

Sophia Cassam

From: R. Brent Lyles <brent@sanjuans.org>
Sent: Friday, March 12, 2021 1:50 PM
To: San Juan County Council; Comp Plan Update
Subject: Comments on the process for considering the applications for site-specific land use designation changes
Attachments: Process for designation changes - Comments from Friends of the San Juans - 12mar2021.pdf

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Dear San Juan County Council Members, Planning Commissioners, and County staff,

Please find attached a comment letter from Friends of the San Juans on the process for considering the applications for site-specific land use designation changes. Thank you for considering these requests, and please reach out to me with any questions or if this document fails to transmit faithfully.

Respectfully,

Brent

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R. Brent Lyles (he/him) | **Executive Director** | **Friends of the San Juans**
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Friends *of the* San Juans

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P.O. Box 1344
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To: San Juan County Council, Planning Commissioners, and Staff
From: R. Brent Lyles, Executive Director
Date: 12 March 2021
Subject: Comments on the process for considering the applications for site-specific land use designation changes

Submitted via email to compplancomments@sanjuanco.com

I am writing today with suggestions on the County's approach to applications for site-specific land use designation changes, as part of the Comprehensive Plan update process.

1. First, I offer a reminder of why the current slate of requests for designation changes is considered as part of the larger Comp Plan update process, rather than being considered separately from that process. Requests for changed designations, such as de-designations of Natural Resource Lands, must be considered in light of overall trends and must be consistent with the County's overall goals and priorities, notably those in its Comp Plan update. For instance, at the most recent meeting of the Planning Commissioners, the Commissioners voted to include language that recommended "no net loss" of Agricultural Resource Lands —that important goal should now be part of the discussion during decisions about designation changes to individual parcels. **Please request that County staff provide clear guidance on the process that will be undertaken to review the site-specific designation change requests and how it is integrated with the larger Comprehensive Plan update.**
2. We commend County staff for doing their best during a difficult time. Unfortunately, the lack of resources being allocated to administrative requests is having an impact: We are concerned that the Council, Planning Commission, and the public are not receiving enough information in the application summaries for a robust decision-making process, and that the process does not support adequate public review and participation. We recommend that there be a deliberative process to determine what amount of information should be provided, and when. In addition, the full application files for all site-specific de-designation/redesignation requests should be electronically available for review. Not only is the County legally required to provide this information to the public, the application materials and the background materials are needed for you, the County Council, Planning Commissioners, and staff, to fully understand the decisions you are making when considering site-specific land use de-designation/redesignation applications and other land-use designation changes. **Please ask County staff to generate a detailed and achievable timeline for when these materials will be available to you and the public, with staff deliverables noted for each date, and please allow the public to have at least 30 days to read these materials and respond to them before any deliberations occur.** These materials should include:

- a. The complete application file — not just a summary — for each application, and
 - b. The complete application files for past site-specific land use de-designation/ redesignation applications, with documentation about why these applications were approved or denied.
3. As part of the decision-making process for considering applications for site-specific land use designation changes, it will be important to understand how the current applications fit into larger historical trends. **Please ask County staff to provide high-level data trends since the 1998 map amendments, including details by island for each land-use designation on changes in acreage, numbers of parcels, parcel sizes, and density.**
 4. During these deliberations, it is important to note that it is unacceptable to rezone a parcel simply so that its current use would no longer be nonconforming. This flips the whole concept of a nonconforming use on its head: Fifty years ago, the Washington Supreme Court offered what is now a long-established tenet for our land-use framework:

[t]he theory of zoning is to foster improvement by confining certain classes of buildings and uses to certain localities without imposing undue hardship upon the property owners. The present use of a nonconforming building may be continued but it cannot be increased nor can it be extended indefinitely if zoning is to accomplish anything. It is customary for zoning ordinances to provide that the life of nonconforming buildings cannot be increased by structural alterations and when a change is made by the owner in the building, he must make it conform to the ordinance.

— *State ex rel. Miller v. Cain*, 40 Wn.2d 216, 221, 242 P.2d 505 (1952).

Nonconforming uses cannot be “rewarded” by zoning changes that are prompted simply by property owners’ wishes, and zoning should not be dictated by the nonconforming uses on individual parcels. It is the uses, not the zoning, that are intended to change over time. In addition, spot zoning that singles out an individual property owner by rezoning their property for unconstrained use can be perceived by neighbors and other community members as unfair favoritism. Such changes should occur only after a reasoned evaluation demonstrates that the change is consistent with the overall zoning scheme and the needs of the greater community, as well as the Growth Management Act. Rezoning shouldn't occur just because a current owner is using property inconsistent with the zoning established throughout the planning process.

Thank you for giving these comments your due consideration.