

Regulatory Barriers to Agricultural Workforce Housing in San Mateo County: County Response to Findings and Recommendations

August 2017

In 2016, the San Mateo County Department of Housing and Department of Planning and Building, in collaboration with the Office of Supervisor Don Horsley, commissioned an assessment of barriers to the permitting of agricultural workforce housing in the unincorporated County. This assessment is part of a multi-faceted effort to determine the amount and type of need for agricultural workforce housing in the County's agricultural areas, and the best methods to increase production of such housing. That effort includes the following products:

- Agricultural Workforce Housing Needs Assessment (complete)
- Best Practices in Agricultural Workforce Housing Report (in progress)
- Regulatory Barriers to Agricultural Workforce Housing (complete)

The *Regulatory Barriers to Agricultural Workforce Housing* final report assesses difficulties in creating agricultural workforce housing that may arise specifically from the permitting process. While the initial impetus for the report was to assess the possibility that specific regulations may present significant barriers to production of agricultural workforce housing, the final report assesses not only regulatory barriers, but also technical barriers, communication barriers, and other process barriers that might impede housing permitting and production.

The Regulatory Barriers report is based on information from a series of interviews: with applicants who have recently applied or are in the process of applying for permits to build farm labor housing; with staff in relevant departments who deal directly with agricultural workforce housing, including Planning and Building, Environmental Health, Public Works, and special district staff; and with various other stakeholders with direct experience in the permitting process for agricultural workforce housing. These in-depth interviews assessed the interviewees' experience with the permitting process, and the perceived barriers encountered in the process. Based on the findings from the interviews, as well as independent assessment of the permitting process, the report also includes a number of recommendations to improve and facilitate permitting. These recommendations transcend a narrower focus on regulatory barriers, and offer a broad set of potential improvements to the permitting process. This approach encompasses more potential areas for improvement, and has the added benefit of focusing on a number of areas that-- unlike more purely regulatory constraints that might come from State, Federal, or other regulations that are often outside of the County's control-- are more likely to be directly within the County's purview.

After completion of the report, a working group of County staff from all relevant departments, including Planning and Building, Public Works, Environmental Health, and Housing, reviewed the recommendations. The group assessed each recommendation generally in light of the following questions:

- Are the recommendations based on an accurate understanding of the processes involved, such that the recommendation is an appropriate response to the problem being addressed?

- Is the recommendation feasible and achievable?
- Will the recommendation realistically advance the goal of facilitating production of agricultural workforce housing, and/or the goal of making the permitting process easier and more comprehensible?
- Are the suggested changes within the County's control?
- To the extent that the recommendation should be implemented, what is the appropriate timeline, which departments should be involved, and which department should lead the effort?

This document summarizes the County's response to the recommendations, and the County's workplan for implementation. Each recommendation is presented below, with an assessment of its utility and feasibility, and a description of whether and how the County intends to implement the recommendation. For those recommendations that can and should be implemented, target deliverables, completion date, and lead Department(s) are also identified. *This report should be read in combination with the full Regulatory Barriers report, including the detailed description of recommendations in that report, which provide the context needed to understand the responses presented below.*

It should also be noted that while the improvements recommended by the Regulatory Barriers report, and included in these responses, were identified through analysis of the Farm Labor Housing permit process, many of them are more broadly applicable to the processes of various departments generally. To the extent that this is the case, the County intends to use these recommendations as a template for broader process changes, to improve the permitting process for all types of development.

The County's agricultural workforce housing permitting process is formally titled "Farm Labor Housing" permitting, or FLH permitting, and these terms are used interchangeably throughout.

Regulatory Barriers to Agricultural Workforce Housing Workplan – Recommendations and Responses

	Recommendation	Comments/Response	Implementation: Deliverables	Implementation: Deadline	Responsible Departments
1	Create a comprehensive application “guide book” (FLH Application Guidebook) for the public that provides a narrative explaining the application process (“Guidebook” is used generally here to indicate guidance material that can be provided via website; as a PDF; and in hard copy).	The existing explanatory materials are fragmented, and no single, comprehensive source of information on both permitting processes and/or regulations exist. The County will create a single reference guide, available in paper and electronic form, for publication on-line, as well as distribution over the counter.	-Completed FLH Application Guidebook. -Guidebook available in hard copy and electronically on-line.	Mar. 2018	All, with Planning & Building (P&B) coordinating
2	Incorporate on-site meetings into the initial 30-day permit application review period, with attendance by all staff responsible for reviewing the application.	On-site meetings are already available. Staff should publicize this on-site meeting opportunity in the FLH Application Guidebook, and by other methods.	Publicize meeting availability in the FLH Application Guidebook.	This process exists; publication in Guidebook Mar. 2018	All (P&B, Department of Public Works (DPW), Environmental Health (EH), and Cal Fire)
3	Fully explain the relationship between the Planning review process and the Building Permit process, in the Guidebook.	Applicants are often unclear on the relationship between these processes, and the respective timing of each, as well as the nature and timing of review by other departments, such as Public Works and Environmental Health. Clarification and explanation of the	Clarification in the FLH Application Guidebook around general process including relationship between Planning and Building Permit processes,	Mar. 2018	P&B

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		interrelation between these components would be useful for all parties involved.	and review by other departments.		
4	Designate a lead FLH contact person for each Department/Division and publicize contact information for each contact.	Typically, a lead contact for each Department is already designated, but this information is not necessarily consistently or adequately publicized. Information should be made readily available on-line. Lead contacts are often the same staff for multiple FLH projects, but may vary from project to project; contact information for FLH permitting generally should be available, as well as project-specific contacts.	-Publish contact information for FLH questions and general FLH information in the FLH Application Guidebook, with specific contact for each individual project available through Accela. -Update general FLH contact information for overall questions on individual Departmental websites also.	Mar. 2018	All (P&B, DPW, EH, and Cal Fire)
5	Require applicants to designate a central or primary contact person for the applicant’s team.	Often different contacts on an applicant’s team are designated for different portions of a project, leading to confusion and redundancy.	-Update FLH application with “primary contact field.” -Require designation of single primary contact for all projects.	Jan. 2018	P&B
6	Make better use of existing tools such as the on-line permit tracking system, and ensure that applicants understand how to use the system.	The on-line permit system can be confusing and/or obscure; the FLH Guidebook should include clear information on the utility of the system, and how to use it.	-Include basic information in FLH Application Guidebook. -Create a “How to use Accela” flyer/handout.	Mar. 2018	P&B
7	Begin updating FLH information on Departmental websites, and ensure that all application	Information on Departmental websites is partial at best, and while some electronic forms may be completed online, a number of	-Update FLH PDF applications with active fields that can be	Jan. 2018	P&B

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	materials and companion forms can be completed online.	forms still exist only in hard copy.	completed online. -Post FLH Application Guidebook and all relevant forms online in appropriate formats.		
8	Implement and publicize pre-application meeting times for potential FLH applications, and general FLH-related inquiries.	Pre-application meetings are already available (and in some cases required), and staff will encourage applicants to contact designated FLH staff at the appropriate department to schedule pre-application meetings.	Include relevant information on pre-application meetings in the FLH Application Guidebook.	Mar. 2018	P&B
9	Explore designating specific blocks of time for in-person or phone meetings specifically for FLH.	This recommendation is unnecessary at present, due to the low volume of FLH applications; however, this should be monitored and revisited if application volume increases.	Staff to monitor volume of FLH applications on an ongoing basis.	Ongoing monitoring	P&B
10	Hire replacement for County Geologist.	The lack of a designated County Geologist with in-depth personal experience with the County and County regulations can present barriers to applications with particular geological conditions.	The County is in the process of hiring a Geologist, as part of the normal course of business.	In process	P&B
11	Prioritize FLH applications and associated Building and Environmental Health permits so that they move immediately to the top of the application review list.	It is unclear given current volume of applications that this recommendation would be an effective measure; in addition, given competing priorities for various types of projections, direction for such a measure would most appropriately come directly from the Board of Supervisors.	No action at this time.	N/A	
12	Clarify the County’s Code Compliance policy so that minor use violations that are non-life	Existing code violations can be a reason for delay or denial of FLH permit processing in some cases, but depending on the nature and	-Clarify existing policies with staff and applicants.	Complete	P&B

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	threatening do not stop the processing of the FLH application.	impact of the violations, this is not necessarily the case. In some cases, permits may be processed regardless of existing violations.	-Include relevant, accurate information in FLH Application Guidebook.	Mar. 2018	
13	Consider increased Coastside office hours and increased resources at the Coastside office, including availability of Public Works staff.	<p>DPW staff is available to schedule Coastside meetings in advance, on-site or in the Coastside office, to the extent that Coastside office space is available. However, the demand is low enough that dedicated Public Works Coastside hours specifically for FLH permitting is unnecessary; Public Works should remain available on an appointment basis only.</p> <p>If the total volume of demand for DPW staff on the Coastside increases, including all types of permitting, dedicated staff may be a sensible option; however, this should be revisited if and when volume increases.</p>	<p>-Clarify in the FLH Application Guidebook that DPW is available for Coastside meetings scheduled in advance.</p> <p>-Monitor both FLH permitting, and other types of permitting, that require a Coastside DPW presence, and address as needed.</p>	Mar. 2018	P&B; DPW
14	<p>Consider allowing structures that are accessory to agriculture uses, such as farmstands, greenhouses, and sheds, to be combined with FLH applications, with overall fees to be waived.</p> <p>As an alternative, explore ways of requiring FLH renewals through conditions of approval, rather than through discrete, renewable permits.</p>	<p>Since FLH permits require regular renewal and most other accessories to agriculture do not, it is more efficient and effective to create separate cases, with separate, independently trackable permit numbers. These permits can still be processed in parallel, and independent case numbers present no actual substantive barrier or slow-down in processing; combining multiple cases, some renewable and some non-renewable, under a single case, would actually add to delay and confusion, rather than reducing these factors.</p> <p>The fee waiver policy is established by the</p>	Clarification of existing processes and rationale in FLH Application Guidebook. No other action.	Mar. 2018	P&B

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		Board of Supervisors, and any new type of development proposed for fee waivers would have to come at the direction of the Board of Supervisors. The fee waiver for agricultural workforce housing is intended to incentivize a form of affordable housing, an intent which is not applicable to greenhouses, farmstands, sheds, and other ancillary agricultural uses.			
15	Consider hiring additional part-time staff to process FLH applications, or reallocating existing staff to address any potential back-log.	Currently there is no back-log of FLH applications, and the appropriate measure is ongoing monitoring of FLH permit volume, allowing reallocation of staff as needed should volume increase to a level that demands increased staffing.	Staff will monitor need on an ongoing basis.	Ongoing monitoring	P&B
16	Fully incorporate the Agricultural Ombudsman into the process of updating informational materials and educational outreach.	The Ombudsman has valuable local knowledge, as well as technical expertise, which can play a valuable role in improving information and other materials. The County recently collaborated with the Ombudsman on a two-page informational flyer on domestic wells, agricultural wells, and farm stands, and the process was efficient and effective.	Collaborate with the Ombudsman in drafting the Application Guidebook, along with any other necessary materials.	Ongoing	P&B with Ag Ombudsman
17	Consider developing a published analysis and “hierarchy” of sites with potential for future development of agricultural workforce housing, identifying possible sites and categorizing them by the possible ease of housing production on those sites, into categories such as “easy” sites with minimal barriers; “medium” sites with	Given the complexity of the possible barriers, the differentiation of possible sites and site conditions, the limited availability of granular detail required to undertake effective assessment, and a variety of other factors, this assessment would be an inefficient use of staff time, and would not provide value in actually identifying potential sites.	No action.	N/A	

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	moderate difficulty, and; “hard” sites that present significant challenges.				
18	Allow applicants to complete a master plan and permitting process that includes units currently scheduled for development, and a plan for any units to be developed in the future.	This master planning/permitting process is already an available option for applicants who wish to pursue it.	Reference and describe master planning option in Application Guidebook.	Mar. 2018	P&B
19	Consider amending the agriculturally related CDP exemptions to include FLH and associated agricultural uses.	This change requires an amendment to the County’s local Coastal Program (LCP). An LCP amendment is a long and difficult process, and the likelihood that the Coastal Commission would approve exclusions for FLH and other uses associated with agriculture is very slim.	No action.	N/A	
20	Begin considering revisions to current standard requirements for potential grading and drainage impacts to more clearly establish that low impact drainage solutions which sufficiently address drainage at a particular site may be proposed by the developer and will be considered by the County.	Low impact drainage solutions are currently permitted provided that they adequately address storm flows. Some developers may not be aware that they can propose a range of drainage solutions. The nature and extent of the possibilities may not be adequately conveyed by staff.	Add a reference in the FLH Application Guidebook which recognizes the Developer’s ability to submit a variety of drainage solutions that effectively address drainage transport requirements for individual sites.	Existing standards currently allow for low impact drainage solutions. Publicize in Guidebook, Mar. 2018.	DPW
21	Consider modifying the timing of when details of relevant septic system design and percolation test results are required with application materials, and allowing submission of only	Percolation tests are required for Planning review, but septic system design at that stage can be preliminary, with detailed design deferred to later stages of review (Building Permit review).	Flexibility in which materials are required at which times is already available. The possibility of “preliminary septic plan” submittal at early review	Mar. 2018	EH

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	preliminary septic system design at the Planning review stage.		stages should be explained in FLH Guidebook and on the Environmental Health website.		
22	Consider allowing FLH in a flood plain if no other reasonable location exists, relevant building code standards can be met, and the potential impacts of a flood event can be mitigated to the Building Manager’s satisfaction.	<p>In limited circumstances, FLH structures can be allowed in a flood plain. In the case of trailers, the typical form of new FLH in most County areas, location in a flood plain is possible if the trailers are located at least 1’ above the base flood elevation (BFE), use piers and crossties or an equivalent foundation that would resist floatation in a flood, and have an engineer’s statement verifying that the units would resist floatation during a flood. With this and possible other additional measures, depending on circumstances, FLH units could be located in a flood plain, and meet FEMA and Building Code standards.</p> <p>However, septic leachfields cannot be located in a flood plain, and site drainage would also have to be designed to account for both the floodplain, and appropriate leachfield locations. Locating the units in a floodplain would also increase the property owners’ flood insurance costs.</p> <p>In sum, there are possible methods to locate units in a flood plain, but they are difficult to design, potentially costly, and unlikely to significantly impact the feasibility of creating new FLH units.</p>	Publicize the possibility of methods to so locate such units, but not as a priority, and with appropriate caveats, in the FLH guidebook.	Mar. 2018	P&B
23	Provide clarifying documentation explaining why an existing main house that is	A converted FLH unit may or may not be required to have fire sprinklers. If a habitable existing single-family home is converted to a	Clarify these requirements in the FLH Application Guidebook.	Mar. 2018	P&B

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	converted to FLH, on an agricultural site, is required to provide fire sprinklers.	single-family FLH unit, installation of new sprinklers is not required. If an existing single-family unit is converted to a multi-family FLH unit, or if an existing non-habitable or non-residential unit is converted to a new FLH unit, building code updates are required, including sprinkler installation, per California Building Code requirements.			
24	Require ongoing staff training regarding the latest grading and drainage techniques specifically for agricultural sites.	Designate a lead staff member to track and keep abreast of the latest technical training, and in turn to provide in-house training to other Planning and Building staff.	Designate lead staff, provide ongoing training.	Mar. 2018/ Ongoing	P&B and DPW
25	Consider modifying how conversions of existing structures to FLH units are processed, allowing a staff level CDP rather than full a CDP with a public hearing.	This change would require an LCP amendment, which the Coastal Commission is unlikely to approve. However, clarification of regulations regarding conversions can be provided in the FLH handbook.	Clarify existing regulations and processes in the FLH Application Guidebook.	Mar. 2018	P&B
26	Consider updating/upgrading maps on the Planning and Building website so that they can be used as background maps for applications.	The maps in question (topographical maps in particular) are unlikely to ever provide design or construction grade data, and will probably not be useful for purposes of detailed site planning in the intermediate term. However, staff (and the County ISD/GIS system generally) are consistently in the process of updating all maps to the latest, most detailed available versions, on an ongoing basis. The next round of updates is in progress, and will include replacement of maps on the Planning and Building site with revised versions.	Updated maps on Planning and Building website.	In progress (target completion in 2019)	P&B; Information Services Department (ISD); Assessor's Office
27	Explore the use of package	Package systems are already allowed, but they	Publicize the availability of	Already in place	EH

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	waste water treatment systems as an alternative to traditional septic systems.	can be expensive and difficult to install, particularly for smaller projects. There are very few situations in which this option would have a substantive impact on the feasibility of a project.	this option, but not as a priority.		
28	Participate in outreach workshops to discuss FLH and the FLH application process with the farming community, as well as other agricultural topics as needed.	Collaboration with the Agricultural Ombudsman, and with other community-based organizations and partners, can help identify possible topics or areas of interest for agricultural workshops, with the goal of providing at least one workshop per year on appropriate issues, including FLH and FLH permitting.	Work with the Ombudsman and other community partners to identify topics and plan for at least one collaborative workshop per year, organized in partnership with local stakeholders.	Ongoing	All (P&B, DPW, EH, CalFire, Ag Ombudsman)
29	Request that the Agricultural Ombudsman develop and maintain a list of professional consultants to assist with FLH applications.	FLH applicants often have inadequate or incomplete technical expertise to fully complete the FLH application process, and require external technical assistance. The Agricultural Ombudsman often deals with relevant technical experts, and could act as a neutral source, outside the County structure, of information on consultants with relevant, applicable expertise.	Request that the Agricultural Ombudsman create and maintain such a list.	Mar. 2018	Ag Ombudsman
30	Explore funding sources for FLH assistance	The Department of Housing currently provides funding through the Farmworker Housing Pilot Program through loans to farmers. Housing is also working on a Best Practices report, which will provide a basis to identify and pursue other sources of funding.	-Pilot FLH Loan Program. -Best Practices Report and implementation of Report recommendations and findings.	Ongoing	Department of Housing