STAFF REPORT

DATE: 4/7/2014  HEARING DATE: 4/18/2014
FROM: Lee McEnery
TO: Planning Commission
FILE: PREDES-14-0001, Thurman re-designation of 2 parcels from Forest Resource 20 to Rural Farm Forest 5

RECOMMENDATION: Denial

PROPOSAL: Re-designate the upland portions of 2 parcels from “Forest Resource 20” to “Rural Farm Forest 5.” Parcel 260643002 is 27.7 acres and parcel 260711002 is 2.4 acres. The existing shoreline designation of both parcels is Rural Farm Forest.

APPLICABLE REGULATIONS

SJCC 18.90.020 Legislative procedures.
A. Procedures. All proposed amendments to this code and proposed amendments to the official maps and/or Comprehensive Plan shall be handled according to the procedures established in Chapters 36.70 and 36.70A RCW, RCW 36.32.120, the County Charter, and the County code. This process will ensure formal public notice and public hearings, evaluation, and recommendations from the planning department’s professional, technical perspective and from the planning commission’s knowledgeable lay perspective. Final action is reserved for the County council. This procedure is being followed.

B. Planning Department. The department shall evaluate all requests to modify this code and forward recommendations to the planning commission and County council for consideration. This report is the evaluation and recommendation.

C. Planning Commission. The Planning Commission shall hold a public hearing and make recommendations to the County council on all legislative decisions specified in this section. The Planning Commission hearing is set for 4/18/14.

D. County Council. All amendments to the development code, Comprehensive Plan, and official maps require a public hearing before the County council. The proposal will go to Council after Planning Commission.

E. Public Notice. Notice of all public hearings will be given in conformance with applicable law. The department shall maintain a printed list of proposed development code and Comprehensive Plan amendments, and shall include a copy of the list on its web site. A single e-mail list shall be maintained by the department. All those requesting the service shall receive all department notices digitally. Notice
of the Planning Commission hearing was published and e-mailed and a list of pending actions is maintained on the website.

F. Implementation. The County council decision shall become effective no sooner than 10 working days after passage of an ordinance except in the case of an emergency. An ordinance acting on this request would follow this requirement.

G. Comprehensive Plan Amendments. Amendments to the Comprehensive Plan text and official maps may not be considered more frequently than once per year except as provided in RCW 36.70A.130(2) and the Comprehensive Plan. This map amendment is the only one received this year and will be included in the once per year docket.

H. Unified Development Code (UDC) Amendment. Amendments to the UDC may be adopted at any time. This is not a UDC amendment.

SJCC 18.90.025 Public participation.
A. Public input on planning issues, including proposed amendments to the code and Comprehensive Plan (including the official maps) shall be actively sought and encouraged by the County council, the planning commission and the department. Public notice invited comments though none were received prior to issuance of this report. Public Works commented that a Right of Way permit should be obtained.

B. In order to encourage early and continuous public participation in the amendment process, the County shall post quarterly updates, in table form, of all proposed Comprehensive Plan and UDC amendments under review at that time. The update table will be posted on the department’s webpage. This proposal is not a text amendment, though notice was published and the action is included in the table posted on the website.

A. Purpose of Amendments to Comprehensive Plan Official Maps. Amendments to the Comprehensive Plan Official Maps are the mechanism by which the Comprehensive Plan land use district designation or density applicable to property can be changed to reflect such things as changed circumstances, new land use needs, new land use policies, or inconsistencies between designations, area characteristics and the goals and policies as well as purpose and intent of the Comprehensive Plan. This is addressed in a section below.

B. Who May Initiate. The County council, planning commission, department, or any other interested party may propose an amendment to this code or the Comprehensive Plan and the official maps at any time subject to the requirements of this section. The applicant initiated this amendment request.

C. Time Limitations. 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. The request was submitted 2/18/14, in a timely manner.

D. Application Procedure.
1. The request shall be in writing, in a form approved by the planning director, and shall include the following information: All of this information is included in the application materials and will be briefly summarized below.

   a. Historic use of the property and adjoining lands; Similar to other agricultural development in the county, these properties were cleared in the 1920s or 30s and later used for mink farming. There is no current agricultural or forestry use of either of the parcels.

   The large parcel, 260643002 (addressed as 350 and 324 Community Club Drive) has a residence and accessory dwelling unit, office building, barn, dock, boathouse and pond near the shoreline and a tennis court outside the shoreline. The remainder of that site is wooded interspersed with rocky outcrops. It is accessed from Community Club Drive, a private road serving the Deer Harbor Community Club (which is also accessible from the County road) and a residence on the smaller parcel involved in this re-designation request (214 Community Club Drive.) Sewage disposal records for these two homes do not indicate the capacity of the existing systems (number of bedrooms.) Inspection confirmed only non-failure. A building permit was issued to Rutherford in 1978 for a 2 bedroom residence and garage, #2405. No other building permit records were located. Assessor’s records show a 3 bedroom main house, a 1 bedroom guest house and a 1 bedroom beach cabin. The southerly third of the shoreline bank is shown as an unstable bluff as well as FEMA floodzone. The pond area is shown as a wetland. Eelgrass, forage fish habitat and surf smelt spawning beach are mapped on the northerly quarter of the shoreline.

   Parcel 26071002, 2.4 acres, has a first floor garage/second story residence. This building lies about 500' from the shoreline. A building permit was issued to Koch, the previous owner, in 1997 for a first floor garage and second story 2-bedroom guest house, #10046. A two bedroom sewage disposal system for this building is located on the adjacent 27.7 area parcel to the north. The shoreline is shown as unstable bluff.

   Viewing the parcels together, about 5.1 acres of land lie in the shoreline and about 25 acres of land lie in the upland. Adjoining lands to the north and south are developed in a similar pattern to these properties. Land to the west generally has a denser development pattern consistent with the Deer Harbor plan.

   b. Allowable population density of the surrounding area as measured by the maximum allowable residential density; The properties have a 20-acre average density designation and are requesting it be changed to a 5 acre average density. To the north and south, the density and designation are the same as this site. To the west, the allowable density is 2 acres per unit (with a PUD .5 acres per unit is possible if affordable housing is provided.), with the exception of the Deer Harbor Community Club which is .5 acres per dwelling unit. Maps are attached which better illustrate the allowable density.

   c. Existing soil and sewage disposal conditions; The existing homes are served by on-site sewage systems. It is not clear that the number of existing bedrooms matches the capacity of the existing sewage disposal systems.
Sewage disposal records of non-failure were found for 2 homes on the larger parcel and the home on the small parcel. No record was found for the "beach cabin"/office. The system on the smaller parcel matched bedroom capacity to the building permit (2 bedrooms). No such records were found for the large parcel.

d. Description of existing water supply; It is assumed that because there are homes on both parcels, that water is available on site but the file contains no information on that. The geographic mapping system also shows no well but the parcels may use a community water system that is located off the site. The applicant should supply that information prior to the hearing.

e. Suitability for agricultural or timber use; Much material is supplied as evidence that the sites do not support timber or agricultural use. Timber: The materials state that because timber production would be limited to two species, Douglas fir and Lodgepole pine, that growth to profitable size takes 90 years, that the soils have limitations, and that County land use designations have not been updated to match soils to resource designations. The materials also state that in this county, timber growth periods are between 67 and 105 years, putting this site on the higher end of average. Douglas fir is the prime species harvested in this county. If this justification were used for other properties it is likely there would be few parcels enrolled in the Designated Forest Land (DFL) or Timber Open Space (TOS) programs.

In the Forest Resource designation, there are 18,852 acres, 4,459 of which have at least one of these soils (23.65%). In the DFL and TOS programs, there are 16,901 acres, 4,005 of which have at least one of these soils (23.7%). Clearly, the subject parcels are not unique in that their soils are not confined to these two parcels. A map is also supplied showing the soils present in that Forest Resource block, to illustrate that these soils are present in places other than these two parcels. The actual soils themselves have not changed since the glaciers finished their work. Agricultural use was not addressed, but one of the soils is considered prime farmland.

f. Known archaeological or historical resources on the property; None documented on the site.

g. Natural resources involved; The sites are wooded and located on the shoreline.

h. Availability of existing public services and utilities; and Electricity and telephone are available throughout most of the county and on these properties. Emergency services are also available.

i. Names of abutting property owners. See application materials.

2. Through the use of legal descriptions and maps, the application shall identify clearly the areas for which the change is requested. The reason or reasons for the request shall be clearly stated. The application shall describe how the proposed change meets all of the criteria for approval listed in subsection (F) of this section. Maps are attached to show the request. Reasons for request:

a) The soil is not suitable for timber production which contradicts its designation as “Forest Resource”; response: This is discussed later in the report.
b) The shoreline and the upland should have the same designations (Rural Farm Forest); Response: No reference to regulatory requirements is supplied as justification that the shoreline and the upland designations should match. Comprehensive Plan maps commonly show different shoreline and upland designations. It is easier to find designations that don’t match than it is to find designations that do match.

c) The contrast of the Deer Harbor density to the west is sharp and the proposed change would be a better transition. Response: There is no requirement that density changes be gradual and in viewing the Comprehensive Plan maps it is clear that was not a consideration. The contrast between the 20 acre density and Deer Harbor is great, but if it were required that designation blocks be formed in patterns of gradual increase, the whole block of Forest Resource 20 would be the more logical target for a designation change, not just these two parcels. Density contrast is unsupported as justification for changing the parcels’ designation.

d) To enjoy the same allowances as Rural Farm Forest. Response: This duplicates #b because changing the designation automatically imposes the regulations for that designation.

3. If a proposal would remove a resource land designation from property, the applicant must provide information demonstrating that the property is not appropriately designated as agricultural land or forest land under RCW 36.70A.170. The proposal is to remove a resource land designation, changing it to Rural Farm Forest. It is argued that:

   a) The 20-acre density abuts an area of Deer Harbor .5 acre density. The density change should be more gradual than the existing .5 lying against 20 acre density. Response: Deer Harbor is a hamlet, so is required to be more dense. The justification for a “gradual” density change is not supported in state law nor local code.

   Map history:
   1979 map, Rural 5, with Rural shoreline.
   1998 map, Forest Resource 5, with Rural Farm Forest shoreline (5-acre density later invalidated by GMHB)
   2000 map, Forest Resource 20 (to comply GMHB density order), with RFF shoreline

   b) “Long term local economic conditions that effect the ability to manage for timber production” – The low quantity of soil suited for timber production and slow growth patterns contravene “economical.” Response: The 2 acre per unit density of Deer Harbor allows a density bonus up to .5 acres per unit for affordable housing but that density is not automatically conferred unless a PUD is granted. Affordable housing has not been developed in Deer Harbor and its establishment can be financially and logistically difficult. It would be improper to assume that the 2 acre density is actually .5 acre density. The Deer Harbor Community Club is adjacent to the west and lies in the .5 acre density. That parcel appears to be about an acre so might be further divisible. For economic comparison purposes, the Assessor shows 628
parcels in the DFL and TOS programs. Both those programs require timber harvest, and economy has not been raised as an issue for the 628 parcels in those programs.

c) “the availability of public facilities and services conducive to conversion of forest land to other uses.” The properties have homes and small-sale farming, wells, septic systems, pond and a road and can easily be converted to other uses. The applicants do not intend to do so. Response: Most of the county has public facilities and services conducive to conversion of forest land to other uses, with the exception of a few more remote areas.

E. Notice of Hearing. The following notice provisions are required in addition to publication of notice of public hearing.

1. For Comprehensive Plan Official Map amendments involving any number of parcels the applicant shall mail a notice of hearing at least 30 days prior to the planning commission hearing to all directly affected property owners and to all property owners within 300 feet of the proposal’s outer boundary line. This was accomplished.

2. For Comprehensive Plan Official Map amendments involving five parcels or fewer, the applicant shall mail a notice of hearing to all property owners within 300 feet of the boundaries of all subject properties at least 30 days prior to the planning commission hearing, using the names and addresses shown on the tax assessment rolls. The notice of hearing shall be deemed to have been provided on the date the notices are deposited in the mail. The applicant shall provide the director with a declaration of mailing and a list of those individuals to whom the notice was mailed. All notices returned to the applicant must be submitted to the director for inclusion in the file. This was accomplished.

3. For Comprehensive Plan Official Map amendments involving five parcels or fewer, the applicant shall post a notice of hearing on each of the subject properties in accord with the provisions of SJCC 18.80.030(A)(2)(c) prior to the planning commission hearing. This was accomplished.

F. Criteria for Approval. These actions are reviewed for conformance with the applicable provisions of the Comprehensive Plan, the UDC, and as follows:

1. Comprehensive Plan Official Map Amendments. The County may approve an application or proposal for a Comprehensive Plan Official Map amendment if all of the following criteria are met:

   a. The changes would benefit the public health, safety, or welfare. Public health, safety or welfare would likely not either benefit nor be harmed by this proposal.

   b. 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. Circumstances have not changed. It is not apparent that there is a demonstrable need for additional
land in the proposed land use designation (RFF) as there remain many un- or under-developed parcels. There are no demonstrable errors on the official map for this property. In response to "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": changing these sites to RFF5 would create an island of 5-acre density bounded north and south by 20. This proposal appears to grant special privilege to these two parcels, when the parcels north and south have similar characteristics.

Saying that the "only marketable trees that grow there are Douglas fir" is akin to saying that "residential development is the only thing going on in this county": The application also states that the sedimentation increase caused by timber harvest would harm Massacre Bay. Stormwater controls imposed by the county and or the state (DNR for Forest Practice Applications) address sedimentation. In addition if there are concerns that existing controls do not adequately address sedimentation, any person may use stronger erosion control measures than required by the regulations or they may privately impose limits on clearing to prevent future harm to the bay. Staff is not aware that Massacre Bay is treated differently than other water bodies near timber harvests. The Comprehensive Plan maps show a good number of waterfront parcels with the Forest Resource designation.

a. The change is consistent with the criteria for land use designations specified in the Comprehensive Plan. See analysis in Comprehensive Plan section below.

b. 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 vicinity where there is no substantive difference in the properties themselves or public purpose which justifies different designations. The change will result in an enclave of property owners enjoying greater density (divisibility) and a few more allowable uses than in Forest Resource. There is no substantial difference in the characteristics of the properties located north or south of these properties that justifies different designations for these parcels.

c. The benefits of the change will outweigh any significant adverse impacts of the change. The benefits of the change will weigh in one owner's favor providing the ability to divide and to have more uses that are allowed in RFF. The significant adverse impacts of the change are the increased density, loss of commercial timber land and creation of an isolated area where different regulations apply, despite the similarity of the adjacent properties.

2. Map Change. Following approval of a Comprehensive Plan Official Map amendment, the County shall amend the official maps to reflect the change. The County shall also indicate on the official maps the number of the ordinance adopting the change. When the process is completed, this will occur, if approved.

3. Concomitant Agreement. The County is specifically authorized to enter into a concomitant agreement as a condition of any Comprehensive Plan Official Map
amendment. Through that agreement, the County may impose development conditions designed to mitigate potential impacts of the use or development that may occur as a result of such an amendment. No such agreement is proposed.

G. Appeals. Appeals of County council decisions under this section must be filed with the Growth Management Hearings Board as provided by state law.

**SJCC COMPREHENSIVE PLAN, LAND USE ELEMENT B**
The following are applicable sections of the Comprehensive Plan Land Use element outlining the goals and policies for the Rural Farm Forest and Forest Resource designations.

### 2.3.C Rural Lands
Goal: To maintain and enhance the rural character of the County. *Rural lands* are intended to retain the agricultural, pastoral, forested, and natural landscape qualities of the islands while providing people with choices of living environments at lower densities or use intensities than those in Activity Centers. Rural lands also include the *Special Districts*, which are discussed further in Section B.2.4.

Policies (2.3.C.1–10):
1. Identify as Rural lands on the *Comprehensive Plan* Official Maps all those which are not within an Activity Center and are not designated as Resource Lands. *The maps show this.*

*Policies 2-9 are omitted as they are not applicable to this proposal.*

10. Establish clearly defined Rural land use designations which promote and preserve the rural character of the islands while meeting the varied needs of island residents. The designations are:
   a. **Rural General Use** Section omitted
   b. **Rural Farm-Forest**
   Goal: To provide for rural living opportunities which are compatible with small-scale farming and forestry activities. *The site is developed with residential uses and is consistent with this goal. It is however, also consistent with the goals and polices for the existing Forest Resource designation.*

Policies:
(1) Areas which are characterized by the following criteria may be designated as Rural Farm-Forest lands on the *Comprehensive Plan* Official Maps:
   i. The predominant land use is farming and forestry mixed with residential development; *The predominant land use of these sites is residential. However, the land is wooded and of a similar character to many other sites in the county which are used for forestry.*
   ii. Parcels are generally five or more acres in size; and *One parcel is 2.4 acres. The other is 27.7 acres. In looking at the maps it is clear that there are parcels in the RFF designation that do not meet that theoretical 5-acre size.*
   iii. Soils are suitable for small-scale agricultural or forestry uses. *This is also discussed in other parts of the report. Soils on the site are not dissimilar to*
other properties that actively harvest timber and are enrolled in the Timber Open Space program or the Designated Forest Land program. New soil surveys provide more detail and information than the long-standing 1962 survey and that new information is put forth as proof that the soil is not suited to timber, however many other properties that are in timber production have the same soils but have not requested designation changes. The same is probably true of properties in agricultural production- soil information has increased but nothing about the land has changed and it is still being farmed despite its tag as a soil not well suited to agriculture.

(2) Adopt site development standards for permissible uses that will maintain a predominant portion of the farm and forested areas for farming and forest uses. NA.

(3) Allow cottage enterprise uses and agriculture- and forestry-related commercial and industrial uses, such as processing and limited retailing facilities for farm and forest products, to be located on Rural Farm-Forest lands. NA

(4) Establish development standards that allow for farm stay accommodations for agritourism enterprises. NA

(5) Allow the development of farm worker accommodations on Rural Farm-Forest lands subject to standards that ensure the occupancy is seasonal and limited to persons employed by the proprietor in farm labor for a farm production season only, and that ensure compliance with applicable public health and safety requirements. NA

(6) Establish performance standards for the uses listed in Policies (3), (4) and (5), above, to minimize adverse environmental and visual impacts. Standards should address access, circulation, building height and bulk, lighting, screening, signage, noise, odor, vibration, spray, smoke, waste disposal, and storm drainage. NA

SJCC COMPREHENSIVE PLAN, LAND USE ELEMENT B
2.3.D Resource Lands
Goal: To recognize and protect the physical conditions and characteristics of agricultural and forest resource lands which are conducive to the use of such lands for long-term commercial production.

Policies (2.3.D.1–5):
1. Identify lands as Agricultural and Forest Resource lands on the Comprehensive Plan Official Maps which are not designated as Activity Centers or Rural Lands. Forest Resource is the existing designation.

2. Apply site planning standards for land division activities on resource lands to ensure that agricultural and forest resource lands are conserved for long-term farm and forest uses.
3. Strengthen Right-to-Farm and Right-to-Forestry provisions which establish the high priority and favored use of Resource Lands for farming and forestry operations and assure that such uses will not be considered a nuisance or inconvenience to adjacent non-farm uses.

4. Continue to apply the Open Space Conservation Overlay District regulations to Agricultural Resource Lands located within the San Juan Valley.

5. Establish clearly defined Resource Lands designations which protect and conserve long-term commercially significant agricultural and forest lands and associated uses. The designations are:
   a. Agricultural Resource Lands  Section omitted.
   b. Forest Resource Lands
      Goal: To protect and conserve forest lands of long-term commercial significance for sustainable forest productivity and provide for uses which are compatible with forestry activities while maintaining water quality, water quantity, and fish and wildlife habitat.

   Policies:
   (1) Lands which are characterized by the following criteria may be designated Forest Resource Lands:
      i. are in Forest Land Grades 1-5 on the Department of Natural Resources Private Forest Land Grades map;
      ii. parcels are twenty acres or larger, or of a size meeting the Washington State requirements for timber open space designation;
      iii. are in a tax deferred status of Designated Forest Land or Open Space Timber, or are state trust lands under forest management; and
      iv. are being managed for the long-term production of forest products with few non-forest related uses present. The current designation was reviewed and adopted 1998 and is consistent.

   (2) Limit conversion of Forest Resource Lands to non-forest uses through implementation of a purchase or transfer of development rights program, special tax assessment programs, conservation easements, and/or the formulation of site design standards for residential land divisions, including standards for planned unit developments. NA

   (3) Allow cottage enterprises, and forest resource-based industries such as lumber processing and retailing facilities for forest products. NA

COMPREHENSIVE PLAN SECTION D. 3.2 Plan Amendment Procedures
This section covers the same requirements of SJCC 18.90, and has already been addressed.

STATE LAW
RCW 36.70A.170 Natural resource lands and critical areas – Designations
(1) On or before September 1, 1991 each county, and each city, shall designate where appropriate:
   (b) Forest lands that are not already characterized by urban growth and that have long term significance for the commercial production of timber.
(2) In making the designations required by this section, counties and cities shall consider the guidelines established pursuant to RCW 36.70A.050.

**WAC 365-190-030 Definitions**

(7) "Forest land" is land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. These lands are referred to in this chapter as forest resource lands to distinguish between formally designated lands, and other lands used for forestry purposes.

(11) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land. Long-term commercial significance means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the twenty-year planning period, if adequately conserved. Designated mineral resource lands of long-term commercial significance may have alternative post-mining land uses, as provided by the Surface Mining Reclamation Act, comprehensive plan and development regulations, or other laws.

(15) "Natural resource lands" means agricultural, forest and mineral resource lands which have long-term commercial significance.

**WAC 365-190-040 Process**

(10) Designation amendment process.
   (a) Land use planning is a dynamic process. Designation procedures should provide a rational and predictable basis for accommodating change.
   (b) Reviewing natural resource lands designation. In classifying and designating natural resource lands, counties must approach the effort as a county-wide or regional process. Counties and cities should not review natural resource lands designations solely on a parcel-by-parcel process. Designation amendments should be based on consistency with one or more of the following criteria:
      (i) A change in circumstances pertaining to the comprehensive plan or public policy related to designation criteria in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3);
      (ii) A change in circumstances to the subject property, which is beyond the control of the landowner and is related to designation criteria in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3);
      (iii) An error in designation or failure to designate;
      (iv) New information on natural resource land or critical area status related to the designation criteria in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3); or
      (v) A change in population growth rates, or consumption rates, especially of mineral resources.
Response: The request is not supported by evidence that it was approached on a county-wide basis, but is specifically about these parcels without relation to any others. No circumstances have changed that merit the proposed change for these parcels. No errors were made in designating these two parcels Forest Resource. No new information is available regarding natural resources or critical areas that relates to the designation criteria.

WAC 365-190-060 Forest resource lands.
(1) In classifying and designating forest resource lands, counties must approach the effort as a county-wide or regional process. Cities are encouraged to coordinate their forest resource lands designations with their county and any adjacent jurisdictions. Counties and cities should not review forest resource lands designations solely on a parcel-by-parcel basis.

(2) Lands should be designated as forest resource lands of long-term commercial significance based on three factors:

(a) The land is not already characterized by urban growth. To evaluate this factor, counties and cities should use the criteria contained in WAC 365-196-310. The land is not already characterized by urban growth.

(b) The land is used or capable of being used for forestry production. To evaluate this factor, counties and cities should determine whether lands are well suited for forestry use based primarily on their physical and geographic characteristics. Lands that are currently used for forestry production and lands that are capable of such use must be evaluated for designation. The landowner's intent to either use land for forestry or to cease such use is not the controlling factor in determining if land is used or capable of being used for forestry production. One basis for the request is that the applicants do not wish to harvest timber. The above makes it clear the land owners intent is not a controlling factor. This land is capable of being used for forestry production.

(c) The land has long-term commercial significance. When determining whether lands are used or capable of being used for forestry production, counties and cities should determine which land grade constitutes forest land of long-term commercial significance, based on local physical, biological, economic, and land use considerations. Counties and cities should use the private forest land grades of the department of revenue (WAC 458-40-530). This system incorporates consideration of growing capacity, productivity, and soil composition of the land. Forest land of long-term commercial significance will generally have a predominance of the higher private forest land grades. However, the presence of lower private forest land grades within the areas of predominantly higher grades need not preclude designation as forest land. The Forest Resource designation was placed in 1998, in lengthy consideration of all of these criteria.

(3) Counties and cities may also consider secondary benefits from retaining commercial forestry operations. Benefits from retaining commercial forestry may include protecting air and water quality, maintaining adequate aquifer recharge areas, reducing forest fire risks, supporting tourism and access to recreational opportunities, providing carbon sequestration benefits, and improving wildlife habitat and connectivity for upland species. These are only potential secondary benefits from retaining commercial forestry operations, and should not be used alone as a basis for designating or redesigingning forest resource lands.
(4) Counties and cities must also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by the following criteria as applicable:

(a) The availability of public services and facilities conducive to the conversion of forest land; Public services are available, regardless of the designation.

(b) The proximity of forest land to urban and suburban areas and rural settlements: Forest lands of long-term commercial significance are located outside the urban and suburban areas and rural settlements; Suburban and rural settlements are nearby. The Forest Resource designation is outside of those settlements.

(c) The size of the parcels: Forest lands consist of predominantly large parcels; The parcels involved here are 2.4 and 27.7 acres. Other parcels in the area range in size from 5-103 acres.

(d) The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands of long-term commercial significance; Nearby lands to the north and south are also Forest Resource. To the west lies Deer Harbor hamlet.

(e) Property tax classification: Property is assessed as open space or forest land pursuant to chapter 84.33 or 84.34 RCW; These parcels are not enrolled in either of those programs, but 5 others in this block of Forest Resource are.

(f) Local economic conditions which affect the ability to manage timberlands for long-term commercial production; and Local economic conditions are the same for all the ferry served islands.

(g) History of land development permits issued nearby. Nearby properties have similar development patterns.

(5) When applying the criteria in subsection (4) of this section, counties or cities should designate at least the minimum amount of forest resource lands needed to maintain economic viability for the forestry industry and to retain supporting forestry businesses, such as loggers, mills, forest product processors, equipment suppliers, and equipment maintenance and repair facilities. Economic viability in this context is that amount of designated forest resource land needed to maintain economic viability of the forestry industry in the region over the long term. That analysis was performed for the initial designation. Changing this designation will not help the economic viability of the forestry industry.

**ANALYSIS**

1. Application materials state that “...the majority of the properties within the vicinity of the Thurman property enjoy land use designations and densities which far exceed the allowable uses and density assigned to the Thurman property.” Many of the nearby parcels lie in the Deer Harbor Hamlet. Other parcels outside the hamlet were created prior to the Forest Resource designation, but were included to form the Forest Resource block in that area. Acreages of the 16 parcels contained in this block of Forest Resource, from north to south, are: 8.8, 13.8, 10.9, 6.2, 27.7, 2.4, 84.3, 63.6, 5, 6.7, 5.8, 103, 23.7, 5, 5.8 and 5.8. In this block of 16 parcels 5 of those are larger than 20 acres; 11 are smaller than 20 acres. Parcel size alone is not justification for removal from the Forest Resource designation.

2. If the impetus for the request is to be able to use the shoreline home as a vacation rental, that is already possible in the Rural Farm Forest designation with a Provisional Use permit.
3. The logistics of timber harvest in this county may be different than other areas of the state but the Growth Management Act requires that we designate Forest Resource land based on our circumstances, in this county.

4. If removal of the Forest Resource designation were the only element, with no density change, it might be more suitable to place the property into the Ag Resource 20 designation as nearly half the soil (soil 4007) is “prime farmland” and there are other places on the maps where the Ag and Forest Resource designations interweave. That however, is not the request and it is requested that density be quadrupled, as well as the designation changed.

5. Granting the request would create an island of RFF-5 sandwiched by the higher-density of Deer Harbor on the west and Forest Resource 20 on the north and south. Bisecting a Forest Resource designation breaks it into smaller segments, and causing non-forested property boundaries to be closer creating activity incompatibilities with residential uses.

6. Because the shoreline is already designated Rural Farm Forest, it is not necessary to analyze the shoreline re-designation criteria. Though the shoreline designation name would not change, the proposed density would quadruple from 20 to Density is depicted solely on the maps, so the map amendment process addresses the criteria.

7. Aspects of the economics of timber harvest are discussed in the application. Economics are relative to an owner and do not stand-alone when analyzing a designation. As mentioned elsewhere, these soils are present on other parcels in this same designation and other parcels enrolled in timber harvest programs (DFL and TOS) throughout the county. Using the applicant’s figures it is difficult to justify any timber harvest in the whole county, yet, it does still occur.

8. The application materials imply that the presence of development on these parcels is inconsistent with its designation as Forest Resource. Most of the development on this parcel occurs on the east half in soil 4007, a prime farmland. Development is not regulated by soil type so residential development (and other types of development) is allowed on prime farmland as well as on soil that is well suited to timber growth.

9. It also places importance on the adjacency of the Deer Harbor hamlet- that its 2 acre density (and when certain criteria are met, .5 acre density) should be coercive to granting the request. A GMHB decision (01-3-0008(c), Forster Woods) noted that “…the Board does not agree with the implied assertion that mere adjacency to high-density residential will always be determinative of the long-term viability for forest lands.”

10. It is claimed that the soils on this site are unsuited to timber growth so the Forest Resource designation should be changed. Review of data on soils and timber productivity as described below however, show that these parcels are similar to others designated as Forest Resource as well as those enrolled in the TOS and DFL programs. Saying that commercial timber harvest is not possible for these properties implies the same for others with the same soils, some of which are enrolled in either the DFL or TOS timber harvest program, and would grant special privilege to this applicant.
a. The Forestland Productivity table in the soil survey compares all soils. Because
the application materials state that the only specie that will grow in this site is
Douglas fir, the data for that specie was reviewed. The property is primarily
composed of 2 soils (4000 and 4007) so they were used. (Note also that the
application materials are critical of the site because only one specie is produced, but
that too, is the predominant pattern of harvest in this county. Douglas fir is a
predominant forest product.)

b. Site index is the average tree height expected for a certain soil type and is used in
evaluating the productivity of timberland. Site indices in the Forestland Productivity
table (Attachment 3d, pp 151-162) include the following range of heights for Douglas
fir: 66, 77, 86, 97 and 108. The Doug fir site indices of the 2 main soils are 89 and
69 (soil 4000); and 89 and 85 (soil 4007), all falling in the low to middle range of
heights.

c. Volume is the amount of timber produced per acre per year. Productivity/volume
in the Forestland Productivity table (Attachment 3d, pp 151-162) includes the
following range of numbers for Douglas fir: 92, 107, 114, 125, 136, 140, 150 and
171. The Douglas fir productivity of the two main soils is 109 and 76 (Soil 4000);
and 114 and 107 (soil 4007), falling in the low to middle of the range.

d. Staff made a map showing all of the DFL and TOS lands in the county and
overlaid the soil types contained in this application. Many of the parcels in these
timber harvest programs also have these soils, and timber will be harvested at some
point in the future. The map provides evidence that the soils do not prevent
commercial timber harvest.

e. To determine whether these soils were present in other blocks of Forest Resource
land, staff made a map showing all the Forest Resource land in the county, and
overlaid the soil types contained in this application. The map shows that the soils on
these two parcels occur on many other Forest Resource parcels. There are 764
parcels in the Forest Resource designation of which 453 have at least one of these
soil types (59%).

f. To determine whether these soils were present on land that is actually used for
timber harvest, staff made a map showing all the properties enrolled in the DFL and
TOS programs where any of these soils are present. There are 628 parcels in DFL
and TOS, 373 of which have at least one of these soil types (59%). It is difficult to
support the claim that harvesting timber is not economically viable when that many
parcels sharing the same soils are already enrolled in timber harvest programs.

f. Application materials imply that 90 years to maturity makes timber harvest
economically un-viable but forest management plans indicate that is not an
uncommon harvest age. Review of random forest management plans for TOS
showed that the age of Douglas fir stands varied from new to 200 years old, so
reaching an age of 90 years is a reasonable expectation. Many plans include no
harvest for the 50-year projection as that is too soon to economically harvest trees for many sites in the San Juans.

g. The applicant asked the San Juan County Conservation District to (CD) provide soil information. Nov. 8, 2013 the San Juan County Conservation District replied briefly that they were providing copies of the relevant online information. The applicant wrote back the same day, Nov 8, asking them to “confirm if these soils are or are not for prime commercial timber growth and harvest.” Because the factual information was already supplied, the CD did not reply to that additional request. One attachment contains information from the Conservation District. The application materials repeatedly imply that the Conservation District has expressed opinions about the soils (pages 4 and 8), to make the case that timber harvest has “severe limitations”, that the soil is “not suitable”, that “productivity is limited to two species”, “timber growth would be extremely slow and take many years (90)”, that “timber production time line is two or three human generations and thus trans-generational and does not make the land suitable or desirable for commercial purposes”, and that it “falls below the level necessary for designating the land economically suitable for growth and commercial harvest of Douglas fir, as per the San Juan County Conservation District review.”

Written confirmation of these Conservation District opinions was not provided. In conversation with Conservation District staff Bruce Gregory, he confirmed that the soils are in the low to middle range for timber harvest requirements, that timber harvest in this county is a slow process because the climate and soil cause slow growth, that the soil on this site is not significantly worse, nor are the trees smaller or slower-growing than many other sites in the rest of the county. The Conservation District did not take a stand on this application, but simply duplicated information already available on line. The letter they wrote has no opinions or expansions, but is simply a cover for the data. The soil data the CD provided for this site is not significantly different than for any other similar site in this county. The application materials use excerpts of soil descriptions, quoted out of the whole-county context. The soil and climate in this entire county (not just these parcels) are not ideal, and cause slow timber growth producing less volume.

11. Circumstances have changed to a degree for the adjacent area designated “Deer Harbor Hamlet” but no circumstances, other than ownership and revision of the soil survey, has changed for these two parcels.

12. Re-designation requests must be viewed on a countywide basis, not on a parcel by parcel basis. Such requests in Resource designations are also subject to additional analysis of state law, addressed in this report. Excerpts of state law include the following: “Lands that are currently used for forestry production and lands that are capable of such use must be evaluated for designation. The landowner’s intent to either use land for forestry or to cease such use is not the controlling factor in determining if land is used or capable of being used for forestry production.” “In classifying and designating forest resource lands, counties must approach the effort as a county-wide or regional process.” Though the applicant did not provide a county-wide analysis, staff
did perform an analysis (see attached maps) and concluded that these parcels are not significantly different than many others in the Forest Resource designation.

13. The application materials as stand-alone information, gave the appearance that a recommendation for approval could be made. After comparing the soils on this site to others in the Forest Resource designation and others that are participating in the TOS and DFL programs; and after reviewing state law, it became apparent that the parcels are not significantly different than many others in Forest Resource designation and that granting the request would be unfounded and could be viewed as granting special privilege to one applicant when other owners have similar situations. It is also likely that increasing the density from 20-acres to 5-acres based on the soil map, would cause other requests for density increases.

CONCLUSIONS AND RECOMMENDATION
The request is unsupported by factual evidence and should be denied because it is inconsistent with the applicable criteria in state and local code.

ATTACHMENTS
1. Application materials (1a – 1p)

2. Maps
   M1 Comp Plan designations, whole county
   M2 Comp Plan designations, vicinity
   M3 Comp Plan designation, parcels
   M4 Deer Harbor Land Use Plan
   M5 Aerial photo, vicinity
   M6 Buildings on the parcels
   M7 Habitat (eelgrass, forage fish surf smelt spawning)
   M8 Wetlands, FEMA flood zones
   M9 Unstable bluff
   M10 Aerial, Thurman parcels
   M11 Soils, Thurman parcels
   M12 Soils named, Thurman parcels
   M13 Forest Resource designations with the same soil types as Thurman parcels
   M14 Forest Resource designation, Deer Harbor block, soils shown
   M15 Forest Resource designation, parcel sizes in Deer Harbor block
   M16 TOS and DFL parcels, whole county
   M17 TOS and DFL parcels with same soil types as Thurman parcels
   M18 1979 Comp Plan land use map, vicinity

3. Applicable excerpts from Soil Survey
   a. Soil descriptions,
   b. Land Capability Classification,
   c. Prime Farmland list of soils,
   d. Forestland Productivity

4. Public Works comment letter