

Sophia Cassam

From: Kyle Loring <kyle@loringadvising.com>
Sent: Friday, August 5, 2022 4:08 PM
To: Comp Plan Update
Subject: SJC Comp Plan map amendments
Attachments: LA ltr re docket rqst 18-008.pdf

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Dear Ms. Cassam and Planning Commissioners,

I hope that your review of the Comprehensive Plan Update is going well. I'm resubmitting for the public record a comment letter that I submitted for a client on February 7th regarding docket request 18-008, a request to redesignate two parcels on Orcas to Eastsound Residential. We appreciate your initial recommendation to decline that redesignation and your other recommendations to increase densities within the Eastsound Urban Growth Area. We fully support an approach that increases densities within areas already characterized by urban development, to encourage infill, and to expand the UGA only when fully necessary and in areas directly abutting the core UGA.

If you have any questions about the attached comments, please contact me at your convenience. I also intend to attend the August 19th public hearing and would be delighted to address any questions then.

Sincerely,
Kyle Loring

Kyle A Loring (*he/him*)

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By Email

February 7, 2022

San Juan County Planning Commission
c/o Sophia Cassam
SJC Department of Community Development
PO Box 947
Friday Harbor, WA 98250
sophiac@sanjuanco.com

Re: Land Use Review Request 18-0008 – Klein request to add 29 acres to Eastsound Urban Growth Area

Dear Planning Commissioners and staff,

I'm writing on behalf of my clients, Carrie Ching and Steven Hofmeyr, to express support for your recommendation, and that of the Eastsound Planning Review Committee, not to approve docket proposal 18-0008 ("Conversion") and its redesignation of tax parcel no. 271223009000 ("Property") at this time. The Conversion would redesignate twenty-nine (29) acres of undeveloped rural residential land to Eastsound Residential and would increase the density of development on that acreage from 1 unit/5 acres to 4 units/1 acre, allowing 119 units in the space where 6 could currently be built. As one can see from the County's Comprehensive Plan maps, the Conversion takes the unusual approach of leapfrogging approximately 100 acres of similarly-situated and designated rural lands that lie closer to the Eastsound Village--and that would remain in a rural designation--rather than incrementally expanding urban designations out from the village.

Ms. Ching and Mr. Hofmeyr reside year-round on the parcel directly to the east of the Property, and like the neighbors who share their concerns, they fully support the County's proposed direction to promote increased density within Eastsound before converting rural lands to urban growth area ("UGA"). They and their neighbors also naturally and reasonably expect that the UGA would extend into their neighborhood only after first expanding into rural lands adjacent to the bulk of the existing Eastsound urban boundaries.

This letter summarizes below how the County's recommendation against the Conversion is consistent with the Washington Growth Management Act ("GMA") and with the County's redesignation criteria. It also implements the will of our community to maintain rural character and the ecological benefits it provides. The letter relies on the substantial amount of analysis that County staff have conducted on the County's population distribution and housing

needs. It also appreciates the County's recognition that the wise use of existing urbanized areas, from proper designations to implementing urban densities, can start to address the severe shortage of housing for the residents of our community. We encourage you to also continue exploring policies to limit the amount of land dedicated to vacation rental and underutilized housing, which is remarkably high even for our destination community.

A. The Conversion is inconsistent with GMA requirements to size Urban Growth Areas only to meet projected population growth.

According to County staff analysis, the Eastsound UGA is already large enough to accommodate the growth projected into 2036. Even if the geographic area covered by Eastsound were not large enough to accommodate anticipated population growth within its boundaries, current density increases proposed by the County and detailed in Adam Zack's June 4, 2001 memorandum to the Planning Commission would ensure that Eastsound could accommodate projected growth.¹ Consequently, because the GMA directs counties to limit the amount of designated UGA to that needed to meet state-generated population growth projections, the Conversion would conflict with the GMA.

The GMA contemplates diligent planning and reasonably efficient use of existing urban areas before before converting rural lands to urban lands. GMA regulations state that "[t]he urban growth area may not exceed the areas necessary to accommodate the growth management planning projections, plus a reasonable land market supply factor, or market factor."² Further, "[c]ounties and cities should develop and evaluate urban growth area proposals with the purpose of accommodating projected urban growth through infill and redevelopment within existing municipal boundaries or urban areas."³ While the regulations indicate that expansion will be a logical response to projected growth in some instances, Growth Management Hearings Board decisions confirm that UGAs must be based on the amount of land "actually needed" to accommodate the projected urban growth in order to avoid frustrating the GMA's fundamental goal of reducing sprawl.⁴ In addition, Office of Financial Management population projections create a cap on UGA expansions.⁵

In addition, a change to a UGA requires a significant amount of associated legislative and capital facility updates. Counties have to review all of their Comprehensive Plan elements

¹ A. Zack memorandum to San Juan County Planning Commission re: 2036 Comprehensive Plan Update; Section B, Element 2, Land Use and Rural; Eastsound Issues (June 4, 2021) (hereafter, "June 4 memo").

² WAC 365-196-310(2)(e).

³ WAC 365-196-310(3)(f).

⁴ *E.g., Brodeur/Futurewise, et al., v. Benton County, et al.*, GMHB Case No. 09-1-0010c, Order Finding Continuing Non-Compliance (Sept. 24, 2010).

⁵ *Futurewise v. Benton County*, GMHB Case No. 14-1-0003, Final Decision and Order, 12 (Oct. 15, 2014).

to ensure that the change is consistent with them.⁶ They also have to evaluate their existing capital facilities to ensure that adequate public facilities, including at least sewer and water, are or will be available to serve the new area.⁷ In conjunction with this capital facility analysis, counties must evaluate the amount of funding necessary for the expansion and identify sources of funding to achieve the expansion.⁸

County staff analyses demonstrate that the Eastsound UGA is already large enough to accommodate even the County's aggressive population projections. The County projects a population increase of 1,028 people for Orcas Island by 2036.⁹ The County's policy to accommodate 50% of that growth in the UGA,¹⁰ in conjunction with its assumed 2.04 people per household,¹¹ leads to approximately 252 new dwellings needed. As Mr. Zack noted in his February 4, 2020 memorandum on the Land Use Element and UGAs, all of the development scenarios that the County created for Eastsound show that there is already enough residential capacity to accommodate growth through 2036.¹² While the memo notes that achieved densities have fallen below mapped densities in Eastsound (people haven't been maximizing the development potential there), and that this could support the case for expanding the UGA, it also states that capacity could be increased by encouraging infill by increasing the density on certain parcels.¹³ The County Council reasonably recommended just that, and Mr. Zack's June 4 memo proposes three density increases that would increase the number of potential parcels by 333.¹⁴ The Eastsound Planning Review Committee ("EPRC") recommended pursuing a portion of these density increases and stated that they believe this should exceed the capacity needs for residential development in Eastsound.¹⁵ While the EPRC also suggested that redesignating the Klein property might be appropriate after its access road is upgraded, this statement is inconsistent with the capacity for growth within the existing UGA.

It should be noted in this conversation that we aren't arguing that the GMA prevents UGA expansions, but that it does so in limited instances. Further, the GMA guides how UGAs expand, and establishes the following priority for expansions:

⁶ WAC 365-196-310(4)(e).

⁷ WAC 365-196-320(1)(d).

⁸ WAC 365-196-320(4).

⁹ June 4 memo, at 7.

¹⁰ SJC Comprehensive Plan § 2.3.A. Policy 12.

¹¹ June 4 memo, at 7.

¹² A. Zack memorandum to San Juan County Council re: 2036 Comprehensive Plan (*Plan*) Update: Section B, Element 2, Land Use Element Overview and Urban Growth Area (UGA) Issues, 29, 32 (Feb. 4, 2020).

¹³ *Id.* at 32.

¹⁴ June 4 memo, at 13-14.

¹⁵ *Id.* at 15.

Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.¹⁶

Thus, even if the Eastsound UGA warranted expansion, it should expand into the areas directly adjacent to the bulk of the urbanized village before expanding into farther distant reaches like that proposed by the Conversion.

Regardless, as explained above, the Eastsound UGA cannot be expanded prior to at least 2036, unless new population projections suggest that the current mapped densities will not accommodate projected growth.

B. The Conversion Likely Conflicts with County Redesignation Criteria.

In addition to the Conversion's inconsistency with the GMA, in the absence of a need for more urban-designated land and without redesignating lands closer to the bulk of the Eastsound UGA, the redesignation likely does not satisfy San Juan County redesignation criteria. An applicant for a redesignation must satisfy all five of the following criteria for a map amendment:¹⁷

(1) the changes would benefit the public health, safety, or welfare;

(2) the change is warranted because of one or more of the following: changed circumstances; a demonstrable need for additional land in the proposed land use designation; to correct demonstrable errors on the official map; or because information not previously considered indicates that different land use designations are equally or more consistent with the purposes, criteria and goals outlined in the Comprehensive Plan;

(3) the change is consistent with the criteria for land use designations specified in the Comprehensive Plan;

(4) the change, if granted, will not result in an enclave of property owners enjoying greater privileges and opportunities than those enjoyed by other property owners in the

¹⁶ RCW 36.70A.110(3).

¹⁷ SJCC 18.90.030.

vicinity where there is no substantive difference in the properties themselves or public purpose which justifies different designations; and

(5) the benefits of the change will outweigh any significant adverse impacts of the change.

In addition to the lack of need for more urban land in Eastsound, redesignating the proposed 29 acres without redesignating other parcels closer to the majority of the village would result in an enclave of owners enjoying greater density privileges than those parcels. Further, the SEPA Checklist submitted with the application noted that an eagle nest exists approximately 500 feet from the eastern boundary of the property and that a great blue heron nest reportedly exists on the site, but did not evaluate impacts to those species from converting forested land to housing at a density 20 times greater than currently allowed. Nor did the SEPA Checklist evaluate other environmental impacts, instead suggesting that such impacts need not be evaluated for a map amendment. However, the SEPA Checklist did acknowledge that, “[g]oing from vacant, wooded land to a residential neighborhood will dramatically alter the plant life and animal habitat by reduction in mature trees, the planting of grasses, addition of impervious surfaces, addition of limited amount of fencing.”¹⁸ But the SEPA Checklist does not evaluate the impact of those changes. Thus, in the absence of information about the environmental impacts of the proposed Conversion, it is not possible at this time to evaluate the fifth requirement above, much less the suitability of the proposal generally, and additional information would need to be prepared before the Conversion could be considered.

C. Conclusion

We strongly support the County’s recommendation at this time not to move forward with Land Use Review Request 18-0008, a proposal to convert 29 acres of rural land on Orcas to Eastsound Residential lands. While that may be an appropriate step at a future date, it is premature in the absence of increased density in Eastsound, redesignation of parcels closer to the bulk of the village, and a meaningful analysis of the proposal’s impacts.

Sincerely,



Kyle A. Loring

Cc: Carrie Ching

¹⁸ Fred Klein, SEPA Checklist for San Juan County Comprehensive Plan Update Map Amendment, unnumbered page 14 (Feb. 28, 2018).