ISSUE: The current code does not distinguish between ‘site specific’ and ‘legislative’ amendments to the Comprehensive Plan Official Map. The failure to delineate the different types of Comprehensive Plan Official Map amendments obscures the standards and criteria that apply to each. Consequently, implicit in the current regulations are requirements to develop parcel reports for the entire county and to mail notices to all landowners in the County for every proposed legislative map amendment.

RECOMMENDATIONS: Approval of proposed text amendments to the Unified Development Code identifying site specific and legislative Comprehensive Plan Official Map amendments and the procedures and notice requirements appropriate for both.

RECOMMENDED MOTION: Move to recommend approval of the ordinance titled “AN ORDINANCE REGARDING LEGISLATIVE AND SITE SPECIFIC AMENDMENTS TO COMPREHENSIVE PLAN OFFICIAL MAP, AMENDING SAN JUAN COUNTY CODE CHAPTER 18.90 (TITLE) AND SECTIONS 18.30.020, 18.30.250, 18.30.310, 18.80.100, 18.90.010, 18.90.020, 18.90.25, 18.90.030, 18.90.050 and 18.90.060,” (as amended).

POLICY DECISIONS: Whether distinct types of map amendments should entail distinct administrative procedures.

BACKGROUND: Chapter 18.90 identifies the legislative actions of the County and sets forth the appropriate procedures for carrying them out. These amendments include; changes to the Unified Development Code, changes to the Comprehensive Plan Official Map and the adoption of new or amended elements or appendices of the Comprehensive Plan including subarea or activity center plan adoption or amendments.

SJCC Ordinances 6-2011 and 32-2010 updated and simplified the procedures for amending planning documents, regulations and planning maps.
Ordinance 6-2011 eliminated the terms ‘area wide reclassification of land use districts’ and ‘site specific land use redesignations and density changes’ in favor of the single ‘Comprehensive Plan Official Map amendments.’

SJCC 18.90.010(A)(2) identifies Comprehensive Plan Official Map amendments as a legislative decision.

SJCC 18.90.020 (A) states that all proposed amendments to the UDC, the Comprehensive Plan Official Maps and the Comprehensive Plan itself are subject to the procedures established in the Washington Planning Enabling Act (RCW 36.70); The Growth Management Act (RCW 36.70A) (GMA); RCW 36.32.120 (Powers of legislative authorities); the County Charter; and the County Code.

Subsections B, C and D set forth the roles and tasks of the Department (to evaluate all requests to modify code and comprehensive plan and forward recommendations to the Planning Commission); the Planning Commission (to hold public hearings and make recommendations to the Council); the County Council (to hold public hearings and take action on all amendments to the UDC, the Comprehensive Plan and Comprehensive Plan Official Maps) respectively.

Subsection E requires that the public notice for legislative actions must meet ‘applicable law’ (RCW 36.70.390; RCW36.70A.035(1)(GMA) and Washington Administrative Code 365-196-600. This section also directs the Department to maintain and publish a list of proposed UDC and Comprehensive Plan amendments currently under consideration.

SJCC 18.90.030 addresses the procedural requirements for amending the Comprehensive Plan Official Map.

SJCC 18.90.030(A) provides the purpose of amendments to the Comprehensive Plan Official Maps.

SJCC 18.90.030(B) holds that amendments to the Comprehensive Plan Official Maps can be initiated by anyone or any group subject to the time limitations in SJCC 18.90.030(C). SJCC 18.90.030(C) states:

Requests for amendment of the official maps (redesignation or density change) shall only be submitted to the planning department between January 1st and March 1st of any year for consideration during the remainder of that year. Requests submitted after March 1st shall be returned to the applicant for resubmittal the following year. This limitation does not apply to requests by the County council.

SJCC 18.90.030(D) sets forth the procedural elements of an application for an amendment to the Comprehensive plan official maps.

SJCC 18.90.030(E) sets forth notice provisions for all Comprehensive Plan Official Map amendments including:

1. Mailed notices to all affected property owners and those within 300 feet of the outer boundary line 30 days prior to the Planning Commissions public hearing; and
2. Signs are to be placed on each parcel at least 30 days prior to the Planning Commissions public hearing for map amendments involving five or fewer parcels.

SJCC 18.90.030(F) sets forth the approval criteria for all proposed Comprehensive Plan Official Map amendments.

SJCC 18.90.030(G) draws attention to the appeals process.
UDC sections SJCC 18.30.020, 18.30.250, 18.30.310, 18.80.100 refer to "redesignations" and "site specific redesignations" as part of the Code or in specific locations such as Deer Harbor.

ANALYSIS:

1. Currently the term, ‘Comprehensive Plan Official Map amendment’ does not distinguish between those changes initiated by the County to serve the public interest by addressing an apparent need for new or different land use designations fostered by changing state requirements, changing circumstances, changing analytical paradigms, changing technology; changing demand patterns; correcting erroneous designations or simply the recognition of the need for additional land of a given land use district and those Comprehensive Plan Official Map amendments initiated by an individual, company or small group of land owners, in order to achieve a specific goal which, ideally, will advance the wider public’s interest or at least not actively harm it.

While the end result may be the same, amended land use maps, the motivations driving the different types of redesignations are distinct and have tangible impacts. The most pertinent is that the changes initiated by single landowners are usually focused on a single lot or very small group of properties and the impacts of the proposed changes are generally evaluated narrowly, while those amendments initiated by the County are usually focused on addressing area wide concerns and arguably impact the entire County.

The chapter, SJCC 18.90 is constructed as if there were a clear distinction to be drawn for site specific and legislative map amendments. As noted above, SJCC 18.90.030(A) and (B) detail what a Comprehensive Plan Official Map amendment is and who may initiate one; both of which apply to all map changes. SJCC 18.90.030(C) and (D) state that, with the exception of those initiated by the Council, requests for Comprehensive Plan Official Map amendments have a strict submission deadline and that each of the requests will contain parcel specific information for those to be considered and their neighboring properties as well.

The idea that the notice provisions in SJCC 18.90.030 (E) refer to site specific rather than legislative Comprehensive Plan Official Map amendments is the first line which states the additional notices are required alongside the standard legislative procedure which entails the publication of notice for a public hearing. The notice section follows logically from the provisions of (D) in the sense that (E) focuses on map amendment proposals that are limited in scope and are derived from the application procedure. The site specific nature of the notice procedures are indexed by the focus on projects with an “outer boundary line;” or involving “five parcels or fewer.”

The lack of a distinction between the site specific and legislative Comprehensive Plan Official amendments implies the procedures set out in SJCC 18.90.030 (D),(E)and (F) must be used for both.

There are approximately 17,087 parcels in the county. At least one school of thought suggests legislative actions impact the entire county. That is to say, the change of regulations pertinent to development in Deer Harbor has an impact, however negligible, on residents of Lopez. If legislative actions by the County Council are considered within this far reaching concept then the imminent Comprehensive Plan update may face insurmountable process obstacles. At the least, the County would be required to the compile 17,087 individual parcel reports and applications coupled with mass mailings to every property owner in the County 30 days prior to the Planning Commission hearing for each legislative action that involved the redesignation of county territory.
The proposed amendments reestablish the distinction between legislative Comprehensive Plan Official Map amendments and the more localized site specific Comprehensive Plan Official Map changes. The proposed changes clarify which procedures apply to which type of Comprehensive Plan Official Map amendment, so that site specific amendments must be accompanied by an application while legislative changes do not require one and so on.

2. Legislative actions are judged by different standards than quasi-judicial actions. Legislative actions, even when limited to relatively small areas, are not subject to the appearance of fairness doctrine and the restriction of ex-parte communications as the entire jurisdiction is effected by the action. Quasi-judicial actions are those that affect a specific landowner or specific group of landowners that are subject to the appearance of fairness doctrine and in which the decision makers take testimony, weigh evidence and render a decision. In other words, behave in a manner that is similar to that of a court. (See RCW 42.36.010).

3. The amendments to SJCC 18.30.020, 18.30.250, 18.30.310 are to correct the obsolete references to ‘redesignations.’

4. Following public comment and internal discussion, staff is proposing an amendment to the original draft ordinance to introduce a subsection in SJCC 18.90.020 Legislative Procedures that includes criteria for the approval of legislative Comprehensive Plan Official Map amendments. With the exception of (d), these criteria are the same as those that apply to site specific Comprehensive Plan Official Map amendments in SJCC 18.90.030 (D)(1)(a-e). The provision ensuring an enclave of properties or owners that enjoy special privileges is not created by the change is only appropriately applied to site specific map amendments. Area wide or county wide map changes will designate different areas with different standards, which could be described as an enclave.

Including this section provides standards proposed Comprehensive Plan Official Map amendments must meet in order to be approved.

5. Please be aware that what appears to be a typographic error at SJCC 18.90.030(C) is addressed in the instructions to the codifier who will move (C) in its entirety to become a new (E), see Section 13 in the draft ordinance.

ATTACHMENTS:

RCW 42.36.010
Draft Ordinance
RCW 42.36.010

Local land use decisions.

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.