

Public Testimony for the SJC Planning Commission Public Hearing, July 15, 2022

Emailed to: compplancomments@sanjuanco.com

To: SJC Planning Commission

From: Joe Symons, Olga WA

Date: 14 July 2022

Re: PC Hearing on 15 July 2022: Public Comment

In 1992 I was appointed chair of the Orcas Committee to rewrite SJC's Comprehensive Plan (CP) under the requirements of the recently passed Growth Management Act (GMA). In 1999 I challenged SJC's CP before the Western Washington Growth Management Hearings Board (WWGMHB) as being in egregious violation of GMA. Several years of litigation occurred; in general, SJC consistently lost at both the HB level and at Superior and Appeals Court levels. A settlement over the ADU issue occurred in ~2007. During the period 2000 to the present, I filed several essentially-identical docket requests that asked SJC to calculate the buildout population and the impacts of that population on all relevant aspects, such as carrying capacity, infrastructure requirements, tax implications, and, overall, consistency with the [SJC CP Vision Statement](#), stated in the [Introduction to the CP](#) as the foundation of the plan, i.e., upon which the entire plan has been crafted to fulfill.

Indeed, the Introduction says:

The goals and policies in the *Plan* are the framework within which the County creates and implements development regulations, programs, and other plans. The 2036 Vision, developed by the community, is the *Plan's* North Star, guiding the *Plan* elements and leading the County toward the future we strive for every day.

Pg 4 lines 32-24

The Draft Introduction, page 5, says:

2036 VISION

The San Juan County Vision portrays the near future as the community aspires for it to be. The Vision is a statement of values that guide the goals and policies of each *Plan* element. In designing the Vision collectively through extensive workshopping and deliberation, the community identified the nature of essential aspects of life in the San Juan Islands.

The vision is one populated by words including "rural, residential, quiet, agricultural, marine and isolated nature of the islands" and emphasizes the importance of nature, of behaviors consistent with a small community-centered life style. It would be hard to imagine that this aspirational portrait is at all consistent with a buildout population of over 130,000 full time and perhaps up to 100,000 (in high season the general estimate of visitor population is approximately equal to the full time population) visitors. The current population of SJC ([US Census](#)) as of July 2021 is 18,557, or about 14% of the legally-established total development rights as assigned to each tax parcel. If visitor population is included

(note that GMA does not require that a county consider visitor population in its CP), one could easily speculate that the current population is no more than 10% of the potential population.

In the [1999 Final Decision and Order](#) (FDO) by the WWGMHB, the board noted:

“Intervenor Symons correctly pointed out that the maps were also significantly inconsistent with the vision statement set forth as the guiding principle for the CP. These inconsistencies, caused by the retention of 1980 densities, do not comply with the GMA.”

San Juan County has consistently chosen to refuse to calculate the buildout population or to have any conversations about the implications of the buildout population, [easily calculated using county data](#). As mentioned above, preliminary estimates of the buildout population for SJC, not counting the ADU potential, show that the buildout population is in excess of 130,000 persons. This number reflects full time residents and does not include the significant non-resident visitor population. SJC’s [Land Capacity Analysis](#) (LCA) is obscure, confusing, and fails to include a buildout analysis. I have submitted several comments re the LCA which are located in Attachment B to the LCA.

I attach the obligation of SJC to ensure that its CP is internally consistent based on WAC 365-196-500.

<https://app.leg.wa.gov/wac/default.aspx?cite=365-196-500>

I have highlighted items 3 and 4 of the WAC, included below.

WAC 365-196-500

Internal consistency.

(1) Comprehensive plans must be internally consistent. This requirement means that differing parts of the comprehensive plan must fit together so that no one feature precludes the achievement of any other.

(2) Use of compatible assumptions. A county or city must use compatible assumptions in different aspects of the plan.

(a) A county or city should use common numeric assumptions to the fullest extent possible, particularly in the long-term growth assumptions used in developing the land use, capital facilities and other elements of the comprehensive plan.

(b) If a county or city relies on forecasts, inventories, or functional plans developed by other entities, these plans might have been developed using different time horizons or different boundaries. If these differences create inconsistent assumptions, a county or city should include an analysis in its comprehensive plan of the differences and reconcile them to create a plan that uses compatible assumptions.

(3) The development regulations must be internally consistent and be consistent with and implement the comprehensive plan.

(4) Consistency review. Each comprehensive plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent. At a minimum, any amendment to the comprehensive plan or development

regulations must be reviewed for consistency. The review and update processes required in RCW [36.70A.130](#) (1) and (3) should include a review of the comprehensive plan and development regulations for consistency.

(5) See WAC [365-196-800](#) for more information on the relationship between development regulations and the comprehensive plan. See WAC [356-196-305](#) for more information on the relationship between county-wide planning policies and the comprehensive plan. See WAC [365-196-315](#) (5)(a) for information on consistencies between assumptions and observed development for cities or counties subject to monitoring requirements in RCW [36.70A.215](#).

[Statutory Authority: RCW [36.70A.050](#) and [36.70A.190](#). WSR 10-03-085, § 365-196-500, filed 1/19/10, effective 2/19/10.]

To my knowledge, there have been no changes to the Development Regulations (DRs) that impact density designations and therefore buildout calculations per the requirement of item 3.

Item 4, above, explicitly requires that SJC review the DRs or other changes (such as goals and policies) for internal consistency. To my knowledge this has never been done and is not being done now.

Failing to review the CP for internal consistency exposes the county to a challenge just on procedural grounds. Should such a review find that there is no inconsistency between the buildout population and the Vision Statement, that review would be very likely challenged.

Note: an argument that the CP only need concern itself with the 20 year planning horizon and therefore a buildout population estimate and plan for handling that population is irrelevant misses entirely the quoted HB observation about “significant inconsistency with the vision statement set forth as the guiding principle for the CP”. In any case, making such an argument is specious given the intent of the vision statement and the intent of GMA and the CP.

Buildout density:

I attach one page of many pages of dense numeric documentation provided by SJC during the litigation period challenging the CP beginning in 1999, produced by the Planning Department in 2001; it is a wall of tabular information. I have annotated the table to reveal an otherwise obscure finding. You will note that it shows the density (in dwelling units i.e. DU per acre) of rural lands in SJC. Prior to petitioner’s successful challenge of the CP, the 1998 density of rural lands (think “trees and vistas”) of SJC was 1 du/ 1.8 acres (GMA defines rural land densities less that 1 du/5 acres as “sprawl”); you will see this as a red circle on the chart. At less than 1 DU/2 acres, the rural lands of the county at buildout, (70-90% of all acres in the county depending on definition of “rural lands”) would look like a suburb. After the 1999 and 2000 decisions by the WWGMHB, the revised rural lands density at buildout is 1 du/4 acres (which is also “sprawl”), seen in the green circle. This quiet line in the middle of just one page (index number 260166) of a bushel of pages says, to anyone who knows what it means and where to find it, that at buildout SJC rural lands will be experienced as sprawl, as suburbia, as a whole landscape of tiny hobby

farms over what, today, looks like unending undisturbed forest. You will not find this page in the CP nor will you find that this information has been made visible by news organizations, the Planning Department nor the County Council.

<http://www.doebay.net/appeal/SJC%20CP%20index%20rural%20lands.pdf>

Changes in Designation, 1998 to 2000 San Juan County Comprehensive Plan, Separating State and Federal Lands

Land Use Designation ^{1,2}	1998 Designation			2000 Designation ²			Average Parcel Size (acres)			
	Existing Parcels	Area (ac)	Potential Units ^{3,5}	Existing Parcels	Area (ac)	Potential Units ³	1998 Existing	1998 Buildout	2000 Existing	2000 Buildout
Resource Lands (excluding state and federal lands)										
Agriculture	583	13,786.3	1,447	578	13,698.7	1,070	23.6	9.5	23.7	12.8
Forest	645	18,436.5	2,696	553	17,373.3	969	28.6	6.8	31.4	17.9
Total Resource Lands	1,228	32,222.8	4,143	1,131	31,072.0	2,039	26.2	7.8	27.5	15.2
Rural Lands (excluding state and federal lands)										
Rural Residential	4,802	9,292.7	7,458	4,453	8,605.6	4,782	1.9	1.2	1.9	1.8
Rural Farm Forest	6,575	47,347.0	11,725	6,677	48,848.0	9,575	7.2	4.0	7.3	5.1
Rural Commercial	1	10.0	1	1	10.0	1	10.0	10.0	10.0	10.0
Rural General Use	275	1,928.5	513	275	1,928.5	458	7.0	3.8	7.0	4.2
Rural Industrial	11	133.8	22	11	133.8	14	12.2	6.1	12.2	9.6
Island Center	22	87.9	22	22	87.9	22	4.0	4.0	4.0	4.0
Conservancy	105	2,297.0	335	105	2,297.1	280	21.9	6.9	21.9	8.2
Natural	52	1,704.4	186	53	1,705.1	53	32.8	9.2	32.2	32.2
Total Rural Lands Not in Activity Centers⁵	11,843	62,801.2	20,262	11,597	63,615.9	15,185	5.3	3.1	5.5	4.2
Village, Hamlet and Residential Activity Centers ^{3,4}	1,585	2,820.9	15,244	856	1,229.6	1,057	1.8	0.2	1.4	1.2
Eastsound Rural				135	485.6	171			3.6	2.8
Total Rural Lands⁵	13,428	65,622.2	35,506	12,588	65,331.0	16,413	4.9	1.8	5.2	4.0
Master Planned Resorts Eastsound, Lopez Village, Friday Harbor UGAs	30	435.9	859	30	435.9	489				
Total Unincorporated State and Federal Lands in Unincorporated Areas⁶	14,703	98,286.0	*	14,703	98,286.0	*				
Unincorporated Areas ⁶	159	13,042.9	2,426	159	13,042.9	283	82.0	5.4	82.0	46.1
Total Unincorporated With State and Federal Lands	14,862	111,328.8	*	14,862	111,328.8	*				
Town of Friday Harbor	932	785.7	*	932	785.7	*				
Total County	15,794	112,114.5	*	15,794	112,114.5	*				

260166

* The projected number of dwelling units for growth areas is based on projected growth rates and not on legal maximum density for each parcel.
 See *Analysis of Proposed Urban Growth Areas, Activity Centers, and Residential Activity Centers* for discussion of development of urban growth areas.
 1. Uses and densities assigned based on parcel centroid. Parcels which cross use or density boundaries are considered as if in a single category.
 2. As adopted by BOCC 10/2/00. (Includes resource land redesignations which were invalidated by Growth Management Hearings Board November 30, 2000.)
 3. Potential number of dwelling units assumes all parcels divided and developed to their full designated density, but without density bonuses.
 4. Dwelling unit estimates for activity centers assume all areas are developed for residential use, including areas now used for schools, churches, retail use, etc.
 5. 1998 Potential Units does not include up to approximately 12,000 potential additional units in shoreline areas as estimated by the San Juan County Permit Center.
 6. State and Federal Lands: Assessor's parcel file shows tax status *ST* or *FE*. Units and average parcel sizes shown for rural and resource lands only.
 San Juan County Planning Department ParcelPlanDen2kStateFed.xls 01/09/2001 8:00.

SJC was forced to produce this and other related information as part of the litigation process. They had resisted providing public data to the public as they have done consistently since they "opted in" to write a CP under GMA in 1992. Indeed, when the citizen committees were greeted in Friday Harbor at the beginning of the process, they were told that they could discuss *anything they wanted as long as those discussions did not include density*. Density conversations were off the table then, and have remained off the table for the past 30 years, regardless of GMA consistency requirements.

I believe SJC has a moral, as well as legal, obligation to honor the intent of the Vision Statement.