



## MEMORANDUM

**REPORT DATE:** February 17, 2023

**TO:** San Juan County Council

**FROM:** David Williams, Director

**SUBJECT:** Code Amendments Resulting from the 2036 Comprehensive Plan Update  
Planning Commission Recommended Draft Ordinance

**MEETING DATE:** February 28, 2023

**ATTACHMENTS:** A. Draft Ordinance  
B. Public Comment

### PURPOSE

To brief the County Council on the Planning Commission’s recommended draft ordinance regarding proposed development code amendments resulting from the 2036 Comprehensive Plan Update.

### PLANNING COMMISSION

The Planning Commission held a public hearing on 2/17/2023 and after discussion, deliberation and opening the hearing up to public comment made a unanimous recommendation 6-0 on the proposed changes with some minor edits highlighted in **GREEN** below in the report. Staff edits are in legislative format. One public comment was received by email and comments were incorporated into the Planning Commission changes.

### PUBLIC COMMENTS

Please send all public comments to [UDCcomments@sanjuanco.com](mailto:UDCcomments@sanjuanco.com). Please do not copy the County Council, Planning Commission members, or County Staff. Written public comments received by February 27 at 12pm will be provided to the County Council prior to the February 28 meeting. Please focus comments on the proposed code amendments discussed in this memo.

### BACKGROUND

San Juan County adopted the 2036 Comprehensive Plan (*Plan*) Update on November 30, 2022. The *Plan* update included several policy changes that correspond directly with San Juan County Code (SJCC) Title 18 Unified Development Code (UDC). Table 1 below summarizes *Plan* policies amended during the update that require UDC changes. The UDC must be amended to align with the *Plan* before the *Plan* update goes into effect on April 1, 2023.

**Table 1. Summary of *Plan* Update Code Amendments.**

Topic	Plan Policy	SJCC
-------	-------------	------

Mineral Resource Land Overlay (MRLO) commercial significance	Element 2, Section 2.4.c, Policy 1.i	18.35.015(A)(1)
Island Center residential development standards	Element 2, Section 2.5.2, Policy 1.c	18.30.230
Cluster Developments: # of units, allowed square footage, and developer requirements	Element 5, Goal 7, Policy 4	18.60.230 (2.a), (5.b) and (6)
Affordable housing definition	Element 5, Goal 7, Policy 5	18.60.260(B) 18.20.010 "A" Definitions
Affordable housing for moderate income households	Element 5, Goal 7, Policy 3	18.60.260(G)
Allow existing schools in rural land use designations	No policy. Decision regarding land use review request 19-0005.	18.30.040 "Institutional Uses" Add new line for existing schools

The following sections provide background information and show relevant amendments to (1) the *Plan* update adopted on November 30, 2022, and (b) corresponding necessary development code amendments. Adopted *Plan* amendments and proposed code amendments are shown in strikeout/underline. The full draft ordinance recommended by the Planning Commission is provided in Attachment A to this staff report.

## MINERAL RESOURCE LAND OVERLAY (MRLO) DESIGNATION

The MRLO designation criteria were amended to allow the County to determine whether lands have commercial significance for mineral resources. WAC 365-190-070(1) states that counties must designate mineral resource lands as a county-wide process, with the exception of owner-initiated requests. Prior to the *Plan* update, the MRLO designation criteria were geared toward owner-initiated requests because criterion 1.i required applicants to submit a geologic and economic report prepared by a qualified professional to verify whether lands have commercial significance for mineral resources. The change to 1.i allows the County to make this determination, which is necessary when conducting a county-wide designation process. In the development code, the MRLO designation criteria are listed in SJCC 18.35.015(A)(1). The development code needs to be amended to reflect the change to the *Plan*.

### **Plan Text: Element 2, Section 2.4.c, Policy 1.i**

(1) Upon application by a landowner, lands which are characterized by all of the following criteria may be designated as a Mineral Resource Land Overlay District (MRLO) on the Comprehensive Plan Official Maps:

- i. 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 the land has a legally established mining operation, **OR IS LEGALLY NON-CONFORMING**, and the County Council adopts findings that the land has commercial significance for mineral resources;
- ii. Current or future land use will not exceed a residential density of one dwelling unit per ten acres;
- iii. Are not within an Activity Center, Rural Residential, Natural or Conservancy designation or any Shoreline designation; and iv. Are not within a wetland or fish and wildlife habitat conservation area as defined in this Plan.

## **Code Amendment: SJCC 18.35.015(A)(1)**

A. Designation Procedures. A mineral resource land overlay district may be applied based upon the following criteria, ~~only upon acceptance by the County of a complete application from a property owner and~~ upon approval of a redesignation in accordance with SJCC 18.90.030. Mineral resource lands of long-term commercial significance are those lands from which the commercial extraction of minerals (sand, gravel, rock, and other valuable aggregate or metallic substances) can be anticipated within 20 years and which are characterized by all of the following:

1. 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 the land has a legally established mining operation, and the County Council adopts findings that the land has commercial significance for mineral resources;
2. Current or future land use will not exceed a residential density of one dwelling unit per 10 acres;
3. Are not within an activity center, rural residential, natural or conservancy designation or any shoreline designation;
4. Are not within a regulated wetland or fish and wildlife habitat conservation area pursuant to SJCC 18.35.085 through 18.35.140.

## **ISLAND CENTER**

Housing is allowed in a limited capacity the Island Center land use designation. One unit per parcel is allowed accessory to an established institutional, commercial, or industrial use. Prior to the *Plan* update, one unit was allowed accessory only to commercial and industrial uses. Institutional uses were added to the list to express that housing for school employees on school properties is an appropriate use in Island Center. Lopez Island schools are located in Island Center. SJCC 18.30.23.(C) should be amended to allow dwelling units accessory to institutional uses.

Additionally, staff and the Planning Commission recommend removing the requirement for dwelling units in Island Centers to be located within or attached to the structure of the primary commercial, institutional, or industrial use. Attaching or locating a dwelling unit within structures of these uses, particularly industrial uses, presents safety concerns. Additionally, the cost of ensuring the safety of a dwelling unit attached to an industrial use can be inhibitive. Detached dwellings would still be required to be subordinate to the primary use of the property. Proposed language has been added to SJCC 18.30.230(C)(1)(a) to require a commercial, institutional, or industrial use to be established on the property before the dwelling unit is constructed.

### ***Plan Text:***

#### **Element 2, Section 2.5.2, Policy 1.c**

Island Centers are generally characterized by existing general commercial and general industrial uses and may also include some rural commercial and rural industrial uses. These centers may be served by community water systems, but have only rural governmental services. Island Centers differ from other Activity Centers in that they generally do not have a high density residential component included within the center boundaries, and new residential development (except where accessory to institutional, commercial or industrial use) should be prohibited. The commercial and industrial uses located in these centers provide goods and services island-wide.

## Code Amendments:

### **SJCC 18.30.230 Residential development standards in island centers, rural industrial and rural commercial designations.**

#### C. Residential Development Standard.

##### 1. One dwelling unit per parcel is allowed.

a. The unit must be an accessory to a commercial, institutional, or industrial use, and must be ~~located within or attached and~~ subordinate to the commercial, institutional, or industrial structure. The dwelling unit shall not be constructed prior to the establishment of the primary commercial, institutional, or industrial use, BUT MAY BE CONSTRUCTED CONCURRENTLY.

b. Notwithstanding the definition of “dwelling unit” in SJCC 18.20.040, the dwelling unit may not include an accessory dwelling unit in addition to the main residence.

##### 2. All other new residential development is prohibited.

## **RURAL RESIDENTIAL CLUSTER DEVELOPMENT (No change made by the Planning Commission)**

There are three changes that should be made to the Rural Residential Cluster Development code. Cluster developments are defined in SJCC 18.60.230 as follows:

A rural residential cluster development is a small cluster of residences and related structures intended to provide opportunities for affordable housing and small scale agriculture in rural areas. The standards and procedures provided [in the development code] are intended to ensure that such developments remain compatible with the rural, agricultural and natural character of rural and resource lands; prohibit suburban sprawl; and do not require urban-level services.

The changes are listed and explained below. The *Plan* text and proposed code amendments follow.

### **1. Increase the number of units allowed in a cluster development**

Through the 2020 Annual Docket process, the County Council added docket request 20-0002 to the DCD work plan to be completed during the *Plan* update. In request 20-0002, an affordable housing non-profit, Homes for Islanders, requested that the County implement 2009 Housing Element policy 15, which states, “Provide for a limited number of small-scale rural residential cluster developments of no more than twelve dwelling units each.” This policy has never been implemented, but it was retained during the 2036 Comprehensive Plan Update and, therefore, the UDC should be amended to reflect the policy. The UDC currently allows eight units per cluster development.

### **2. Allow any interested party to develop a cluster if they can satisfy the development standards**

The ownership requirements for rural residential cluster developments currently exclude private developers, except those in the business of affordable housing. The public has brought this issue to DCD’s attention in 2020 because it limits who can develop this form of affordable housing. All affordable

housing developers must provide assurance of affordability. During the *Plan* update, the County Council adopted Goal 7, Policy 4 in the housing element, which states that the County may allow any nonprofit or private developer with a long-term stewardship plan to build cluster developments according to SJCC 18.60.230. Long-term and permanent affordability requirements are listed in SJCC 18.60.260(D) and (E). The Project Site and Unit Ownership standards in SJCC 18.60.230(2)(a) should be amended before the *Plan* update goes into effect.

### 3. Clarify square footage limitations

In docket request 20-0002, Homes for Islanders also requested that the Rural Residential Cluster Development regulations be amended to increase the allowable square footage per unit to 1,750 square feet to accommodate larger families. The current regulations state:

“The total enclosed floor area of structures including dwelling units and accessory structures shall not exceed 1,500 square feet per dwelling unit.”

It is unclear about whether size limitations apply per unit or if they are calculated as a mean across the entire development. On October 16, 2020, the Planning Commission recommended “that the average square footage of units be limited to 1,500 square feet on average with the maximum size of any individual units limited to 2000 square feet” (Attachment A). The Planning Commission recommendation allows for some larger individual units without increasing the overall square footage allowance across the development. The recommendation also clarifies the code by clearly stating that 1,500 square feet is calculated as an average.

This proposed change in square footage requirements is not related to the *Plan* update (there is no policy requiring this change); however, the change is part of the amendments to SJCC 18.60.230 discussed in 2020-2021. It should be addressed at this time because SJCC 18.60.230 is being considered for amendment.

#### **Plan Text:**

##### **Element 5, Goal 7, Policy 4**

4. Allow nonprofits and private developers to develop small-scale rural residential clusters with long-term affordability restrictions and no more than twelve dwelling units each, within rural residential, rural farm forest, and Village, Hamlet and Residential Activity Centers. The Developer must have a long-term stewardship plan, other than the County, for monitoring resales.

#### **Code Amendments:**

##### 2. Project Site and Unit Ownership.

a. The project site shall consist of the entirety of one or more legal lots of record, and shall be in a single ownership ~~by a public agency, or by a business or nonprofit corporation in the business of providing affordable housing.~~ Any portion of the site not sold for affordable housing shall remain in such ownership as part of the rural residential cluster development for the duration of the use.

##### 3. Affordable Housing.

a. All residential units within a rural residential cluster must be affordable housing meeting the standards of SJCC 18.60.260.

b. Prior to issuance of any building permit for the project, the applicant shall grant a restrictive use easement for the site to San Juan County for the purpose of affordable housing development, subject to such conditions and limitations as the County may require.

c. The applicant shall submit a long-term stewardship plan for monitoring resales subject to approval by the director.

5. Maximum Allowable Residential Density and Number of Dwelling Units.

a. A rural residential cluster development shall not be subject to the density requirements of the land use district in which it is located, except for such requirements in which rural residential development is regulated by name.

b. A rural residential cluster development shall have a maximum density of two units per acre and a maximum of ~~eight~~ twelve dwelling units.

6. Allowed and Accessory Uses, and Accessory Structures. Only residential uses are allowed except as provided below. Accessory residential units are prohibited. Accessory uses shall be limited to those appropriate and necessary to residential and agricultural use, including the following:

a. Agricultural buildings for housing of animals, storage of agricultural equipment or products, maintenance of equipment used on the site, or processing of agricultural products grown on the site, if otherwise permitted in the district in which the project is located;

b. Structures for the on-site sale of products grown or manufactured on the site, not to exceed 500 square feet of floor area, if otherwise permitted in the district in which the project is located;

c. Common kitchen, meeting or recreation spaces for residents and their guests;

d. Offices for a nonprofit housing provider owning or operating the project, not to exceed 500 square feet of floor area.

The ~~total~~ mean enclosed floor area of structures including dwelling units and accessory structures shall not exceed 1,500 square feet per dwelling unit. No dwelling unit and its accessory structures shall exceed 2,000 square feet.

## **AFFORDABLE HOUSING DEFINITION**

Through the 2020 Annual Docket process, the County Council directed staff to ensure consistency between the definitions of affordable housing in various parts of the development code and *Plan*. During the *Plan* update, a policy was added to define affordable housing consistently with the definition in SJCC Chapter 2.27 Affordable Housing Program. In the UDC, the definition of affordable housing should be amended to match Chapter 2.27 and the *Plan*.

**Plan Text:**

**Element 5, Goal 7, Policy 5**

Ensure consistency between the County’s definitions of affordable housing by considering housing costs for renters to include rent and utilities, or, for owners, to include the principal and interest on the mortgage plus property taxes and insurance (PITI).

**Code Amendment:**

**18.20.010**

“Affordable housing” means housing where the occupants pay no more than 30 percent of gross ~~monthly household income for total housing costs, including the cost of property taxes and insurance for homeowners and monthly utilities for owners and renters~~ on housing costs. Housing costs for renters are considered to include rent and utilities, or, for owners, to include the principal and interest on the mortgage plus property taxes and insurance (PITI). Utility costs include water, sewage disposal, electricity and/or gas for lighting, heating and cooking.

**18.60.260(B)**

B. Affordable housing is housing where the occupants pay no more than 30 percent of gross ~~monthly household income for total housing costs, including the cost of property taxes and insurance for homeowners and monthly utilities, excluding telephone, for owners and renters~~ on housing costs. Housing costs for renters are considered to include rent and utilities, or, for owners, to include the principal and interest on the mortgage plus property taxes and insurance (PITI). Utility costs include water, sewage disposal, electricity and/or gas for lighting, heating and cooking. Except where further specified in the Comprehensive Plan and this code, “affordable housing” refers to such housing serving as the primary residence for very low-, low-, moderate- **AND MIDDLE**-income households. The definition of income groups by household size shall be as most recently defined by the U.S. Department of Housing and Urban Development for San Juan County.

**EXISTING SCHOOLS IN RURAL LANDS (Planning Commission made no changes)**

Shaw Island School District requested to re-designate TPN 263322001000, a 0.99-acre parcel, from Natural (N) to a rural designation where “School, primary or secondary” is an allowed use. The Shaw Island school house was constructed in 1890. San Juan County Code (SJCC) 18.30.040 prohibits the institutional use “school, primary or secondary” in the N designation. As a result, the Shaw Island school is a nonconforming use and there are limitations to how the school can adapt to future circumstances.

Rather than changing the land use designation of this parcel, the County Council decided to make historic schools allowed outright in the N land use designation. The same change could be made to SJCC 18.30.040 for RFF to make the Waldron and Stuart island schools allowed outright. This change would reduce the regulatory requirements for these important public facilities and would allow them to make changes to the existing structures as each school as they adapt to future circumstances. In this way, the code would not hinder the provision of vital educational services for the Shaw, Stuart, and Waldron communities. These three schoolhouses are also important components of the built environment on their respective islands. Existing historic schools should be allowed outright in rural designations because of the important service they provide and the historic nature of the structures. Limiting the kind of schools allowed in these designations to only those existing before the amendment is adopted will prevent other new schools from locating in these designations without putting regulatory barriers in place for potential changes to the existing schools in the future.

**Plan:** no policy amendment. This change results from the Council’s decision regarding land use review request 19-0005.

**Code Amendment:**

Table 18.30.040 Allowable and Prohibited Uses in Rural, Resource, and Special Land Use Designations (Excerpt)

Land Use	RGU	RR	RFF	RI	RC	AG	FOR	C	N
School, primary and secondary	C	N	N	N	C	N	N	N	N
<u>Existing School, primary and secondary</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>

**NEXT STEPS**

DCD is requesting that the County Council set a public hearing to hear testimony and adopt an ordinance amending the UDC to align with the Comprehensive Plan Update. The proposed hearing date is XX, 2023. It is important that the hearing occur prior to the Comprehensive Plan effective date, April 1, 2023.

Table 1, below shows the tentative timeline for this code amendment process.

**Table 1. Tentative Calendar for Code Updates Resulting from the 2036 Comp Plan Update**

Step	Date (2023)
County Council Briefing on Planning Commission recommendation	February 28
County Council public hearing	March 14
Comprehensive Plan update effective date	April 1