



San Juan County

# COMMUNITY DEVELOPMENT & PLANNING

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## STAFF REPORT

<b>DATE:</b>	<b>29 July, 2014</b>	<b>TO:</b>	<b>San Juan County Planning Commission</b>
<b>FROM:</b>	<b>Colin Maycock, AICP, Planner IV</b>	<b>THROUGH:</b>	<b>Sam Gibboney, Director, Community Development &amp; Planning</b>
<b>FOR:</b>	<b>Public Hearing,</b>	<b>HEARING DATE:</b>	<b>August 15, 2014</b>

**ISSUE:** San Juan County Code Chapter 16.55 contains the Eastsound Subarea Plan (EASP). This chapter includes both aspirational goals and policies as well as the regulations designed to implement them.

Staff was originally directed to split the aspirational goals and policies from the practical implementation regulations in the Eastsound Subarea Plan.

In conjunction with the Eastsound Planning Review Committee (EPRC), staff has reorganized and streamlined both the plan and the regulations. During the process of reorganization issues were.

While changing the format of the plan and regulations is the most significant change to the ESAP there are other amendments that address issues identified by the EPRC, the public and staff as creating unnecessary difficulties in the plan’s execution. The most pertinent proposals are listed below:

- i. The creation of land use tables reduces the number and variety of Conditional Use Permits (CUPs) while the development standard tables help to ensure consistent interpretation of regulations;
- ii. The prohibition on off- site A-Frame signs has been lifted;
- iii. Appropriate sites and standards for Kiosks and vending trucks have been designated;
- iv. The parameters controlling retail in SLI have been clarified;
- v. Four amendments to the land use map are being proposed;
- vi. The role of the Eastsound Design Committee has been clarified;
- vii. Artisan activities have been identified and permitted in Village Commercial.

Although the scope of the project was limited and the draft documents do not represent a comprehensive update of the Eastsound Subarea plan, the proposed amendments are considered new text.

### BACKGROUND:

The Eastsound Subarea Plan was originally adopted by Ordinance 225-1981 and then amended by Ordinances 43-1986; 62-1992; 12-1994; 4+5-1996; 13+14-2000; 4-2002; 21-2002; 2-2003; 13-2005; 52-2008 and 14-2010.

During monthly public meetings, the Eastsound Planning Review Committee (EPRC) has been working with County staff to update the existing Eastsound Subarea Plan. The current Eastsound Subarea Plan was developed and written in a style that combined both aspirational statements such as goals and policies with the regulations to implement the aforementioned goals.

One of the more unusual stylistic quirks of the Eastsound Subarea Plan is the absence of a land use table setting forth the allowed and prohibited uses in each district by type. The ESAP identifies allowed and prohibited uses and their respective permit requirements by listing groups of allowed and prohibited uses. Any use that is not expressly prohibited may be allowed with a Conditional Use Permit (CUP). Allowed uses must meet the development standards of the land use district, such as height limitations, front, side and rear setbacks, open space and lot coverage.

Although originally conceived as a strategic move to split the goals and policy plan elements from the implementing regulations, the scope has expanded throughout the process to include a variety of regulatory and amendments.

The administration of the ESAP has, on occasion, been challenging and oversights in implementation have occurred.

To complicate application and interpretation of the current code, terminology is deployed inconsistently both within the subarea plan and between subarea plan and the Unified Development Code. Some allowed uses are subject to additional restrictions or different permitting procedures depending on the size of the structures or location within a district.

The current plan also contains regulations whose purposes are not consistent with the broad objectives of the plan or the specific purposes of the respective land use district.

The Planning Commission reviewed the draft update documents on June 20, 2014 at a public workshop held in the Eastsound Fire Station. Issues identified by the public and Planning Commission as part of the workshop were subsequently discussed and addressed at the regularly scheduled EPRC meeting on July 3<sup>rd</sup>, 2014.

#### **ANALYSIS:**

The update is mainly a significant reorganization of the existing regulations into a more accessible format rather than substantive regulatory changes. As the documents are expected to be adopted as new language rather than amendments to the existing plan, the update has not been prepared in an underline strike out format. The following outlines the substantive changes:

##### **1. Eastsound Subarea Plan, Draft #3 As Amended by EPRC, July 11, 2014**

Amendments to the Eastsound Subarea Plan, (ESAP) include:

- a. Identifying obsolete sub-plans such as the 1990s Transportation Plan map which displayed 'possible' but improbable future roads and labeled now existing pedestrian pathways as 'future footpath' such as the one that runs alongside the Swale.
- b. Changing the title of the Village Residential land use district to Village Residential/Institutional to convey the proliferation of institutional uses within the district.
- c. Eliminating the Village Commercial Limited land use district. Taking the different density Eastsound Residential districts as a single land use district, the Eastsound Subarea plan contains 9 official different land use districts and one unofficial one, Village Commercial Limited. This district is marked and labeled on the current map as a separate district. Yet it is only referred to and described in a subsection of the development standards for the Village Commercial district, Required Permits and Use Limitations, SJCC 16.55.210(D)(3), which states:

Automotive service, retail sales, laundries/laundromats, equipment rentals, restaurants, and post offices shall be prohibited within that portion of this district described as follows: between High School and Rose Streets and east of Pine Street, and all area east of Madrona Street.

This paragraph prohibits uses that are clearly marked as allowed in SJCC 16.55.210(B). At best this area could be described as an overlay but more correctly as a separate land use district. As such it should have a clear purpose and development standards pertinent to it.

**After some discussion, the EPRC and staff propose removing the Commercial Limited district.**

- d. The identification of a specific parcel owned by the County as the site for a possible 'transportation hub.' The 'transportation hub' concept refers directly to the fact that the parcel in question was purchased with road funds and must be, under RCW 36.82.070, used for transportation related purposes. The description of the Eastsound 'transportation hub' is far ranging and may include community gardens, public art, picnic tables and bike racks along with rideshare and shuttle stops. While the title indicates a conventional space for a shuttle bus stop and bike racks, it's clear the moniker is strategic rather than descriptive. The idea is that by using the term 'transportation hub' in the plan, the county may be eligible for state or federal grants to implement the local vision.
- e. Four land use district amendments are being proposed, only two of which are recommended by the EPRC. The proposed land use district changes are:

- i. From Village Residential to Village Commercial; Exhibit 1.

The proposal will change the land use district on 8 parcels. These are located on the north-west side of Main Street between the Landmark Inn and the Washington Mutual Bank at the corner of Main Street and Lover's Lane. The amendment will change their current designation of Village Residential to Village Commercial. There are only two parcels with development potential. Of the 8 parcels, 3 provide for transient rentals, two provide parking, 2 are vacant and one houses the Washington Federal Savings bank.

Any future development will be required to meet the parking and development standards that apply to Village Commercial. If approved the proposed land use designation does include a change in the residential density from 4-12 units in Village Residential to a minimum of 4 to 40 units per acre in Village Commercial.

The proposal will extend the existing Village Commercial already prevalent on the northern side of Main Street and extend the district to an organic transition point at the intersection of Main Street and Lover's Lane.

**The EPRC recommends approving the land use change Exhibit 1.**

- ii. From Village Residential to Eastsound Residential; Exhibit 2.

SJCC 16.55.220 (A)(1) states the purpose of the village residential district is;

'To provide area *adjoining* the village for a mix of single and multiple-family residential uses of moderately high density. (Emphasis added).

SJCC 16.55.045 defines the word village as "the area of Eastsound designated on the official Eastsound Plan map as within the village commercial district."

The area consists of 41 lots, 5 of which appear to be vacant.

The area in question does not meet the purpose set forth above. It is not adjacent to the village commercial district. The proposed zoning change will bring the area into conformance with the surrounding Eastsound Residential districts, whose primary purpose is "To provide for a mix of residential densities in areas already in residential use," SJCC 16.55.240(A)(1).

**The EPRC recommends approving the land use district change shown in Exhibit 2.**

- iii. Correcting a split zoned parcels at the north-west corner of Mount Baker Road and North Beach Road; Exhibit 3.

SJCC 18.10.040(C)(1) states, in part;

Land use designation boundaries, unless otherwise indicated by natural land forms, shall follow lot lines or the centerline of streets and alleys as shown on official maps.

TPN 271143016 is an 8.5 acre, level lot, bordered by roads on 3 sides, Mount Baker to the south, North Beach to the east and Schoen Lane to the west. This parcel is the site of an off-leash dog park and small picnic area.

TPN 271143015 is a 6.8 acre lot abutting TPN 271143016 on its northern edge. This lot is the site of a single family residence including appurtenant structures.

More than two thirds of each lot is zoned Service Light Industrial (SLI) and with an eastern portion designated as Eastsound Residential.

While the lots in question are split zoned, there is no obvious reason the County departed from land use designation standards set forth in the County Code. The lots do not present any natural feature that would provide obvious zoning boundaries.

As early as 2006, County staff recognized that this split zoned parcel was inconsistent with County code and suggested its correction be treated as a mapping error. Split zoned parcels reduce development predictability, an important consideration when purchasing or seeking to develop property. The owner's development uncertainty is compounded by the fact that zoning maps are not detailed enough to be interpreted at a sub-parcel level which then means property owners are required to pay for additional surveys to determine the regulatory boundaries.

The need for a clear boundary between districts is heightened where the allowed uses of two very different districts abut one another. As the parcels abuts the airport and are adjacent to the runway, they are not ideally located for dense residential development. The Port District's current plans for their property encompass a variety of airport related uses such as a new terminal and parking lot.

The apparent mapping error has not been rectified. This update is an opportunity to correct the apparent mistake by eliminating the residential zoning on a portion of the eastern sector of the parcel.

**The EPRC did not consider the elimination of the split zoning on TPN271143015. Indeed, Staff only noticed the split zone on this parcel when reviewing the proposed elimination of the split zone on its neighboring parcel.**

**The EPRC heard testimony and considered the proposal to designate the entirety of TPN 271143016 SLI. The EPRC voted unanimously against this designation change. The group expressed concerns that development incompatible with nearby institutional uses would result.**

**Staff recommends approving the land use district amendment proposed in Exhibit 3.**

- iv. Correcting a split zoned 30 acre parcel, TPN 271223009, eliminating the Eastsound Residential portion making the entire parcel Eastsound Rural; Exhibit 4.

As part of the map review process, staff came across this split zoned parcel. As the original intent of the update was narrow, there was no attempt to locate split zoned parcels beyond those adjacent to the Mount Baker Road and North Beach Road intersection. Once this split zoned parcel was identified, a decision was made to include the correction as part of the process.

There is no obvious natural feature that marks an organic boundary between the rural and residential zones on this parcel. The parcel appears to be undeveloped. Removing the residential zoning will not alter the 1 unit per five acre density that is common to Eastsound Rural and the Eastsound Residential one per five zone.

**The EPRC did not review or discuss this proposal due to the recent discovery of the split zoned parcel.**

**Staff recommends approval of the change depicted in Exhibit 4.**

## **2. The Eastsound Subarea Plan Regulations, Draft #3 As Amended By EPRC July 11, 2014**

- A. The most significant change to the regulations that will be codified in the Unified Development Code (UDC) is the addition of land use tables. The current plan is unique in the County in that each land use district contains a list of allowed and prohibited uses and any uses not explicitly identified as prohibited in the district may be allowed as a CUP. This provision is repeated throughout the plan and expands the range of options without providing guidance as to how it may be applied which increases the uncertainty for applicants, as applicants will not be able to determine if their project is allowed (and if so under what constraints) until after a public hearing and the Hearing Examiner issues a decision.

Staff began by creating land use tables based on categories and uses set forth in SJCC 18.30.030, showing what was allowed and prohibited in each of the districts with uses that would be considered CUPs left blank. The EPRC considered the currently allowed and prohibited uses and discussed the permit levels appropriate to each. The goal was to increase predictability for development options within Eastsound.

The County currently considers 4 permit options:

- i. Yes: Allowed outright (i.e. without a project permit) subject to development standards and if a building permit is required a consistency review will be carried out;
- ii. Provisional: Project permit required and subject to development standards and performance and use specific standards in the UDC;
- iii. P/C: An administrative review process to determine whether a provisional or conditional permit would be most appropriate for the project;
- iv. Conditional (CUP): Subject to public notice and public hearing.

- B. Each of the different land use districts has a proposed table containing its specific development standards such as front and rear yard setbacks which, with the exception of building height<sup>1</sup> haven't been altered from those in the ESAP.
- C. As discussed at the Planning Commission Workshop on June 20, 2014, staff has included notations in the draft showing which of the districts contain areas also subject to the Airport Overlay .

### 3. Provisions for retail in the Service Light Industrial (SLI) district

The provisions for constraining retail activities in SLI were the subject of a spirited debate within the community and the EPRC. The debate focused on concerns arising from maintaining the 'walkability' of the Eastsound Village Commercial district and the possibility of businesses in SLI pulling attention away from the village's southern waterfront. The other side of the discussion emphasized the need to provide a wider array of opportunities to the community's entrepreneurs.

In the ESAP, retail is allowed in SLI as "Retail with substantial storage space or incidental to another allowable use." In the past, issues have arisen concerning the interpretation of term 'incidental,' and whether a clear line can be developed to distinguish between what is incidental and subordinate to the primary allowed use and what is not. (e.g. If a 'home depot' type of retail is an allowed use as retail with substantial storage, can the store also include a hot case for breakfast sandwiches for the crews that come by in the morning to pick up the construction materials?)

The primary purpose of the SLI is:

'To accommodate commercial services and light industrial or construction related activities as well as accessory office and retail uses which are an integral and necessary part of those uses. Such uses are not appropriate within the Village Commercial District but are necessary and important components of the local economy.'

The draft plan amends this purpose to read;

"To accommodate commercial services and light industrial or construction related activities as well as accessory office and retail sales related to such services and activities which may not be appropriate with the Village Commercial District."

While the term 'incidental' was defined as 'subordinate and minor in significance' the replacement term, 'related' doesn't allow the reviewer to make a value determination that the use is subordinate, merely 'connected logically, causally or by shared characteristics.' This change would help to alleviate concerns arising from the sandwich example above sandwiches being connected to the primary business logically by serving the needs of building contractors. The implementation regulations make the relationship clearer by stating that retail sales are allowed provided one of the following conditions is met:

- i. Retail sales are related to one or more allowable uses;
- ii. Retail sales are part of a business that requires substantial storage; or
- iii. Products sold are manufactured at the same facility.

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<sup>1</sup> Proposed to change from 32 feet to 35 feet which is consistent with the rural land use districts of the County, see Table 6.2, SJCC 18.60.050)

4. As requested during the PC workshop indicators have been added where appropriate to draw attention to areas that may fall within the Airport Overlay and where the Cottage Industry and Home Occupation provisions may allow a given activity even if they are prohibited by the land use table.

#### 5. 'A' Frame Signs

One of the issues that highlighted the need to update the ESAP was the proliferation of offsite 'A-Frame' signs advertising businesses and activities. Off-site signs are expressly forbidden by the ESAP to protect the visual environment. Local businesses and non-profit organizations however, need to inform the public of their availability, activities or specific events and some small signs have become ubiquitous. Lacking staff to consistently enforce the prohibition on off-site signs, the proposal provides three locations for off-site signs to be placed in the public right of way. The chosen locations offer both high visibility and high traffic. It has been clarified that signs will only be allowed in the public Right of Way on the west side of the intersection of Lover's Lane and Main Street.

#### 6. Eastsound Design Review Committee

The proposal clarifies the role, make up and activities of the Eastsound Design Review Committee, the draft plan states that projects seeking a variance should approach the committee early in the process and requires the Committee to issue its decisions and reasons in writing.

#### 7. Artisan Activities

The idea of designating a class and intensity of manufacturing activity as artisanal arose from enquiries and permit requests for projects that would be ideally suited to the Village Commercial area but included manufacturing facets prohibited in the district. As the title implies, the goal is to provide opportunities to pursue traditional commercial manufacturing activities on a scale that limits the potential negative offsite impacts on neighbors.

Following the development standards that constrain and define Cottage Industry uses in the County, the proposal allows for Artisan Activities in the Village Commercial district.

#### 8. Miscellaneous Issues:

The ESAP contains a wide variety of regulatory artifacts that can only be described as anomalies the proposed update attempts to address. These issues include:

- i. The activities and uses the UDC currently defines as Cottage Enterprises and Home Occupations have a tense relationship with other categories of land uses, primarily because the code deploys the terms as land uses while the terms actually describe an intensity of development and use rather than a specific activity. The upshot is that a use that is specifically prohibited in a land use district, (e.g. Offices in Eastsound Residential) are simultaneously allowed under the banner of a home occupation. On this point, a note has been placed in each land use districts development standards table to draw people's attention to this regulatory feature.
- ii. The ESAP contains provisions for the development of a public parking plan and creates a parking fund to accept financial contributions in lieu of the parking spaces required for specific projects within Eastsound. SJCC 16.55.300(C)(4) states the purpose of the fund is to "acquire, develop, maintain, and manage public parking areas within the Eastsound Subarea Plan boundaries."

In addition to the language specifically authorizing the creation of a public parking fund, the subarea plan contains a goal of developing a public parking plan that will provide "sufficient

off-street parking to mitigate the need for on-street parking,” and requires the Council appointment of a Eastsound parking committee that reports to the Eastsound Plan Review Committee about the “operations and management of the Eastsound Parking Improvement Fund.”

The provision that creates the parking fund identifies the Public Works as the funds administrator while the Auditor’s Office is to be responsible for “all financial transactions.”

Furthermore the code contains provisions for prospective business owners to purchase credits before submitting permits.

Both Public Works and the Auditor’s Office report that there is no fund in place, no contributions have ever been received, no Eastsound parking committee has been appointed, no land has been leased or acquired and there is no Eastsound public parking plan to ‘mitigate’ the need for off street parking.

The ESAP sets a base fee of \$5,000 per parking space; however, there is nothing in the code or in the adopting Ordinance 4-1996 that describes how the fee scale was determined. In the absence of supporting documentation, the County will need to carry out new studies in order to identify the most appropriate and defensible fee schedule.

There are other referential inconsistencies which cloud logistic, geographic and financial details;

- SJCC 16.55.110(F)(2)(a)(i-iv) refers a to public parking plan for the Village Commercial zone;
- SJCC 16.55.130(A)(7) refers solely to a “public parking plan that will provide for adequate off-street parking;”
- SJCC 16.55.130(E) ‘Parking policies’ calls for the creation of a “public parking authority...to provide for the creation, management, and maintenance of such parking areas...The public parking plan will provide for concepts such as payment of a fee, gifts or dedications of land and the grant of visual and physical waterfront access...in lieu of providing off street parking;”
- SJCC 16.55.300(C) is titled “Off-Street Parking- Village Commercial Requirements and identifies the subject area as the Village commercial district but also states in SJCC 16.55.300(C)(4), that the entirety of the “Eastsound Subarea Plan boundaries,” is the effective area;
- SJCC 16.55.300(C)(4)(d) states contrarily the “fund shall be used exclusively for the planning, acquisition, design, development, financing, construction, repair, and maintenance of public parking areas in the Village Commercial district;”
- SJCC 16.55.300(C)(4) refers to both an Eastsound Village Parking Fund and an Eastsound Parking Improvement Fund.

All references to the parking plan, potential locations and funding mechanism have been removed in the draft plan.

- iii. The ESAP allows for the development of a neighborhood grocery or convenience store with no more than 3,000 square feet of floor space for any single structure within the Marina land use district. The regulation, SJCC 16.55.270(D)(4), which allows the development of the retail use continues, “Vehicular and pedestrian access to retail uses from North Beach Road shall be prohibited for uses with frontage on this road.” The regulation is clearly inconsistent with the purposes of the Marina district, (SJCC 16.55.270(A)(3);



“To allow commercial uses in this area which are compatible with the Shoreline Master Program as applied to the north shore, including the man-made marina shoreline, and which are related to the recreational nature of the existing development).

**Staff and the EPRC recommend deleting this section.**

- iv. The ESAP contains a number of provisions that tie the type of permit required for a project to the size of the proposed structure. Each land use district’s development standards include regulations limiting lot coverage, open space, storm-water controls, parking requirements, noise, light and use limitations.

As the lot coverage and open space standards are based on percentages, the parking requirements based on use and floor space and the use limitations are based on community preferences and broad compatibility, it’s not clear what constraints or requirements could be brought to bear that are related to the floor area of a specific allowed use.

For example, despite having the express purpose of providing, “a service center at the eastern edge of Eastsound...” with allowed uses including equipment rental, offices, and animal hospitals; a maximum lot coverage of 25 percent and an open space requirement of 40 percent; developments whose gross use area including parking as well as enclosed floor space exceeds 10,000 square feet requires a Conditional Use permit.

Given the location of the land use district, its purposes and allowed uses, it is difficult to conceive of conditions, tied to the size of the project that wouldn’t otherwise be addressed as part of the general development standards. Furthermore, given that the uses are allowed outright at one size, it’s difficult to determine what guidelines staff might use for developing or recommending conditions on project applications.

**In the absence of a compelling reason to retain the sliding scale of permit requirements, staff and the EPRC recommend removing them throughout.**

- v. Many of the proposed amendments include increasing the consistency in the use of specific terms. For example, one method of maintaining the appearance of the subarea, is to require that all development retain a portion in an undisturbed state. In the ESAP this is referred to as ‘Open Space.’ Identifying the methodology to use to meet the open space requirement can, using the ESAP, be difficult. In Eastsound Residential and Village Residential, open space requirements are determined as a percentage of ‘total site area;’ in Service Light Industrial, the ‘minimum required open space shall be five percent’ however the plan does not identify 5 percent of what; in contrast, open space is measured as percentage of the ‘site area’ in Service Park, Marina and Village Commercial. Finally, in Eastsound Rural all development is to be ‘designed, constructed and maintained in as manner to ensure as much undisturbed land, trees and natural vegetation and open space as practicable...’; while the Airport district has no open space requirement at all. Where appropriate, the terms ‘site area’ and ‘total site area’ have been replaced with the term ‘lot’.

**9. Kiosk development standards**

The draft plan contains development standards for kiosks, although with some minor amendments, could be used as general rules for non-farm stand, temporary structures throughout the County. The basic idea proposed here is that kiosks should be considered accessory to the primary structure and use, should meet the design standards, and may not impinge upon existing parking. Following the workshop on June 20<sup>th</sup>, 2014, the EPRC recommended allowing Vending trailers in following districts; Village Commercial, Marina,

Country Corner Commercial and Airport use. With the exception of Country Corner Commercial the EPRC recommended allowing Kiosks in the same districts.