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From: Erika Shook
Sent: Wednesday, January 13, 2021 2:48 PM
To: Comp Plan Update
Subject: FW: Comp Plan update comments from Friends of the San Juans
Attachments: Friends_of_the_San_Juans_Resource_Lands_Long-Term_Commercial_Significance_scoring_criteria.pdf; Friends_of_the_San_Juans_12-29-2020_draft_Land_Use_Rural_Element.pdf; Friends_of_the_San_Juans_Background_Info_Resource_Lands_Designations.pdf

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Subject: Comp Plan update comments from Friends of the San Juans

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Attached are comments and background information from Friends of the San Juans on the proposed resource land designation and de-designation processes and LCSl scoring, and the 12-29-2020 draft Land Use and Rural Element.

Thank you for your attention to these comments.

Lovel Pratt | Marine Protection and Policy Director | **Friends of the San Juans**
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P.O. Box 1344
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To: SJC CD Staff, Planning Commissioners, and Council Members
From: R. Brent Lyles, Executive Director
Date: January 13, 2021
Subject: Comments on 12-29-2020 draft Element B.2 Land Use and Rural

Submitted via email: compplancomments@sanjuanco.com

Friends of the San Juans is concerned that the 12-29-2020 draft Element B.2 Land Use and Rural, which supersedes the October 14, 2019 draft, appears to have eliminated language in the current Land Use Element that staff proposed to eliminate in the October 14, 2019 draft. The Comprehensive Plan update must be an update from the current, adopted, Comprehensive Plan and not an update from an interim draft. The SJC Council, Planning Commission and the public need to be able to consider all proposed updates in comparison to the current Comprehensive Plan.

Friends of the San Juans supports the proposed Urban Growth Areas Goal 2: Preserve community character in unincorporated urban growth areas and the proposed policies included in 1, 4, 6, and 7. Similar goals and policies are needed to protect community and rural character in Rural Farm Forest and Rural Resource land use areas, though no specific recommendations are included in these comments.

The following recommended changes are included as underlined additions and strike-through deletions of the current text (with underlined text included and strike-out text deleted) of the 12-29-2020 draft.

Page 3, line 20-25:

Additional language is need to describe SJC's shorelines and marine environment:

San Juan County has 410 miles of marine shoreline and 72% of the county's 621 square mile area is the marine environment.

Page 5, line 10:

Additional language is needed to show that the current housing development rates will exceed available housing capacity:

There is sufficient housing capacity to accommodate the forecasted 3,109 new residents or 1,524 new households. There is insufficient housing capacity to accommodate the forecasted increase of 4,180 dwelling units over 2016 levels if housing units continue to grow at an average annual rate of 209 per year (the average annual rate from 1980 to 2016).

Page 29, lines 8-27 Resource Lands Policies:

Retain “strengthen” with regard to Right-to-Farm and Right-to-Forestry provisions. Add “benefits” to recognize the benefits that agricultural and forest resource lands provide regarding the protection of air and water quality, maintaining adequate aquifer recharge areas, reducing forest fire risks, supporting tourism and access to recreational opportunities, providing carbon sequestration benefits, and improving wildlife habitat and connectivity for upland species.

Goal: To recognize and protect the physical conditions and characteristics of agricultural and forest resource lands which are conducive to the use of such lands for long-term commercial production and which provide significant community quality of life and environmental benefits.

2. Apply site planning standards for land division activities on resource lands to ensure that agricultural and forest resource lands are conserved for long-term farm and forest uses and benefits.

3. Strengthen and Implement Right-to-Farm and Right-to-Forestry provisions...

5. Establish clearly defined Resource Lands designations which protect and conserve long-term commercially significant agricultural and forest lands and associated uses and benefits.

Pages 29-30 Agricultural Resource Lands Policies:

Include all subsections of WAC 365-190-050 (3) (“Lands should be considered for designation as agricultural resource lands based on three factors”) to designate agricultural resource lands. Additions to (1) are from WAC 365-190-050 (3)(a) and (b). Lands that are capable of being used for agricultural production but that have not been in agricultural use in the previous ten years should not be excluded.

There is no definition for “logical boundary(ies)” which is used to provide exceptions to the criteria proposed for designating agricultural resource lands. This could allow for arbitrary designation and dedesignation decisions. Unless “logical boundary(ies)” is clearly defined, (1) v. should be struck.

(1) Lands that are not already characterized by urban growth, that are used or capable of being used for agricultural production, and which have long-term commercial significance based on WAC 365-190-050(3)(c), and which meet one or more of the following criteria may be designated as Agricultural Resource Lands:

i. The land is enrolled in the current-use farm- agriculture or open space tax program as it pertains to agriculture.;

ii. The land is either currently used or has been used ~~in the preceding ten years~~ for agriculture.

iii. Areas with at least 200 contiguous acres of agricultural land developed at a density less than one dwelling unit per ten acres.

iv. Adjacent lands are primarily in agricultural use.

~~v. Parcels that may not meet any of the criteria described in (i) and (iv) above can be included to provide logical boundaries to the Agricultural Resource Land designation~~

~~and to avoid small areas of conflicting non-agricultural land uses amid resource lands.~~

~~Similarly, parcels that meet some or all the criteria described in (i) and (iv) above may be~~

~~excluded to provide logical boundaries to the Agricultural Resource Land designation and to avoid conflict with existing land uses.~~

Pages 30-31 Forest Resource Lands:

The forest resource policies still needs to address the forest resource lands' benefits as identified in WAC 365-190-060 (2)(c).

Unless "logical boundary(ies)" is clearly defined, (1) iv. should be struck. The recommended additions are from WAC 365-190-060 (2) and (3).

Goal: To protect and conserve forest lands of long-term commercial significance for sustainable forest productivity and provide for uses which are compatible with forestry activities while maintaining water quality, water quantity, and fish and wildlife habitat. To protect forest lands that provide significant ecosystem services by protecting air and water quality, maintaining adequate aquifer recharge areas, reducing forest fire risks, supporting tourism and access to recreational opportunities, providing carbon sequestration benefits, and improving wildlife habitat and connectivity for upland species.

Policies:

(1) Lands which are determined to have long-term commercial significance based on WAC 365-190-060(2) and characterized by meet one or more of the following criteria may be designated Forest Resource Lands:

- i. Lands that are not characterized by urban growth and that are used or capable of being used for forestry production, including lands enrolled in the designated forest land, current-use timber land, or open space-timber tax programs;
- ii. State trust lands managed for production of forest products;
- iii. Lands managed for the long-term production of forest products with few non-forest related uses present; or
- iv. Areas with at least 100 contiguous acres of forest land developed at a density less than one dwelling unit per fifteen acres. Lands in public ownership can count toward the 100 contiguous acre threshold, even if they are not managed for commercial production of forest products; ~~or~~
- ~~iv. Parcels that may not meet any of the criteria in i. through iv. above can be included to provide logical boundaries to the Forest Resource land designation and to avoid small areas of conflicting non-forestry land uses amid resource lands. Similarly, parcels that meet some or all of the criteria described in i. through iv. above can be excluded to provide logical boundaries to the Forest Resource Land designation and to avoid conflict with existing land uses.~~

(2) Areas within shoreline jurisdiction should not be designated Forest Resource unless part of a larger parcel that is primarily located outside of shoreline jurisdiction. Limits on harvesting in the shoreline jurisdiction reduce the commercial significance of forestlands in these areas; however, maintaining forest lands in the shorelines provides significant

benefits to shoreline and nearshore habitats.

Page 31, line 42:

This policy needs to be clearer. How does a land use incentivize the preservation of forest resource lands?

(5) ~~Create land use incentives to P~~ preserve large parcels and open space in forest resource lands and prohibit land uses that would ~~without~~ converting the land to permanent incompatible non-forest uses.

Page 32, line 5 Mineral Resource Lands:

Of all the commercial operations that can occur on resource lands in SJC, mining is the most impactful to SJC's exceptional quality of life and natural environment; mining is the least compatible with all other land use designations and has the greatest impact to their neighbors. Mineral Resource Lands can occur in a variety of land use designations. The change proposed in 1.a. and 3. would limit MRLO designations to those properties that have existing, legally established, mining operations. This would provide greater certainty as to the location of SJC mining operations.

Goal: Assure that mineral resource lands of long-term commercial significance are conserved in order to provide continued and economical local access to valuable minerals, particularly those used for construction materials.

Policies:

1. Upon application by a landowner, lands which are characterized by the following criteria may be designated as a Mineral Resource Land Overlay District (MRLO) on the Plan Official Maps:
 - a. Have a known or potential extractable resource in commercial quantities verified by submittal of a geologic and economic report prepared by a qualified professional ~~or~~ and the land has a legally established mining operation and the County Council adopts findings that the land has commercial significance for mineral resources;
 - b. Current or future land use will not exceed a residential density of one dwelling unit per ten acres;
 - c. Are not within an Activity Center, Rural Residential, Natural or Conservancy designation or any Shoreline designation; and
 - d. Are not within a wetland or fish and wildlife habitat conservation area as defined in this Plan.
2. Protect mineral resource lands of long-term commercial significance from incompatible land uses and land use patterns so that access to existing and potential resources is maintained. With appropriate design and performance standards land uses such as agriculture, forestry and some industries, and low-intensity residential uses (average density at least ten acres per unit), are compatible with mineral extraction and processing while other uses such as medium- to high-intensity residential uses are not.
3. Provide the highest priority protection for existing ~~and potential~~ sources of sand, gravel, and rock which are most likely to provide for long term production with only minimal impact on the environment by designating them under a MRLO and establish

regulations to protect long-term access and use potential.

4. Allow those activities associated with long-term mineral extraction which enhance the commercial viability of extraction operations to locate within designated mineral resource lands, subject to performance standards to minimize negative impacts on the surrounding area and the environment.

Page 42, line 5:

Retain "strengthen."

Strengthen and implement Right-to-Farm and Right-to-Forestry provisions...



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P.O. Box 1344
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To: SJC CD Staff, Planning Commissioners, and Council Members

From: R. Brent Lyles, Executive Director

Date: January 10, 2021

Subject: Background information re. resource lands designations and de-designations

Submitted via email: compplancomments@sanjuanco.com

I. CURRENT STATUS OF RESOURCE LANDS

As of 2017, of the roughly 112,532 acres of land in San Juan County, the County had designated 13,884 acres of land as Agricultural Resource Land (“ARL”) and 19,098 acres of land as Forest Resource Land (“FRL”).¹ In addition, approximately 215 acres were being mined.² In total, approximately 29% of the land in San Juan County has been set aside for natural resource production.³ An additional 2,221.3 acres of non-designated land is being farmed.⁴

According to a 2017 economic analysis of San Juan County resource lands (“Economic Analysis”), islanders prize the food security, environmental quality, landscape aesthetics, rural character, and local heritage that resource lands can provide our community and thus strongly support their preservation.⁵ During a County visioning survey, 81% of local respondents placed a “high” priority on preserving agricultural lands, while only 10% deemed increasing land for business a high priority, and 16% agreed for housing.⁶ Numerous respondents also submitted written comments related to the preservation of forest lands and some indicated that policies should recognize the benefit of the rural character that forest lands contribute to the islands, in addition to their harvestability.⁷

The ardent support for farmland indicates that County policies should align to protect it. The Economic Analysis determined somewhat opaquely that approximately 7,879.7 of the 13,884.2 acres of designated ARL may not meet the criteria for designation under the Comp Plan. According to that document, approximately 6,996.9 acres do not have agricultural use recorded by the County assessor and 1,423.2 acres of ARLs occur on parcels smaller than 10 acres and 1,734.6 acres of ARL do not qualify based on their soils. There is presumably some overlap in

¹ San Juan County Comprehensive Plan Update, Economic Analysis of Resource Lands, 26 (2017) (hereafter “Economic Analysis”).

² Economic Analysis, at 5.

³ By comparison, Skagit County has approximately 1,000,000 acres in forest and 70,000 acres in farmland, out of a total of approximately 1,230,000 acres.

⁴ Economic Analysis, at 25.

⁵ Economic Analysis, at 5.

⁶ Economic Analysis, at 5.

⁷ Economic Analysis, at 5.

which some parcels do not satisfy either two or three of those criteria.

There is limited information about the amount of forestry occurring in San Juan County. The volume of harvested trees has fluctuated substantially from year to year, with 308,000 board feet harvested in 2011 and 1.6 million board feet harvested in 2014.⁸ Regionally, the number of logging operations and jobs in Western Washington declined between 2004 and 2016, with logging operations dropping from 179 to 123 during that time and jobs declining from 1,403 to 869.⁹ Inexplicably, possibly due to different lands being enrolled in tax-advantaged classifications, the assessed value of forestry land varies widely between islands, with forest lands on Lopez valued at \$29,402/acre and on San Juan at \$3,869/acre.¹⁰ The Economic Analysis suggests that 10,304 of the designated 18,877.3 acres of FRL may not satisfy designation criteria because the County assessor has not recorded forest land use on those parcels.¹¹ However, that same report found that 6,726.4 acres of non-designated forest land potentially satisfy the County's designation criteria.¹²

San Juan County hosts seven active surface mines across 215 acres of land.¹³ The mines largely extract aggregate like sand and gravel.¹⁴ Regional forecasts project a slight increase in mining activity through 2030.¹⁵

II. GROWTH MANAGEMENT ACT DIRECTIVE TO CONSERVE NATURAL RESOURCE LANDS

The Washington legislature adopted the GMA in 1990 “in response to public concerns about rapid population growth and increasing development pressures in the state.”¹⁶ The GMA establishes three fundamental land use categories: resource, rural, and urban, and prioritizes the conservation of NRLs.¹⁷ Indeed, among its first requirements, the GMA directed counties to designate agricultural and forest resource lands “not already characterized by urban growth and that have long-term significance for commercial production.”¹⁸ In addressing agricultural resource lands, the Washington Supreme Court stated in *City of Redmond v. CPSGMHB* that “[t]he significance of agricultural land preservation in the GMA can be seen in the very timing of key actions mandated in the statute,” – the GMA required designation of NRLs prior to

⁸ Economic Analysis, at 40.

⁹ Economic Analysis, at 38.

¹⁰ Economic Analysis, at 40.

¹¹ Economic Analysis, at 45.

¹² Economic Analysis, at 45.

¹³ Economic Analysis, at 53.

¹⁴ Economic Analysis, at 53.

¹⁵ Economic Analysis, at 53.

¹⁶ *King County v. CPSGMHB*, 142 Wn.2d 543, 546, 14 P.3d 133 (2000).

¹⁷ *Weyerhaeuser, et al. v. Thurston County*, WWGMHB Case 10-2-0020c, Amended FDO, 21 (June 17, 2011) (declaring that “[t]he importance of natural resource land designation is underscored by the fact designation of natural resource lands is the first imperative of the GMA).

¹⁸ RCW 36.70A.170(1)(b); see *City of Redmond v. CPSGMHB*, 136 Wn.2d 38, 47-48, 959 P.2d 1091 (1998).

adoption of comprehensive plans or urban growth areas.¹⁹ Once lands have been designated for resource use, the GMA directs counties to adopt regulations that assure their conservation.²⁰ And Planning Goal 8 instructs counties to “[m]aintain and enhance natural resource-based industries, including productive timber...” and to “[e]ncourage the conservation of productive forest lands...and discourage incompatible uses.”²¹ The purpose of protecting NRLs is not for their ecological role, “but to ensure the viability of the resource-based industries that depend on them.”²²

These strict protections are necessary because population growth, the loss of local markets, global competition, and the absence of a new generation of farmers all impose pressure to convert resource lands to other uses and undermine the long-term viability of those uses.²³ Consequently, the Board declared in *Forster Woods Homeowners’ Association v. King County* that “RCW 36.70A.020(8), .060, and .170...create a *forest resource conservation imperative* that imposes an affirmative duty on local governments to designate and conserve forest resource lands in order to assure the maintenance and enhancement of the forest resource industry.”²⁴

A. GMA Requirements for Designating Natural Resource Lands.

Both of GMA and County designation criteria apply to determine whether lands should be designated as Natural Resource. The GMA directs counties to designate, conserve, maintain, and enhance the integrity of its natural resource lands and to protect them from incompatible uses.²⁵ To achieve this directive, GMA regulations (“Minimum Guidelines”) establish criteria to guide the designation and conservation of resource lands.²⁶ A de-designation request must show that these criteria no longer apply. Likewise, such a request must satisfy San Juan County criteria for a comprehensive plan map amendment.²⁷ In the absence of such a showing, the change conflicts with the GMA by creating an internal inconsistency in the County’s growth management scheme.²⁸

Reviewing bodies apply the GMA and Minimum Guidelines procedural and substantive criteria for NRL designations when adjudicating the validity of de-designations.²⁹ The procedural requirements specify that: (1) the review must occur on a county-wide or regional process, rather than parcel-by-parcel; and (2) the amendment should be based on changed

¹⁹ 136 Wn.2d at 47-48.

²⁰ RCW 36.70A.060(1), .170, .030(8), .030(10).

²¹ RCW 36.70A.020(8); *see also Clark County Natural Resources Council v. Clark County*, WWGMHB Case No. 09-2-0002, FDO, 21 (Aug. 6, 2009) (hereafter “CCNRC”).

²² CCNRC, WWGMHB Case No. 09-2-0002, FDO, 18 (quoting *City of Redmond*, 136 Wn.2d at 47).

²³ *See, e.g., TS Holdings, LLC v. Pierce County*, CPSGMHB Case No. 08-3-0001, FDO, 12 (Sept. 2, 2008) (addressing ARLs).

²⁴ CPSGMHB Case No. 01-3-0008c, FDO, 14-21 (Nov. 6, 2001) (emphasis in original).

²⁵ RCW 36.70A.170; *Suquamish Tribe v. Kitsap County*, CPSGMHB No. 07-3-0019c, FDO, 40 (Aug. 15, 2007).

²⁶ WAC 365-190-040 -- -060.

²⁷ SJCC 18.90.030.

²⁸ RCW 36.70A.040(3), .040(4), .070, and .130(1)(d).

²⁹ *Nilson v. Lewis County*, WWGMHB Case No. 11-2-0003, FDO, 22 (Aug. 31, 2011).

circumstances, a designation error, new information, or a change in population growth rates.³⁰

Substantively, lands should be considered for designation if: (1) they are not characterized by urban growth based on criteria enumerated at WAC 265-196-310; (2) the land is used or capable of being used for natural resource production; and (3) the land has long-term commercial significance for natural resource production.³¹ The Minimum Guidelines set forth different criteria for ARLs and FRLs under the second and third prongs, which are explored further below.³²

A. ARLs – used or capable of being used for agricultural production with long-term commercial significance.

Lands used or capable of being used for agriculture must be evaluated for ARL designation.³³ Whether land is capable of being used for agricultural production depends primarily on physical and geographic characteristics and does not depend on the landowner's intent.³⁴ Land enrolled in federal conservation reserve programs is recommended for designation.³⁵ In addition, counties must use the USDA's Natural Resource Conservation Service land-capability classification system when determining whether lands are capable of use for farming.³⁶ The Minimum Guidelines establish the following eleven nonexclusive and nonprioritized criteria to be used in determining whether ARLs have long-term commercial significance:

- (i) the classification of prime and unique farmland soils as mapped by the Natural Resources Conservation Service;
- (ii) the availability of public facilities, including roads used in transporting agricultural products;
- (iii) tax status, including whether lands are enrolled under the current use tax assessment under chapter 84.34 RCW and whether the optional public benefit rating system is used locally, and whether there is the ability to purchase or transfer land development rights;
- (iv) the availability of public services;
- (v) relationship or proximity to urban growth areas;
- (vi) predominant parcel size;
- (vii) land use settlement patterns and their compatibility with agricultural practices;
- (viii) intensity of nearby land uses;
- (ix) history of land development permits issued nearby;
- (x) land values under alternative uses; and
- (xi) proximity to markets.³⁷

³⁰ WAC 365-190-040(10); *See TS Holdings, LLC v. Pierce County*, CPSGMHB Case No. 08-3-0001, FDO, at 16; *Friends of Pierce County v. Pierce County*, CPSGMHB Case No. 12-3-0002c, FDO, 31 (July 9, 2012).

³¹ WAC 365-190-050(3), -060(2); *see Lewis County v. WWGMHB*, 157 Wn.2d 488, 502, 139 P.3d 1096 (2006).

³² RCW 36.70A.190; WAC 365-190-060; *Friends of Pierce County*, CPSGMHB Case No. 12-3-0002c, FDO, at 6.

³³ WAC 365-190-050(3)(b).

³⁴ WAC 365-190-050(3)(b)(i).

³⁵ WAC 365-190-050(3)(b)(i).

³⁶ WAC 365-190-050(3)(b)(ii).

³⁷ WAC 365-190-050(3)(c).

In applying these criteria, a county should designate sufficient ARLs to maintain and enhance the economic viability of the agricultural industry in the county over the long term and to retain supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.³⁸ Counties may also consider food security issues when designating ARLs.³⁹

B. FRLs – used or capable of being used for agricultural production with long-term commercial significance.

Like ARLs, physical and geographic characteristics help determine whether lands are capable of use for forestry and lands currently in use for forestry must be evaluated for designation.⁴⁰ A landowner's intent is not a controlling factor in the designation assessment.

When determining whether lands have long-term commercial significance for forestry, counties consider physical, biological, economic, and land use factors.⁴¹ Counties should use Washington Department of Revenue ("DOR") private forest land grades to ascertain the growing capacity, productivity, and soil composition of the land.⁴² While long-term significant lands will generally have a predominance of higher private forest land grades, lower grades do not preclude larger areas from being designated as FRL.⁴³ In addition, counties may consider secondary benefits from retaining commercial forestry operations, including air and water quality protection, maintenance of adequate aquifer recharge areas, reducing forest fire risk, serving tourism and recreational opportunities, providing carbon sequestration, and improving wildlife habitat and connectivity for upland species.⁴⁴ However, these secondary benefits cannot serve as the sole basis for designating or dedesignating FRLs.⁴⁵

As with ARLs, counties should designate at least the minimum amount of FRLs necessary to maintain the economic viability of the forestry industry and to retain supporting forestry businesses in the region over the long-term.⁴⁶ In achieving this goal, and in conjunction with a consideration of the DOR land grades, counties must consider the effects of proximity to population areas and the possibility of more intense uses as indicated by the following criteria:

- (i) the availability of public services and facilities conducive to the conversion of forest land;
- (ii) the proximity of forest land to urban and suburban areas and rural settlements: Forest lands of long-term commercial significance are located outside the urban and suburban areas and rural settlements;

³⁸ WAC 365-190-050(5).

³⁹ WAC 365-190-050(44).

⁴⁰ WAC 165-190-060(2)(b).

⁴¹ WAC 165-190-060(2)(c).

⁴² WAC 165-190-060(2)(c).

⁴³ WAC 165-190-060(2)(b).

⁴⁴ WAC 165-190-060(3).

⁴⁵ WAC 165-190-060(3).

⁴⁶ WAC 165-190-060(5).

- (iii) the size of the parcels: Forest lands consist of predominantly large parcels;
- (iv) the compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands of long-term commercial significance;
- (v) property tax classification: Property is assessed as open space or forest land pursuant to chapter [84.33](#) or [84.34](#) RCW;
- (vi) local economic conditions that affect the ability to manage timberlands for long-term commercial production; and
- (vii) history of land development permits issued nearby.⁴⁷

C. Mineral Resource Lands.

The GMA provides less guidance for Mineral Resource Lands (“MRL”), with the Minimum Guidelines establishing five considerations for classifying mineral resource lands, as follows:

- geologic, environmental, and economic factors, existing land uses, and land ownership;
- lands with potential long-term commercial significance for extracting minerals that include at least: sand, gravel, and valuable metals;
- the use of maps and information on the location and extent of mineral deposits from the Washington Department of Natural Resources, the United States Geological Survey, and property owners;
- classification based on the geology and the distance to market for the minerals; and
- factors like ensuring access to minerals, the proximity to population areas, and transportation costs.

⁴⁷ WAC 365-190-060(4).



Friends *of the* San Juans

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To: SJC CD Staff, Planning Commissioners, and Council Members

From: R. Brent Lyles, Executive Director

Date: January 13, 2021

Subject: Comments on the proposed mineral resource land overlay proposed for the designation of mineral resource lands, the designation and de-designation of agricultural and forest resource lands, and the Long-Term Commercial Significance Index scoring system

Submitted via email: compplancomments@sanjuanco.com

Mineral Resource Lands

Of all the commercial operations that can occur on resource lands in SJC, mining is the most impactful to SJC's exceptional quality of life and natural environment; mining is the least compatible with all other land use designations. The proposal to confer resource land designation to legally established and existing mining operations by using the mineral resource land overlay (MRLO) as the land use designation raises questions and concerns.

1. Would the MRLO allow the existing mining operations to expand in size and/or intensity beyond that which is allowed under their current land use designation(s)?
2. Would the waiver of the currently required geologic and economic report prepared by a qualified professional set a precedent for waiving the required reports from qualified professionals for other types of land-use development?
3. In addition to SJC's outreach to existing mining operations, has SJC conducted outreach to the neighbors of the existing mining operations regarding the proposed changes to MRLO requirements?

The Natural Resource Land Designation Review Draft Methodology (Attachment D in the September 3, 2020 staff report) does not provide a Long-Term Commercial Significance Index (LCSI) scoring system or any other means of evaluating parcels for designation as mineral resource lands (by using the mineral resource land overlay (MRLO)). Parcels with agricultural and forestry operations are not being provided with the opportunity to receive resource land designation solely on the basis of having legally established and existing operations. SJC needs to address the many issues associated with designating mineral resource lands, including compatibility with existing development and land use designations, and impacts to SJC's environmental resources and rural and community character and quality of life.

Agricultural and Forest Resource Lands

Agricultural and forest resource lands provide San Juan County (SJC) with high value benefits in addition to their economic significance. There is strong public support for the complimentary values of resource lands in the health of our community and environment. Friends of the San Juans urges SJC to give more attention to these values in defining the framework for

designating and de-designating resource lands.

State law also recognizes the importance of these benefits as identified in WAC 365-190-060 (2)(c) which needs to be more thoroughly addressed in the designation of forest resource lands:

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

The proposed revisions to the forestry policies include recreational activities and reducing forest fire risks, and they should be further revised to address all the benefits listed above.

While identical language is not expressly included for agricultural resource lands, WAC 365-190-050 (6) states:

Counties and cities may further classify additional agricultural lands of local importance. Classifying additional agricultural lands of local importance should include, in addition to general public involvement, consultation with the board of the local conservation district and the local committee of the farm service agency. It may also be useful to consult with any existing local organizations marketing or using local produce, including the boards of local farmers markets, school districts, other large institutions, such as hospitals, correctional facilities, or existing food cooperatives.

These additional lands may include designated critical areas, such as bogs used to grow cranberries or farmed wetlands. Where these lands are also designated critical areas, counties and cities planning under the act must weigh the compatibility of adjacent land uses and development with the continuing need to protect the functions and values of critical areas and ecosystems.

Agricultural lands of local importance should be identified with these benefits:

Protecting air and water quality, maintaining adequate aquifer recharge areas, reducing forest fire risks, supporting tourism, providing carbon sequestration benefits, and improving wildlife habitat and connectivity for upland species.

There is also value in having food production distributed throughout the islands, especially with regard to emergency preparedness. If there were a major disaster like an earthquake, the islands might have difficulty receiving supplies, and ferry service could be reduced or eliminated for an extended period of time.

Friends of the San Juans is concerned with the importance placed on larger parcel size in the proposed resource land designation/de-designation process. The Growth Management Act (GMA) regulations do not specify a minimum parcel size for either agricultural resource land

designation or forest resource land designation. What does SJC know about the size and scale of forest land operations and the forest products produced in SJC? In addition, SJC needs to clearly define how it will identify the appropriate amount of forest resource lands that would be sufficient to maintain and enhance the economic viability of SJC's forestry industries. The lack of data about local forestry operations and the lack of local forestry support organizations that engage in policy development is very concerning. The Washington State Department of Natural Resources' [2020 Forest Action Plan](#) could be a resource.

The size, scale and types of agricultural production in SJC are not the same as other WA State counties. 40.4% of SJC farmers who responded to a 2017 survey farmed 10 acres or less.¹ According to the most recent USDA Census of Agriculture, 1.0 to 9.9-acre farm operations in SJC increased 42% between 2007 and 2017 (as compared with a 20% increase state-wide); 72 farms averaging 5 acres in size comprise 23% of all farms in San Juan County (SJC).² GMA regulations clearly state that lands that are currently used for agricultural and/or forestry production **and** lands that are capable of such use must be evaluated for designation as resource lands (WAC 365-190-050 (2)(b)(i) and WAC 365-190-060 (2)(b)). In determining whether or not agricultural lands have long-term commercial significance "counties and cities should consider the following nonexclusive criteria, as applicable:" (WAC 365-190-050 (2)). The tax status criterion is nonexclusive and all criteria need to be evaluated for their applicability to SJC. The November 6, 2020 staff report states on page 2: "A search for parcels that had both farms on the VSP map and did not participate in the CUFA and OSFC programs brought up about 200 parcels that averaged about 20 acres in size." Presumably some of these existing farms that do not participate in the CUFA or OSFC current-use and open space agricultural tax programs are less than 10 acres. The agricultural resource lands policies as included in the 12-29-2020 draft Element B.2 Land Use and Rural could jeopardize the appropriate resource land designation or de-designation of a substantial number of agricultural parcels with long-term commercial significance.

Long-Term Commercial Significance Index scoring system

The proposed Natural Resource Land Designation Review Methodology includes a Long-Term Commercial Significance Index (LCSI) scoring system that raises significant concerns. The proposed scoring system will need to be tested and evaluated to ensure compliance with all GMA regulations and adjusted as needed.

Friends of the San Juans recommends the following:

1. Evaluate the amount of designated agricultural resource lands and forest resource

¹ Rose Krebill-Prather, *Agricultural Viability in San Juan County*, prepared for WSU Social & Economic Sciences Research Center, 36 (March 2017).

² United States Department of Agriculture (USDA) National Agricultural Statistics Service [Census of Agriculture](https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_0008_0008.pdf). https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_0008_0008.pdf and https://www.nass.usda.gov/Publications/AgCensus/2012/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_008_008.pdf

lands that would be sufficient to maintain and enhance the economic viability of SJC's agricultural and forestry industries by complying with both WAC 365-190-050 (5) and WAC 365-190-060 (5). Ensure that the results of the LCSI scoring system are consistent with these sections of the WAC:

- WAC 365-190-050 (5) When applying the criteria in subsection (3)(c) of this section, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term; and to retain supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.
 - WAC 365-190-060 (5) When applying the criteria in subsection (4) of this section, counties or cities should designate at least the minimum amount of forest resource lands needed to maintain economic viability for the forestry industry and to retain supporting forestry businesses, such as loggers, mills, forest product processors, equipment suppliers, and equipment maintenance and repair facilities. Economic viability in this context is that amount of designated forestry resource land needed to maintain economic viability of the forestry industry in the region over the long term.
2. Provide the additional data needed to identify resource lands of long-term commercial significance.
 - a. The County proposes to use the following sources of data:
 - SJC Comp Plan maps—land use designations;
 - SJC parcel data from the Assessor—parcel size, etc.;
 - SJC Assessor's Tax Map—enrollment in current use tax designations;
 - U.S. Department of Agriculture Natural Resource Conservation Service Soil Maps—soil suitability for agricultural production;
 - Washington Department of Natural Resources Private Forest Land Grade maps—location and extent of forest soils; and
 - SJC Voluntary Stewardship Program maps—location and type of agriculture.
 - b. This list should be supplemented with historic farming and forestry data, as well as information about parcels with current forestry operations, including those parcels that aren't currently enrolled in a forestry tax designation program.
 3. Explain the criteria used to initially identify resource lands and compare that with the LCSI and proposed criteria, including an explanation for why agricultural resource lands are currently only on San Juan, Orcas, and Lopez islands. The LCSI could perpetuate this land use designation bias in that it assigns lower scores to lands with long-term commercial significance that are located on Shaw Island and non-ferry served islands.
 4. Provide a clear explanation for the LCSI's different factor scores and the varying weights of the factor scores as applied to the subsections of WAC 365-190-050 (3)(c) and WAC 365-190-060 (4); furthermore, explain why the different factor scores and the varying weights of the factor scores are used when there is no priority or other relative value given to these subsections in the WAC. Arbitrary factor scores and score weights could

result in false distinctions between parcels that have similar long-term commercial significance.

5. Explain how the subsections of WAC 365-190-050 (3)(c) and WAC 365-190-060 (4) are applicable to the determination of long-term commercial significance of resource lands specifically in SJC.
6. Clearly define what, if any, SJC land use designations would be incompatible with agriculture and/or forest resource lands, and explain why.

Additional comments are embedded below in each of the criterion identified for the evaluation of parcels as resource lands in the Agricultural LCSi, Table 1 (starting on page 7 of the Natural Resource Land Designation Review Draft Methodology):

WAC 365-190-050 (3)(c) “The land has long-term commercial significance for agriculture. In determining this factor, counties and cities should consider the following nonexclusive criteria, as applicable:”

Criterion 1		
Comments: This criterion does not address WAC 365-190-050 (3)(b) “The land is used or capable of being used for agricultural production. This factor evaluates whether lands are well suited to agricultural use based primarily on their physical and geographic characteristics. Some agricultural operations are less dependent on soil quality than others, including some livestock production operations.”	Criterion	The classification of prime and unique farmland soils as mapped by the NRCS (WAC 365-190-050(3)(c)(i))
	Weight	X2
	Factor Scores	
	4	If more than 75% of parcel is prime farmland
	3	If between 50 and 75% of parcel is prime farmland
	2	If between 25 and 50% of parcel is prime farmland
	1	If between 1 and 25% of parcel is prime farmland
0	If no prime farmlands	

Criterion 2		
Comments: There is no explanation for treating parcels in the San Juans differently based on their distance from a public road or for awarding different scores based on “adjacency” or a 1,000-foot threshold. How important is access to public roads vs. private roads in SJC (given the type of public roads as compared with private roads and the scale and type of ag operations)?	Criterion	The availability of public facilities, including roads used in transporting agricultural products (WAC 365-190-050(3)(c)(ii))
	Weight	X1
	Factor Scores	
	4	If adjacent to public road
	2	If within 1,000 feet of a public road
0	If more than 1,000 feet from a public road	

Criterion 3		
Comments: Nov. 6, 2020 staff report (pg. 2): “A search for parcels that had	Criterion	Tax status, including whether lands are enrolled under the current use tax assessment. (WAC 365-190-050(3)(c)(iii))

<p>both farms on the VSP map and did not participate in the CUFA and OSFC programs brought up about 200 parcels that averaged about 20 acres in size.”</p> <p>WAC 365-190-050 states: “Tax status, including whether lands are enrolled under the current use tax assessment under chapter 84.34 RCW” which doesn’t differentiate between lands that are currently used for agricultural production and lands that are capable of such use. The factor scores should be the same for both the current use and conservation programs.</p>	Weight	X1.5
	Factor Scores	
	4	If parcel in the current use farm and agriculture program
	3	If parcel in open-space farm conservation program
	0	If not in the current-use farm and agriculture or open-space farm conservation programs

Criterion 4		
<p>Comments: This criterion appears to penalize parcels that have long-term commercial significance if they have access to community water and sewer services (whether or not these community systems would be used for agricultural operations). The WAC does not specify whether the “availability of public services” is a benefit or a detriment to long-term commercial significance. Agricultural processing that requires regular testing of the water would benefit from a community water system.</p>	Criterion	The availability of public services (WAC 365-190-050(3)(c)(iv))
	Weight	X1
	Factor Scores	
	4	If outside a community water system and sewer system service area
	2	If within a community water system service area and outside a sewer system service area
	0	If within a community water system and sewer system service area

Criterion 5		
<p>Comments: WAC 365-190-050(3)(c)(v) doesn’t specify whether a parcel’s relationship or proximity to urban growth areas is a benefit or a detriment. Is the staff correct in stating that parcels with long-term commercial significance that are near UGAs will face additional pressure to develop with incompatible uses? Or is proximity to a UGA a benefit in terms of access to markets (e.g., see criterion 9 below)? It would be appropriate to exclude parcels from agricultural designation based on WAC 365-190-050(3)(a) “The land is not already characterized by urban growth. To evaluate this factor,</p>	Criterion	Relationship or proximity to urban growth areas (WAC 365-190-050(3)(c)(v))
	Weight	X1
	Factor Scores	
	4	If more than one-half mile away from a UGA
	2	If between one half and one quarter mile of a UGA
	0	If closer than one quarter mile or within a UGA

counties and cities should use the criteria contained in WAC 365-196-310 .”		
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Criterion 6		
<p>Comments: GMA regulations do not establish a minimum parcel size for natural resource land designations. SJC could identify different parcel sizes that are adequate for long-term commercial significance for different types of farming. Also, is the scoring difference appropriate, for commercial purposes, between a 1.99-acre parcel and a 5.01-acre parcel? 5.01 acres is worth 4 points (2X2) and 1.99 acres = 0. How will parcels that are exactly 2 or 5 or 10 or 20 acres be scored for this criterion? Suggested revision: If parcel is 20 acres or larger If parcel is 10 acres to 19.99 acres Etc.</p>	Criterion	Predominant parcel size (WAC 365-190-050(3)(c)(vi))
	Weight	X2
	Factor Scores	
	4	If parcel larger than 20 acres
	3	If parcel larger than 10 and less than 20 acres
	2	If parcel larger than 5 and less than 10 acres
	1	If parcel larger than 2 and less than 5 acres
0	If parcel less than 2 acres	

Criterion 7		
<p>Comments: How does the size of adjacent parcels determine compatibility with and/or designation of agricultural resource land? This criterion assumes that smaller surrounding parcels are less compatible with parcels that have long-term commercial significance for agriculture and that parcels less than 2 acres would have no compatibility. The WAC does not specify what parcel sizes would constitute a land use settlement pattern that would or would not be compatible with agricultural practices and no SJC-based analysis has been provided for the scoring of this criterion. In addition, the consideration of the compatibility of different land use designations need to be done at a macro scale and not a parcel-by-parcel scale.</p>	Criterion	Land use settlement patterns and their compatibility with agricultural practices (WAC 365-190-050(3)(c)(vii))
	Weight	X1.25
	Factor Scores	
	4	If average adjacent parcel size is 20 acres or larger
	3	If average adjacent parcel size is larger than 10 and less than 20 acres
	2	If average adjacent parcel size is larger than 5 and less than 10 acres
	1	If the average adjacent parcel size is larger than 2 and less than 5 acres
0	If the average adjacent parcel size is less than 2 acres	

Criterion 8		
<p>Comments: This criterion assumes that single-family residential development is an applicable “intensity of nearby land uses” that should be a criterion for identifying parcels that have long-term commercial significance for agriculture. The LCSJ needs to clearly define what, if any, SJC land use designations would be incompatible</p>	Criterion	Intensity of nearby land uses (WAC 365-190-050(3)(c)(viii))
	Weight	X1.25
	Factor Scores	
	4	If any neighboring parcel has AG or open space Assessor’s use code
2	If any neighboring parcel has a single-family residential use code and no neighboring parcel has an AG or open space Assessor’s use code	

with agricultural resource lands.	0	If no neighboring parcel has the use codes listed above.
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Criterion 9		
Comments: It appears that proximity to markets is being defined by a combination of ferry service and islands with UGAs. In addition to on-island direct-to-customer sales of all products, any island with access to USPS and/or UPS and/or FedEx has equal access to markets for many products.	Criterion	Proximity to markets (WAC 365-190-050(3)(c)(xi))
	Weight	X1.5
	Factor Scores	
	4	If on San Juan, Lopez, or Orcas Islands
	3	If on Shaw Island
	1	If on Stuart, Waldron, Blakely, or Decatur Islands
0	If on any other island	

Additional comments are embedded below in each of the criterion identified for the evaluation of parcels as resource lands in the Forest Resource Land LCSI, Table 3 (starting on page 10 of the Natural Resource Land Designation Review Draft Methodology):

WAC 365-190-060 (4) “Counties and cities must also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by the following criteria as applicable:”

Criterion 1		
Comments: This criterion appears to penalize parcels that have long-term commercial significance if they have access to community water and sewer services (whether or not these community systems would be used for forestry operations).	Criterion	The availability of public services and facilities conducive to the conversion of forest land. (WAC 365-190-060(4)(a))
	Weight	X1.5
	Factor Scores	
	4	If outside a community water system and sewer system service area
	2	If within a community water system service area and outside a sewer system service area
	0	If within a community water system and sewer system service area

Criterion 2		
Comments: How does the proximity to SJC UGAs determine compatibility with and/or designation of forest resource lands?	Criterion	The proximity of forest land to urban and suburban areas and rural settlements. (WAC 365-190-060(4)(b))
	Weight	X1.5
	Factor Scores	
	4	If more than one-half mile away from an UGA, activity center, or LAMIRD
	2	If between one half and one quarter mile of an UGA, activity center, or LAMIRD
	0	If within an UGA, activity center, or LAMIRD

Criterion 3		
<p>Comments: GMA regulations do not establish a minimum parcel size for natural resource land designations.</p> <p>How will parcels that are exactly 5 or 10 or 15 or 20 acres be scored for this criterion?</p> <p>Suggested revision:</p> <p>If parcel is 20 acres or larger</p> <p>If parcel is 15 acres to 19.99 acres</p> <p>If parcel is 10 acres to 14.99 acres</p> <p>Etc.</p>	Criterion	The size of the parcels. (WAC 365-190-060(4)(c))
	Weight	X2
	Factor Scores	
	4	If parcel larger than 20 acres
	3	If parcel larger than 15 and less than 20 acres
	2	If parcel larger than 10 and less than 15 acres
	1	If parcel larger than 5 and less than 10 acres
0	If parcel less than 5 acres	

Criterion 4		
<p>Comments: How does the size of adjacent parcels determine compatibility with and/or designation of forest resource land? The WAC does not specify what parcel sizes would constitute a land use settlement pattern that would or would not be compatible with forestry operations and no SJC-based analysis has been provided for the scoring of this criterion. In addition, the consideration of the compatibility of different land use designations needs to be done at a macro scale and not parcel-by-parcel.</p>	Criterion	The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands. (WAC 365-190-060(4)(d))
	Weight	X1.25
	Factor Scores	
	4	If average adjacent parcel size is 20 acres or larger
	3	If average adjacent parcel size is larger than 10 and less than 20 acres
	2	If average adjacent parcel size is larger than 5 and less than 10 acres
	1	If the average adjacent parcel size is larger than 2 and less than 5 acres
0	If the average adjacent parcel size is less than 2 acres	

Criterion 5		
<p>Comments: Why are there different factor scores for the current use taxation programs?</p>	Criterion	Property tax classification. (WAC 365-190-060(4)(e))
	Weight	X2
	Factor Scores	
	4	If parcel in the designated forestland (DFL) tax program
	3	If parcel is in the open-space timber land tax program
	0	If not in the DFL or open-space timber land tax program

Criterion 6		
<p>Comments: Identifying what is needed for the viability of commercial production on forest resource lands requires much more than the consideration of access to markets with what appears to be defined as ferry</p>	Criterion	Local economic conditions which affect the ability to manage timberlands for long-term commercial production [interpreted as access to markets] (WAC 365-190-060(4)(f))
	Weight	X1
	Factor Scores	
	4	If on San Juan, Lopez, Shaw, or Orcas Islands
	3	If on Stuart, Waldron, Blakely, or Decatur Islands
	0	If on any other island

service.		
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Criterion 7		
Comments: How would commercial or industrial land uses in SJC be incompatible with commercial forest land? No SJC-based analysis has been provided for the scoring of this criterion.	Criterion	History of land development permits issued nearby (WAC 365-190-060(4)(g))
	Weight	X1.25
	Factor Scores	
	4	If any neighboring parcel has forestry or open space Assessor's use code
	2	If any neighboring parcel has a single-family residential or undeveloped use code and no neighboring parcel has a forestry or open space Assessor's use code
	0	If any neighboring parcel has a commercial, industrial, or multi-family use code

Criterion 8		
Comments: Does PFLG address all forestry operations in SJC and, if not, are these factor scores and weight appropriate?	Criterion	Private Forest Land Grade (PFLG) (WAC 365-190-060(2)(c))
	Weight	X2
	Factor Scores	
	4	If any part of the parcel has PFLG 1
	3	If any part of the parcel has PFLG 2
	2	If any part of the parcel has PFLG 3
	1	If any part of the parcel has PFLG 4
	0	If PFLG is blank or 0