 **department acts on the application, whichever is later.**

29 **(g) The department shall incorporate local governmental entity conditions consistent with**
30 **this subsection as conditions of the forest practices approval.**

31 **(h) Any exercise of local governmental entity authority consistent with this subsection shall**
32 **be considered consistent with the forest practices rules in this chapter.**

33 **(4) Lead agency mitigation measures.**

34 **(a) This subsection is designed to specify procedures for a mitigated DNS process that are**
35 **consistent with chapters 76.09 and 43.21C RCW and the rules in Title 222 WAC and chapter 197-**
36 **11 WAC.**

37 **(b) This subsection applies to all Class IV applications in which the department is not the**
38 **lead agency under the State Environmental Policy Act. (See WAC 197-11-758.)**

39 **(c) The department shall transmit the application to the lead agency within two business**
40 **days from the date the department officially receives the application.**

41 **(d) The lead agency may specify mitigation measures pursuant to WAC 197-11-350.**

42 **(e) The lead agency threshold determination and any mitigation measures must be filed**
43 **with the department within the later of twenty-nine days of the official receipt of the application**
44 **by the department, fourteen business days of the transmittal of the application to the lead agency**
45 **if the lead agency is a local governmental entity; or one day before the department acts on the**
46 **application.**

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1 (f) Unless the applicant clarifies or changes the application to include mitigation measures
2 specified by the lead agency, the department must disapprove the application or require an
3 environmental impact statement. (See WAC 197-11-738.)

4 (g) If the department does not receive a threshold determination from the lead agency by
5 the time it must act on the application, the department shall disapprove the application.

6 (5) Small forest landowner approval conditions. The department shall not disapprove a
7 small forest landowner's application or notification on the basis that fish passage barriers have not
8 been removed or replaced if the landowner has committed to participate in the department's family
9 forest fish passage program for:

10 (a) Any barriers on their forest roads located within the boundaries of their application or
11 notification; and

12 (b) Any barriers on their forest roads needed for their proposed forest practice, but located
13 outside the boundaries of the application or notification.

14 (6) CRGNSA special management area.

15 (a) Policy. The states of Oregon and Washington have entered into a Compact
16 preauthorized by Congress to implement the CRGNSA Act, 16 U.S.C. §§ 544, et seq.
17 chapter 43.97 RCW, 16 U.S.C. § 544c. The purposes of the CRGNSA Act are:

18 (i) To establish a national scenic area to protect and provide for the enhancement of the
19 scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

20 (ii) To protect and support the economy of the Columbia River Gorge area by encouraging
21 growth to occur in existing urban areas and by allowing future economic development in a manner
22 that is consistent with paragraph (1). 16 U.S.C. § 544a.

23 The forest practices rules addressing forest practices in the CRGNSA special management
24 area recognize the intent of Congress and the states expressed in the CRGNSA Act and Compact and
25 the intent of the Washington state legislature in the Forest Practices Act. These rules are designed
26 to recognize the public interest in sound natural resource protection provided by the Act and the
27 Compact, including the protection to public resources, recreation, and scenic beauty. These rules
28 are designed to achieve a comprehensive system of laws and rules for forest practices in the
29 CRGNSA special management area which avoids unnecessary duplication, provides for interagency
30 input and intergovernmental and tribal coordination and cooperation, considers reasonable land
31 use planning goals contained in the CRGNSA management plan, and fosters cooperation among
32 public resources managers, forest landowners, tribes and the citizens.

33 (b) The CRGNSA special management area guidelines shall apply to all forest practices
34 within the CRGNSA special management area. Other forest practices rules also apply to these forest
35 practices. To the extent these other rules are inconsistent with the guidelines, the more restrictive
36 requirement controls. To the extent there is an incompatibility between the guidelines and another
37 rule, the guidelines control. Copies of the guidelines can be obtained from the department's
38 Southeast and Pacific Cascade regional offices and Olympia office, as well as from the Columbia
39 River Gorge commission and the U.S. Forest Service.

40 (c) The department shall review and consider the U.S. Forest Service review statement and
41 shall consult with the U.S. Forest Service and the Columbia River Gorge commission prior to making
42 any determination on conditioning an application or notification within the CRGNSA special
43 management area
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1 WAC 222-20-050 Conversion of forest land to nonforest use.

2 (1) If an application to harvest signed by the landowner indicates that within three years
3 after completion, the forest land will be converted to a specified active use that is incompatible
4 with a use other than commercial timber operations, the reforestation requirements of
5 chapter 222-34 WAC shall not apply, and the information relating to reforestation on the
6 application form need not be supplied. However, if the specified active use is not initiated within
7 three years after the harvest is completed, the reforestation requirements shall apply and
8 reforestation shall be completed within one additional year.

9 (2) If a landowner who did not state an intent to convert decides to convert to a nonforestry
10 use within six years of receiving an approved forest practices application or notification, the
11 landowner must:

- 12 (a) Stop all forest practices activities on the parcels subject to conversion;
13 (b) Contact the department of ecology and the applicable local governmental entity to begin
14 the permitting process; and
15 (c) Notify the department and withdraw any related applications or notifications, or request
16 a new application for conversion.

17 Upon request from the local governmental entity, the department will provide the status
18 of the landowner's related applications and notifications, and any final orders or decisions.

19
20 WAC 222-20-051 Conversion option harvest plans.

21 (1) For Class II, III, and IV-special forest practices, if a landowner wishes to maintain the
22 option to convert forest land to a use other than commercial timber operations, the landowner may
23 request the appropriate local governmental entity to approve a conversion option harvest plan.

24 (2) If a local governmental entity approves a plan, the landowner must attach it to the forest
25 practices application or notification.

26 (3) The plan will be a condition of the approved application or notification.

27 (4) Violation of the plan will result in the development prohibitions or the conditions
28 described in RCW 76.09.460.

29 (5) Reforestation requirements will not be waived regardless of the existence of a
30 conversion option harvest plan.

31 [Statutory Authority: RCW 76.09.040 and 76.09.370. WSR 13-01-007, § 222-20-051, filed 12/6/12,
32 effective 1/6/13.]
33

34 WAC 222-20-052 Notice of conversion to nonforestry use.

35 (1) Under the provisions of RCW 76.09.060 (3)(b), if harvest takes place without an
36 approved application or notification, or the landowner did not state that any land covered by the
37 application or notification is intended to be converted to a use other than commercial timber
38 operations, then the department and the appropriate local governmental entity will follow the
39 process described in subsections (2) and (3) of this section.

40 (2) When the department or local governmental entity becomes aware of conversion
41 activities the department will send to the department of ecology and the appropriate local
42 governmental entities the following documents:

- 43 (a) A notice of conversion to nonforestry use;
44 (b) A copy of the applicable forest practices application or notification, if any; and
45 (c) Copies of any applicable outstanding final orders or decisions issued by the department
46 related to the forest practices application or notification.

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1 (3) When a local governmental entity receives a notice of conversion to a nonforestry use
2 from the department, it will follow the requirements of RCW [76.09.460](#).

3 (4) A notice of a conversion to a nonforestry use issued by the department under the
4 provisions of RCW [76.09.060](#) (3)(b) and this section may be appealed to the appeals board in
5 accordance with RCW [43.21B.110](#) and [43.21B.230](#).

6
7 39. At page 17, Policy 8 states that "Alteration and expansion of existing airports should be subject to a
8 conditional use permit." **Is there a database of CUPs related to airport operations since the current Comp
9 Plan was adopted? If not, how can that information be obtained?**

10
11 **No database of CUPs directly related to airport operations since the Plan was adopted. It would take a
12 significant amount of staff time to run permit research on the airport tax parcels to determine what
13 permits have been issued and then to pull those permits to flesh out any details.**

14
15
16 40. At page 19, Policy (1) for Rural Industrial limits this designation to "Lands with an existing or historical
17 commitment to rural industrial uses." Similarly, at page 20, Policy (1) for Rural Commercial limits
18 commercial designation to "Lands with an existing or historical commitment to rural commercial uses."
19 **Why should these limitations be imposed? How would this burden for such designations be established
20 in practice?**

21
22 **These policies are in place to limit Rural Industrial and Rural Commercial to areas where these uses
23 already exist. This is mostly a local choice but there are GMA considerations. The concept behind rural
24 areas in the GMA is to prevent sprawling residential development and reduce demand for inefficient
25 governmental services across large areas. By limiting where commercial and industrial uses can take
26 place in rural areas, it is assumed that this will reduce the demand for additional governmental services
27 because higher-intensity uses (i.e. commercial and industrial uses) typically require more infrastructure.
28 This is the central logic behind planning for commercial and industrial uses in urban growth areas and
29 limited areas or more intense rural development. The historical use of the property can be evaluated
30 when the land use designation is reviewed.**

31
32 **CAMILLE UHLIR'S QUESTIONS FROM NOVEMBER 1, 2019 EMAIL**

33
34 1. SJCC 16.50.220 Open Space Program 16.50.100 Definitions Unique Habitat: **Is there a provision for
35 calling out unique habitat such as Garry Oaks? Address with open space information from Julie.**

36
37 2. SJCC Health and Safety 8.06.120 Construction Standards
38 **B. Functioning Water meter – is a requirement but an enforcement protocol should be called out. Should
39 water conservation earn points?**

40
41 **Individual private wells are required to have a functioning water meter by SJCC 8.06.120 (B). This is
42 currently implemented by requiring confirmation on the water availability certificate that the meter
43 will be installed. Though new wells are required to have a functioning water meter, there is not a
44 system in place to collect or analyze usage information from these meters.**

45
46 **We are not certain what is meant by the question, Should water conservation earn points?**

47
48 3. SJCC Title 9 Public Peace, Morals, Welfare 9.08 Weapons etc. I believe the most stringent restrictions
49 apply to a parcel on Orcas. **Consideration should be given to applying stricter standards generally. I'm
50 concerned about fire prevention generally and more specifically for DFL lands. We'll pass your comment
51 on to the Fire Marshal and can look at the Forest Resource Land policies.**