

Adam Zack

From: Kyle Loring <kyle@loringadvising.com>
Sent: Wednesday, May 5, 2021 6:15 PM
To: Comp Plan Update
Cc: Erika Shook; Adam Zack; R. Brent Lyles
Subject: Comp Plan update NRL methodology -- recommended revisions
Attachments: FSJ cmt ltr re NRL desig method.docx

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Dear Planning Commissioners, Ms. Shook, and Mr. Zack,

As promised, I am following up with a letter that proposes revisions to the draft methodology for identifying natural resource lands of long-term significance in the San Juans. The attached letter includes a redlined matrix with that methodology revised to reflect island-scale considerations about farming and forestry here.

In addition, as noted in the letter, the foundation for the countywide assessment of designated lands has not yet been laid -- that requires an understanding of the amount of lands needed to support viable farming and forestry industries in the islands. And it cannot be overlooked in that evaluation that San Juan County has historically converted more resource land to other uses (~170 acres) than other uses to resource lands (0 acres). Given the staff recommendation to dedesignate an additional 166 acres of forest land through the update process, and to designate zero new acres of forest land, it's reasonable to anticipate that trend continuing. Like most of our community, we support the addition of resource lands, rather than their subtraction, and the update offers the best opportunity for doing so.

Please confirm receipt of this email, and please also forward these comments to the County Council for their consideration. Thank you.

Sincerely,
Kyle Loring

Kyle A Loring (*he/him*)

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Via Email

May 5, 2021

San Juan County Planning Commission
c/o SJC Department of Community Development
135 Rhone Street
Friday Harbor, WA 98250
compplancomments@sanjuanco.com

Re: SJC Natural Resource Land Designation Methodology

Dear Planning Commissioners:

As promised in my April 9, 2021 letter about the County's Natural Resource Land Designation Review, I am writing this letter on behalf of Friends of the San Juans ("Friends") to offer specific recommendations for revising the draft designation methodology. As before, we appreciate the amount of effort that has gone into interpreting a state requirement to identify local resource lands with long-term commercial significance. It is not a task for the faint of heart. But it provides a valuable opportunity to limit development pressures on the farms and forests that supply our community with food, wood, bucolic vistas, and economic benefits. Further, if maintained for long-term farming and forestry and if stewarded with care, these lands likely will provide environmental and climate resiliency benefits over other forms of development. Consequently, Friends supports a Comprehensive Plan update that evaluates the long-term land needs for the farming and forestry in the islands and that designates new resource lands to compensate for those that the County has dedesignated since the last area-wide review in the early 2000s and those lands that may be dedesignated over the next twenty years. The long-term commercial significance methodology must be finalized as a first step in that process.

Toward that end, this letter: (1) summarizes the legal context that guides the current countywide review of natural resource designations; (2) proposes revisions to the long-term commercial significance methodology matrices for agricultural lands and forest lands; and (3) proposes a change to Comprehensive Plan designation criteria for forest resource lands that would recognize historic forestry use.

A. Minimum Guidelines to Classify Agricultural and Forest Resource Lands.

State regulations provide a recipe for designating agricultural and forest resource lands.

1. Counties must designate enough land for a viable industry.

First, and this is a critical step that has been overlooked to date during the County's Comprehensive Plan update, a county has to determine how much land is necessary to support viable farming and forestry industries and then designate that land.

For **farming**, the Growth Management Act ("GMA") regulations state that:

"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 365-190-050(5).

For **forestry**, GMA regulations state that

"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." WAC 365-190-060(5).

The best approach would be to start with at least a rough understanding of the amount of land needed to achieve these results. During the presentation to the Planning Commission, County staff explained that they are already conducting the process to reach an end goal -- "designating the best of the best," but the County needs to ensure that the end goal is a viable local natural resource industry. This might require more than just the top 5% of parcels.

2. Counties must designate non-urban lands that are used or capable of being used for resource production and that have long-term commercial significance.

The process for designating natural resource lands must determine whether lands have the following characteristics:

- a. *They are not already characterized by urban growth.*** This element is typically satisfied by lands lying outside urban growth areas or local areas of more intense rural development;
- b. *They are "used or capable of being used for agricultural production."*** For both farms and forests, the physical and geographic characteristics are the primary

method for determining suitability, with the recognition that some agricultural operations, like livestock production, are less dependent on soil quality than others. Parcels are consistent with this factor where:

- i. the lands are currently used for ag or forestry; or
- ii. the lands are well-suited to forestry or agriculture, using the USDA Natural Resources Conservation Service land-capability classification system for agriculture.

c. They have “long-term commercial significance” for agriculture or forestry.

For **agriculture**, the GMA regulations direct counties to “consider the following nonexclusive criteria, as applicable:”

- 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.

Importantly, counties “may consider food security issues, which may include providing local food supplies for food banks, schools and institutions, vocational training opportunities in agricultural operations, and preserving heritage or artisanal foods.” WAC 365-190-050(4). Equally as important, as noted by the introductory language, not all of these criteria will be

applicable, and the reference to their being “nonexclusive” suggests that other criteria could also be used to conserve agricultural lands.

For **Forestry**, there is a three-step process.

- i. First, a county must determine the land grade that constitutes forest land of long-term commercial significance, based on local physical, biological, economic land use considerations, using private forest land grades from the Washington Department of Revenue (“DOR”). WAC 365-190-060(2)(c). While this does not appear to have occurred here, DOR’s regulations state that Land grades 1-7 are considered commercially viable for the San Juan Islands, and land grade 8 would be considered marginal for forest productivity. WAC 458-40-530.
- ii. Second, a county must 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:
 - a) The availability of public services and facilities conducive to the conversion of forest land;
 - b) 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;
 - c) The size of the parcels: Forest lands consist of predominantly large parcels;
 - d) The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands of long-term commercial significance;
 - e) Property tax classification: Property is assessed as open space or forest land pursuant to chapter 84.33 or 84.34 RCW;
 - f) Local economic conditions which affect the ability to manage timberlands for long-term commercial production; and
 - g) History of land development permits issued nearby.
- iii. Third, counties 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. While this cannot be a determining factor, it can help tip the balance in favor of conserving some parcels for forestry.

As you review the area-wide process for designating natural resource lands, keep in mind that:

- (1) Not all of the criteria listed at WAC 365-190-050(3)(c) or -060(4) must be used. The goal is to identify lands of long-term commercial significance based primarily on soils and development patterns;**
- (2) Other criteria can be considered; and**
- (3) Ultimately, San Juan County needs enough land to support viable industry.**

Against this legal backdrop Friends requests that the County inquire among the agricultural and forestry sectors to learn their views on the amount of land necessary to support viable farming and forestry systems. To the extent that more land and production are necessary to sustain the industries, Friends recommends that the County assess the aspects of those industries that cannot currently be supported and the amount of land necessary to do so and that it designate that amount of land.

As the County conducts this review, it is important to keep in mind that, over time, the trend is to lose designated natural resource lands. Based on records we have obtained from the County, we estimate that approximately 170 acres of Forest Resource Land (“FRL”) and 6 acres of Agricultural Resource Land have been converted to higher density non-resource lands since 2000. In addition, County staff have recommended the dedesignation of more than 166 acres of FRL as part of the update process. Two of the proposed designations would orphan two blocks of FRL sized at 39.84 acres and 42.57 acres (for a total of 82.41 acres), likely leading to their future dedesignation.

B. Proposed Revisions to Draft Long-term Commercial Significance Matrix.

At the same time that the County conducts the review above, Friends recommends that it revise the draft long-term significance methodology as follows to remove artificial distinctions between properties with similar productive capacity. We have redlined the draft methodology matrix and inserted rationales for the proposed changes. We have also proposed eliminating

the extra weight given to certain factors and accounting for some weighting by offering a broader range of scores for criteria that are higher priority, like quality of soils and size of parcels.

We also did not propose a point total that would qualify for designation because that number will depend on the amount of acreage necessary to support farming and forestry in the county, and that evaluation has not yet occurred. However, we recommend a lower threshold than the staff’s current “best of the best” standard in order to recognize the secondary benefits that both farming and forestry provide our community. As noted by the state regulations, local food provides food security and supports our local food system. Forests protect air and water quality, maintain adequate aquifer recharge areas in a county that is fully a Critical Aquifer Recharge Area, support tourism and access to recreational opportunities, provide wildlife habitat and connectivity for upland species, and most importantly for our community and our warming planet, provide climate benefits by sequestering carbon and by substituting for other carbon intensive uses of those lands.

With that background, here are the proposed methodology changes:

Agricultural Resource Lands Methodology

Criterion 1	
Criterion	The classification of prime and unique farmland soils as mapped by the NRCS (WAC 365-190-050(3)(c)(i))
Weight	X 12
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	
<p>Eliminate consideration of this factor because proximity to public roads is not a factor for island-scale farms and the distances they transport their goods. In other words, local farms have not suggested that traveling their driveways or private roads prejudices their long-term commercial significance.</p> <p>In addition, as drafted, this methodology frequently and paradoxically gives high scores to parcels far from the place their goods would be sold merely because they are adjacent to a public road. For example, parcels near Point Lawrence, 12 ½ miles from Eastsound, would get higher scores than parcels in Crow Valley, just 2 ½ miles from Eastsound, just because they were adjacent to a public road.</p>	<p>Criterion The availability of public facilities, including roads used in transporting agricultural products (WAC 365-190-050(3)(c)(iii))</p>
	<p>Weight X1</p>
	<p>Factor Scores</p>
	<p>4 If adjacent to public road</p>
	<p>2 If within 1,000 feet of a public road</p>
<p>0 If more than 1,000 feet from a public road</p>	

Criterion 3	
<p>The designation regulations do not differentiate between lands that are currently used for agricultural production and lands that are capable of such use. The factor scores should reflect that by applying the same score to both.</p>	<p>Criterion Tax status, including whether lands are enrolled under the current use tax assessment. (WAC 365-190-050(3)(c)(iii))</p>
	<p>Weight X1-5</p>
	<p>Factor Scores</p>
	<p>4<u>1</u> If parcel <u>is in or has in the past been in</u> the current use farm and agriculture program <u>or open-space farm conservation program</u></p>
<p>3</p>	<p>If parcel in open-space farm conservation program</p>

	0	If parcel has never been not in the current-use farm and agriculture or open-space farm conservation programs
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Criterion 4		
As with forest land criterion 1, the purpose of this criterion appears to be to characterize the likelihood that a parcel would be converted to non-farming due to the availability of public services. But the proposed language would focus on smaller community water systems and septic systems that may not make the property conducive to conversion, particularly if there are no covenants, conditions, or restrictions that would preclude an owner from drilling their own well or using their own pond for water.	Criterion	The availability of public services (WAC 365-190-050(3)(c)(iv))
	Weight	X1
	Factor Scores	
	41	If outside a community water system and sewer system service area or large onsite septic service area <u>Parcel not served by public water or sewer system that serves an urban growth area, such as Friday Harbor or Eastsound.</u>
	2	If within a community water system service area and outside a sewer system service area or large onsite septic service area
0	If within a community water system and sewer system service area <u>Parcel served by public water or sewer system from urban growth area.</u>	

Criterion 5		
While it may be reasonable to give lower priority to parcels that abut an urban growth area and have been identified as likely candidates	Criterion	Relationship or proximity to urban growth areas (WAC 365-190-050(3)(c)(v))
	Weight	X1
	Factor Scores	

for near-term annexation, distinguishing between parcels ¼ mile and ½ mile from urban areas and deeming the latter 4 times better for agriculture is irrational.

<u>4</u> 1	If more than one-half mile away from a UGA <u>Parcel not within area projected by city or county planners to be annexed into urban growth area within 20 years.</u>
<u>2</u> 0	<u>Parcel within area projected by city or county planners to be annexed into urban growth area within 20 years.</u> If between one-half and one-quarter mile of a UGA
0	If closer than one-quarter mile or within a UGA

Criterion 6		
There is no reason to give greater weight to this criterion.	Criterion	Predominant parcel size (WAC 365-190-050(3)(c)(vi))
	Weight	X 1 <u>2</u>
	Factor Scores	
	4	If parcel larger than or equal to 20 acres
	3	If parcel larger than or equal to 10 and less than 20 acres
	2	If parcel larger than or equal to 5 and less than 10 acres
	1	If parcel larger than or equal to 2 and less than 5 acres
0	If parcel less than 2 acres	

Criterion 7

<p>This factor should be eliminated unless it can be shown that adjacent parcel size has any relationship to the long-term use of a parcel for farming in the San Juans. As has been discussed previously, due to the more modest scale of most agricultural operations in San Juan County, neighboring property owners frequently consider agriculturally-zoned parcels to be an asset.</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 or equal to 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>In the island context, neighboring residential use should not be a disqualifying factor in designating agricultural resource lands. However, not being directly adjacent to urbanized areas may promote long-term commercial use.</p>	Criterion	Intensity of nearby land uses (WAC 365-190-050(3)(c)(viii))
	Weight	X1. 25
	Factor Scores	
	4 <u>1</u>	If any neighboring parcel has AG or open space Assessor's use code <u>Parcel is not directly adjacent to parcel within urban growth boundary or local area of more intense rural development.</u>
	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.
0	If no neighboring parcel is within urban growth boundary or local area of more intense rural development <u>has the use codes listed above.</u>	

Criterion 9		
<p>Before this factor can be designed accurately, it is necessary to define “markets” in the island context. For our purposes, we consider farm stores/stands, farmers’ markets, grocery stores/coops, and restaurants to be the primary markets for agricultural products, and have ranked the proximity accordingly. 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.</p>	Criterion Proximity to markets (WAC 365-190-050(3)(c)(xi))	
	Weight X1.5	
	Factor Scores	
	4 <u>2</u>	If on San Juan, Lopez, or Orcas Islands, <u>or Shaw Islands</u>
	3 <u>1</u>	<u>All other islands</u> If on Shaw Island
1	If on Stuart, Waldron, Blakely, or Decatur Islands	
0	If on any other island	

Forest Resource Lands

Criterion 1		
<p>See discussion above for agricultural resource designation criterion 4.</p>	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 <u>1</u>	<u>Parcel not served by public water or sewer system that serves an urban growth area, such as Friday Harbor or Eastsound.</u> 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	Parcel served by public water or sewer system that serves an urban growth area, such as Friday Harbor or Eastsound. If within a community water system and sewer system service area	

Criterion 2

See discussion above for agricultural resource designation criterion 5.	Criterion	The proximity of forest land to urban and suburban areas and rural settlements. (WAC 365-190-060(4)(b))
	Weight	X 1.5
	Factor Scores	
	4 4	Parcel not within area projected by city or county planners to be annexed into urban growth area, activity center, or LAMIRD within 20 years. If more than one-half mile away from an UGA, activity center, or LAMIRD
	2 2	If between one-half and one-quarter mile of an UGA, activity center, or LAMIRD
0	Parcel within area projected by city or county planners to be annexed into urban growth area, activity center, or LAMIRD within 20 years. If within an UGA, activity center, or LAMIRD	

Criterion 3		
There is no reason to give greater weight to this criterion because its factor scores differentiate it from other criteria	Criterion	The size of the parcels. (WAC 365-190-060(4)(c))
	Weight	X 12
	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		
Neighboring parcel size alone does not dictate whether a parcel is suitable for forestry, but rather the combination of the parcel size and its designation. The factor scores	Criterion	The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands. (WAC 365-190-060(4)(d))
	Weight	X 1.25
	Factor Scores	

have been revised to reflect potential incompatibilities.

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 <u>5 acres or larger or is zoned other than rural residential or an urban residential designation, larger than 5 and less than 10 acres</u>
1	If the average adjacent parcel size is larger than <u>21</u> and less than 5 acres <u>and is designated rural residential or an urban residential designation</u>
0	If the average adjacent parcel size is less than <u>21</u> acres <u>and is designated rural residential or an urban residential designation.</u>

Criterion 5		
See comment for agricultural lands tax classification factor	Criterion	Property tax classification. (WAC 365-190-060(4)(e))
	Weight	X <u>21</u>
	Factor Scores	
	4 41	If parcel <u>is in or in the past has been in</u> the designated forestland (DFL) tax program <u>or open-space timber land tax program.</u>
	3	If parcel is in the open space timber land tax program
0	If <u>parcel has never been</u> not in the DFL or open-space timber land tax program	

Criterion 6		
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 service. Also, the regulations would have used the same	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	

language as the access to markets language for agricultural lands if that were the intent. This factor should consider local processing and markets as well. Until that revision, it should be eliminated.		
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Criterion 7		
This criterion is addressed by other criteria about the size of parcels and types of neighboring uses and can be removed.	Criterion	History of land development permits issued nearby (WAC 365-190-060(4)(g))
	Weight	X 1 <u>25</u>
	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 multifamily use code	

Criterion 8		
According to the land grade system established by the WA Department of Revenue and referenced by WAC 365-190-060(2)(c) as the basis for scoring lands for designation, "All marginal forest productivity in other townships [including San Juan County] is land grade 8." WAC 458-40-530. Thus, the chart should reflect	Criterion	Private Forest Land Grade (PFLG) (WAC 365-190-060(2)(c))
	Weight	X 2 <u>1</u>
	Factor Scores	
	4 <u>1</u>	If the majority of the parcel has any part of the parcel has PFLG 1-7
	3 <u>0</u>	If any part of the parcel has PFLG 2 <u>If the majority of the parcel is PFLG 8</u>
	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	

that grades 1-7 can be used for forestry.		
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C. Comprehensive Plan Designation Criteria.

Consistent with the approach in the matrix above, which recognizes that lands that have been entered into the current use tax program in the past should be deemed suitable for forestry, Friends recommends that the current language in the first and third bullets of the proposed Comprehensive Plan designation criteria be revised as follows:

- Lands participating, or that have participated, in the designation forest land, current-use timber land, or open open space-timber tax programs;
- Lands managed, or that have been managed, for the long-term production of forest products with few non-forest related uses; or

This will also better reflect the capability of the land to be used for forestry and avoid the landowner’s intent for its current use to dictate the land’s designation. And it will be consistent with the proposed Comprehensive Plan designation criteria for agricultural resource lands that recognizes past use for farming as a basis for designation.

We look forward to continuing the conversation with you about conserving our community’s hard working resource lands. We encourage you to reach out with any questions you have.

Sincerely,



Kyle A Loring

cc: Erika Shook, SJC Department of Community Development
Adam Zack, SJC Department of Community Development
Brent Lyles, Friends of the San Juans