



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMO

REPORT DATE: February 16, 2021
TO: San Juan County Council
CC: Mike Thomas, County Manager
Erika Shook, AICP, DCD Director
FROM: Adam Zack, Planner III
SUBJECT: 2036 Comprehensive Plan Update
Section B, Element 2, Land Use and Rural
Section B, Element 5, Housing
Farm Worker Accommodations

BRIEFING: February 22, 2021

ATTACHMENT: A. November 20, 2020 Planning Commission Meeting Minutes

Purpose

To discuss and get Council direction on farm worker accommodation Comprehensive Plan (*Plan*) policies and regulations.

Feedback Requested

Please provide direction on the following farm worker related policy and regulatory topics:

- Allowing farm worker accommodations on farms that do not participate in open space or current-use taxation programs;
- Temporary farmworker accommodations; and
- State farm worker housing.

Public Comments

Please send all public comments to compplancomments@sanjuanco.com. Do not copy the County Council, Planning Commission members, or County Staff. Written public comments received by February 5, 2021, will be provided to the County Council before the meeting. Comments should refer to the issue and option related to the comment. Please focus public comments on the issues and options contemplated in this report.

Public Comments Received

Agricultural Resources Committee (ARC):

https://www.sanjuanco.com/DocumentCenter/View/21255/2020-09-09_PUB_ARC_FW_housing

ARC: https://www.sanjuanco.com/DocumentCenter/View/19758/2020-01-28_PUB_AG-Res_Com_Housing_Ele_Comments

Background

The ARC and other community members identified a need to expand housing opportunities for farmworkers, caretakers, and farms transitioning to new owners or cooperatives through a succession plan. In January 2020, the ARC provided public comment on the draft Housing Element, proposing several Housing Element policies that promote farmworker housing on land designated Rural Farm Forest and Agricultural Resource Land.

At the draft Housing Element briefings and discussions in January 2020, Planning Commission and Council were largely supportive of providing more opportunities for farms to have the temporary worker housing they need; however, there were concerns about how such housing would contribute to density and how the County could ensure that the housing would be used for its intended purpose, not for vacation rental or for worker housing unrelated to agriculture.

One of the primary concerns the ARC raised about farm worker accommodations is San Juan County Code (SJCC) 18.40.230(B)(2), which requires the site to be enrolled in the agricultural open space tax category. The concern is that this would exclude farms that do not participate in this tax program. On the other hand, the County has limited options for confirming a property is an active farm without this requirement. Without confirming that the property is an active farm, it is harder to guarantee that the farm worker housing is being used to house farm workers.

Farm worker accommodation is further complicated by the affordable housing shortage in the County. Many employers have difficulty hiring because employees struggle to find a place to live. Providing accommodations for workers is a way farms can simplify hiring and compensate employees beyond wages. This makes farm worker accommodation very attractive to active farm operations.

Two of the public benefits that farm worker accommodations confer are supporting active agriculture and providing housing for agricultural workers. Through the permitting process, developers of farm worker accommodations are essentially exchanging this public benefit for the right to develop worker housing on a property.

Previous Staff Memos

Staff provided the Planning Commission with two staff memos that discussed farmworker accommodations and provided additional background. They are posted online at:

- August 7, 2020, Initial Staff Memo: <https://www.sanjuanco.com/DocumentCenter/View/20937>
- November 6, 2020, Issue Follow Up: <https://www.sanjuanco.com/DocumentCenter/View/21360>

Growth Management Act Requirements

The WA State Growth Management Act (GMA) includes several requirements related to farm worker accommodation. First, the GMA requires that the *Plan* and development regulations maintain and enhance agricultural resource industries (RCW 36.70A.020(8)). This includes ensuring that agricultural lands and surrounding areas are not converted into permanent incompatible uses. Denser residential, commercial, and industrial uses can conflict with agricultural uses. On the other hand, allowing options for farmers to accommodate workers can help farms remain economically viable, supporting commercial production of agricultural products.

A second GMA requirement related to farm worker accommodations is the goal to reduce sprawl. Statewide planning goal 2 aims to reduce the conversion of undeveloped land into sprawling, low-density development (RCW 36.70A.020(2)). One of the reasons the *Plan* limits residential density and more intense uses in natural resource lands is to maintain undeveloped land for farming outside of urban growth areas (UGAs) and limited areas of more intense rural development (LAMIRD). Farm worker accommodations allow farms to develop accommodations for up to ten workers, which is more intense than typical single-family residential development. Carefully considered regulations for farmworker accommodations can allow for more development without resulting in sprawl.

The GMA also tasks the County with ensuring the *Plan* allows for a variety of housing types and encourage the availability of affordable housing (RCW 36.70A.020(4)). Farm worker accommodations are one way the *Plan* can allow for a variety of housing options. This type of housing must be occupied by workers employed on-site and is usually provided at an affordable rate as part of the employee's compensation.

Existing Farm Worker Accommodation Policies in the *Plan*

The existing Land Use Element includes one mention of farmworker accommodations in Section 2.3.C Rural Lands policy 2.3.C.10.b.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.

This policy specifically applies to the Rural Farm Forest (RFF) land use designation. The *Plan* does not include a general farm worker accommodations goal in either the Land Use or Rural sections. Adopting a general farm worker accommodations policy in the land use element can help clarify the purpose behind the regulations and articulate the County's policy approach to this type of housing.

The existing Housing Element identifies the need for housing for seasonal workers, however it does not specifically mention farm workers. Policy 14 currently states:

Provide opportunities and support for specific standards for locating seasonal and year-round worker housing such as dorms, bunkhouses, hostels, group homes, and other communal living arrangements. Standards should include compliance with all public health codes and measures to mitigate significant negative external impacts these facilities may have on adjacent properties.

While this policy supports the shorter-term housing many seasonal workers need, this policy does not address the land use issues that often prevent farms from being able to house their workers. Farmworker housing is needed on land where agriculture activity occurs, which is typically on land use designations with requirements for maintaining minimal density. The Comprehensive Plan needs policies specific to farmworker housing in order to have land use regulations that allow the development of housing specifically for farmworkers where needed, without allowing other residential or vacation rental uses that contribute to sprawl and depletion of rural character.

In December 2019 and January 2020, DCD made draft housing goals and policies available for public comment, and engaged with the Planning Commission and County Council on various housing topics. Several farmworker housing-related goals arose from those discussions and are in the current draft housing element (colors represent different rounds of editing from the public, Planning Commission and County Council) but were never finalized:

Goal 1. Meet the projected 2036 housing demand for year-round and seasonal residents.

3. Increase the availability of rental housing for workers. ~~Support development of specific standards for locating seasonal and year-round worker housing such as dorms, bunkhouses, hostels, group homes, home shares, farmworker housing and other communal living arrangements~~
4. Allow farm stays and farmworker housing accommodations on ARL and RFF properties where food is grown, commercial agriculture is conducted, ~~, including, but not limited to not only those properties in agricultural open space tax programs.~~ **[put on hold for more discussion by CC]**

Goal 5. Promote climate resiliency by minimizing the environmental impacts, such as greenhouse gas emissions, of the existing and future housing stock in San Juan County.

5. Support working farms and farmland succession by XXXXXXXX allowing for development of additional housing units on RFF and ARL when the cumulative environmental impact of such developments is no greater than allowed for a single family housing development. **[ARC] REVISIT**

Goal 6. Increase the number of resale-restricted affordable housing units.

7. Support USDA Rural Development Farm Labor Housing Direct Loans & Grants programs that provide construction, improvement, repair and purchase of housing for farm laborers.

After the discussions with the Planning Commission and County Council, DCD found that the farmworker housing policies developed in the draft Housing Element are more land use issues and are better suited to the Land Use Element. DCD proposes developing farmworker housing policies for the Land Use element, based on the policies in the draft Housing Element. DCD would then replace the Housing Element farmworker housing policies with new policies that are general and based on backing programs that support the development of farmworker housing.

How do the existing regulations address this issue?

San Juan County Code (SJCC) currently allows farm worker accommodations, a residential use associated with agricultural labor (SJCC 18.20.060 "F" definitions). Per Chapter 18.30 SJCC, this use requires a provisional use permit in all rural and natural resource land designations except for the Rural Residential, Conservancy and Natural designations where it is not permitted. The use is also allowed in Activity Centers in the Village Commercial, Village Residential and Hamlet Residential with a provisional use permit. The provisional use

permit process is an administrative review and DCD makes the decision on the permit. Farm worker accommodation is an outright allowed use (no land use permit required) in the Hamlet Commercial designation.

The County Code also allows farm stays which are a hospitality commercial use associated with agriculture. These are allowed in various designations when the property is in the AG Open Space taxation program. With limitations, up to six persons can stay on the farm to participate in farm operations or education. This allowance is not specifically related to the provision of seasonal farm worker accommodations.

The performance standards for farm worker accommodations and farm stays are established in SJCC 18.40.230. The performance standards were adopted in 1998 and have not been amended since. SJCC 18.40.230 states:

A. Farm Stay Accommodations. The following standards apply to all farm stay accommodations:

1. Farm stay accommodations may be provided for up to six persons at any one time.
2. The site must currently be in the assessor's tax category of agricultural open space.
3. Farm stay accommodations must be consistent with bed-and-breakfast residence requirements (see SJCC 18.40.260), except that farm stay accommodations may serve three meals a day to overnight guests only.
4. Accommodations shall be clearly subordinate to the agricultural activities on site or in the affected agricultural area and shall not detract from the rural environment.
5. Accommodations shall be located on no more than one acre of the farm parcel and shall be located so as to minimize the amount of agricultural land loss.
6. Accommodations shall not require the extension of public sewer and water services. On-site sewage disposal systems and water supplies shall be adequate to support the facility.
7. Accommodations are characterized by providing a maximum of 100 days annually for participation in farm operations and a maximum of 100 days annually for farm education programs.

B. Farm Worker Accommodations. The following standards apply to all farm worker accommodations:

1. Farm worker accommodations may be provided for up to 10 persons.
2. The site must currently be in the assessor's tax category of agricultural open space.

3. Accommodations are provided only to persons who are directly involved in agricultural activities and paid by the farm operator.
4. Accommodations shall be clearly subordinate to agricultural activities on site or in the affected agricultural area and shall not detract from the rural environment.
5. Accommodations shall be located on no more than one acre of the farm parcel and shall be located so as to minimize the amount of agricultural land loss.
6. Accommodations shall not require the extension of public sewer and water services: on-site sewage disposal systems and water supplies shall be adequate to support the facility.

Issue 1: Allowing farm worker accommodations on farms that do not participate in open space or current-use taxation programs.

Planning Commission Recommendation

At their November 20, 2020 meeting, the Planning Commission recommended a three-lane approach to farmworker accommodations. The three lanes are included in their approved motion from November 20, 2020, which states:

The Planning Commission recommends a three lane approach:

1. Retaining the current rules requiring participation in current use farm and agriculture (no change option);
2. Recommend the ADU approach for farms that are not in current use as proposed in the September 29, 2020 memo from the Agricultural Resource Committee;
3. [Statewide] Approach to seasonal farm worker accommodations (for farms not in current use).

The second 'lane' would allow a single farmworker accommodation without requiring participation in the CUFA or OSFC programs provided the single accommodation were subject to similar standards as an ADU (i.e. siting and size requirements in SJCC 18.40.240).

Background

One of the primary issues the ARC raised in their comment on Element B.5, Housing was that farm worker accommodations are restricted to properties that participate in the Assessor's tax category of agricultural open space. In their comment dated January 28, 2020, the ARC recommended amending the Housing Element farm worker policy to remove the open space requirement. The reason for removing this requirement is that there are farms that do not participate in the open space program that might benefit from developing farm worker accommodations.

The requirement that farms participate in the open space taxation program has two purposes. First, it is a means to confirm that agriculture is taking place on the parcel. The farm must demonstrate to the Assessor

that they are operating a commercial agricultural operation at the time of assessment. This means that the farm operation is regularly confirmed. Second, the open space taxation program establishes an incentive to remain in agricultural use. Participants in the program are granted a lower property tax assessment while they are enrolled. Furthermore, if the use of the parcel is converted to a nonagricultural use, the property owner must pay additional property taxes equal to the difference between the tax paid on the current use value and tax that would have been paid on the land had it not been classified. The additional taxes due include interest and a twenty percent penalty. The presence of an agricultural operation is more difficult to confirm and the incentive to remain in agricultural use is reduced if applicants are not required to participate in the open space taxation program.

If the *Plan* and development regulations do not include a requirement that farms participate in these programs in order to develop farm worker accommodations, there is less of a guarantee that these two public benefits are being provided in exchange for the additional development rights. On the other hand, some farms may be prevented from developing farm worker accommodations because they do not participate in the program, reducing the overall supply of farm worker accommodations.

A problem that might arise from removing the open space requirement is that it could become more difficult to prove that farm worker accommodations are taking place on existing farms. The current-use and open space tax programs require the property owner to demonstrate that the property is being used for growing crops. This includes meeting productivity thresholds. This means that by requiring participation in the current-use or open space tax programs, the farm worker accommodation regulations help ensure that accommodations are only being provided on active agricultural operations.

Issue 2: Temporary farm worker accommodations.

Planning Commission Recommendation

At their meeting on August 21, 2020, the Planning Commission recommended amending the definition of farmworker accommodations to include temporary accommodations.

Background

Another issue raised by the ARC is temporary farm worker accommodations. The ARC proposes to allow farmers to temporarily put up farm workers in impermanent accommodations such as tiny homes, park models, and recreational vehicles. This would give farmers flexibility for housing temporary seasonal workers without requiring a permanent structure. Structures constructed on wheels such as RVs, travel trailers, and tiny homes on wheels are inspected and regulated by the Washington State Department of Labor and Industries (L&I). They require building plans to be stamped by a professional engineer, plumbing and electrical installation to be performed by a licensed professional, and inspect the units to ensure that they are safe. Once the mobile structure is approved by L&I, it is stamped with their insignia.

Temporary accommodations provide options for housing workers without requiring permanent development in rural and natural resource lands. This supports the economic viability of farms without permanently intensifying the built environment in rural areas. Temporary farm worker accommodations would help to address the shortage of low-cost housing for seasonal workers on farms through the summer and fall.

The current code does allow for temporary farmworker accommodations; however, it may need to be made clearer. The definition of farm worker accommodations does not specify whether temporary accommodations are included in use. The definition in SJCC 18.20.060 "F" definitions states:

“Farm worker accommodation” means a residential use associated with agricultural labor.

The County Code could be clarified to better articulate what can be used for farm worker accommodations.

Issue 3: State farm worker housing

Planning Commission Recommendation

At their meeting on August 21, 2020, the Planning Commission recommended no change to the regulations for farmworker accommodations to account for the state regulations.

Background

The Department of Community Development often gets questions about state regulated farm worker housing. The state allows and permits temporary farm worker housing that overrides local land use regulations. Because this is a state process, the San Juan County Code does not list the use in the definitions, land use tables, or performance standards.

Chapter 70.114A Revised Code of Washington (RCW) establishes the regulations for Temporary worker housing - Health and safety regulation. This law allows the development of migrant (seasonal) farmworker housing for projects with ten or more occupants including accompanied family members or five or more dwelling units ([Chapter 70.114A.050 RCW - Housing on rural worksites](#)). The state defines temporary worker housing in RCW 70.114A.020 Definitions as follows:

“Temporary worker housing” means a place, area, or piece of land where sleeping places or housing sites are provided by an agricultural employer for his or her agricultural employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy.

The intent for allowing temporary worker housing is expressed in RCW [70.114A.010](#) Findings – Intent:

The legislature finds that there is an inadequate supply of temporary and permanent housing for migrant and seasonal workers in this state. The legislature also finds that unclear, complex regulations related to the development, construction, and permitting of worker housing inhibit the development of this much needed housing. The legislature further finds that as a result, many workers are forced to obtain housing that is unsafe and unsanitary.

Therefore, it is the intent of the legislature to encourage the development of temporary and permanent housing for workers that is safe and sanitary by: Establishing a clear and concise set of regulations for temporary housing; establishing a streamlined permitting and administrative process that will be locally administered and encourage the development of such housing; and by providing technical assistance to organizations or individuals interested in the development of worker housing.

This permitted land use is licensed through the WA Department of Health and the governing State law overrides local zoning regulations except for the building height and setback, and road access requirements. Applicable areas for development of migrant farmworker housing is established in [Chapter 70.114A.050 RCW](#). The statute reads:

“Temporary worker housing located on a rural worksite (RCW 70.114A.050), and used for workers employed on the worksite, shall be considered a permitted use at the rural worksite for the purposes of zoning or other land use review processes, subject only to height, setback, and road access requirements of the underlying zone (RCW 70.114A.050).”

Projects with 9 or fewer occupants including accompanied family members or four or less dwelling units, have the option to comply with Chapter 246-359 WAC, Temporary Worker Housing Construction Standards. If the operator elects to not have the project processed by the Washington DOH, the project would then need to comply with one of the other categories of farm worker housing provided under San Juan County Code.



Approved with corrections at the December 18, 2020 PC Meeting. The corrections were to correct the spelling of Sheila Gaquin's name, add Steve Rubey to the motions, add Nick Knoellinger to the attending list and motions, and add a clarification motion for page 3, Item 5. Moved by Dale Roundy, seconded by Sheila Gaquin, with the clarification of the Planning Commission's intent regarding point number 5 in the motion regarding Vacation Rentals (page 3 of the minutes) that: Whatever cap or caps are ultimately adopted should not be annual limits on increases in the number of VR permits, but should be based on a fixed number of permits beyond which no additional permits shall be approved in the areas subject to the cap(s). Tim Blanchard – yes, David Kane – yes, Nick Knoellinger-yes, Sheila Gaquin – yes, Dale Roundy – yes, Steve Rubey – yes, and Camille Uhlir – yes. Motion passed unanimously.

SAN JUAN COUNTY PLANNING COMMISSION MEETING

MINUTES OF THE NOVEMBER 20, 2020 MEETING

The meeting of the San Juan County Planning Commission was called to order by Chair, Camille Uhlir, at 8:40 a.m. in the County Council hearing room, Legislative Building, 55 Second Street, Friday Harbor, and San Juan Island.

Planning Commission

Members Present: Present in person: Camille Uhlir. By Skype: Tim Blanchard, Michael Pickett David Kane, Dale Roundy, Steve Rubey, Sheila Gaquin and Nick Knoellinger.

Department of Community Development (DCD) Staff

Present: Present in person: Erika Shook, Director; and Lynda Guernsey, AS II. By Skype: Adam Zack, Planner III and Sophia Cassam, Planner I.

Administrative Items

Confirm Agenda – No changes to agenda.

Minutes of October 16, 2020

Moved by Michael Pickett, seconded by Tim Blanchard, to approve the October 16, 2020 minutes as submitted. Michael Pickett – yes, David Kane – yes, Dale Roundy – yes, Tim Blanchard – yes, Steve Rubey – yes, Nick Knoellinger – yes, Sheila Gaquin – abstain, Camille Uhlir – yes. Motion passed with five yes votes and one abstention (Gaquin).

DCD Update – Erika Shook, Director

Erika Shook was unavailable for an update.

Public Access Time – The following spoke:

Liz Lafferty, Community Rights San Juan Islands

Jan Scilipoti, Lopez Island

Lovel Pratt, Friends of the San Juans

Briefings about the San Juan County Comprehensive Plan 2036 Update Project:

Element B.2, Land Use and Rural, Policy Issue: Rural Residential Cluster Development Briefing - Sophia Cassam, Planner I

Sophia Cassam went through the staff report dated November 5, 2020 and stated the issues that staff needed a recommendation on from the Planning Commission. Discussion was held on each issue.

Issue 2: Limits to the size of cluster development structures

Moved by Tim Blanchard, seconded by Camille Uhlir, with regard to issue 2 on page 2 of the staff report on Rural Residential Clusters, the Planning Commission recommends (1) including the square footage of accessory structures within the limitations established for dwelling units; (2) developing a maximum roof area limit for the cluster, and (3) developing a Building Site Plan approach to enforcement, subject to the proviso that the Planning Commission expects to consider additional requirements to protect rural character. Michael Pickett – yes, David Kane – yes, Dale Roundy – yes, Tim Blanchard – yes, Steve Rubey – yes, Nick Knoellinger – yes; Sheila Gaquin – yes, Camille Uhlir – yes. Motion passed unanimously.

Issue 3: Cluster development ownership requirements

By Consensus, the Planning Commission recommends Option B: No Change.

Issue 4: Assurance of affordability requirements

Moved by Tim Blanchard, seconded by David Kane, that in regard to issue 4 on page 3 of the staff report, the Planning Commission recommends no change to SJCC 18.60.230©(3)(b). Michael Pickett – yes, David Kane – yes, Dale Roundy – yes, Tim Blanchard – yes, Steve Rubey – yes, Nick Koellinger – yes, Sheila Gaquin – yes, Camille Uhlir – yes. Motion passed unanimously.

Element B.2 Land Use and Rural, Policy Issues: Farmworker Accommodations and Vacation Rentals – Adam Zack, Planner III

Adam Zack went through his staff report dated November 6, 2020 addressing the questions raised by the Planning Commission at the August and September meetings regarding Farmworker Accommodations and Vacation Rentals. He was also looking for recommendations today from the Planning Commission.

Farm Worker Accommodations

Moved by Tim Blanchard, seconded by David Kane, with regard to the options for farm worker accommodations, the Planning Commission recommends a three lane approach:

1. Retaining the current rules requiring participation in current use farm and agriculture (no change option);
2. Recommend the ADU approach for farms that are not in current use as proposed in the September 29, 2020 memo from the Agricultural Resource Committee;
3. Approach to seasonal farm worker accommodations (for farms not in current use).

Michael Pickett – yes, David Kane – yes, Dale Roundy – yes, Tim Blanchard – yes, Steve Rubey-yes, Nick Knoellinger – yes, Sheila Gaquin – yes, Camille Uhlir – yes. Motion passed unanimously.

Vacation Rentals

Moved by Michael Pickett, seconded by Dale Roundy, that the Planning Commission recommends the following:

1. The County should place a moratorium on new vacation rental permits.

2. New regulations or a cap should have no impact on existing/compliant vacation rental permits.
3. Establish a cap by island, neighborhood, or smaller geographic area.
4. Look at ways that vacation rental permits would not run with the land
5. (***) See clarifying motion at the top of these minutes.) The cap should be set so that there's no new vacation rental permits, that it's set at the existing level.
6. Look at enforcement provisions for vacation rental permits, to possibly expedite that process.

Michael Pickett – yes, David Kane – yes, Dale Roundy – yes, Tim Blanchard – yes, Steve Rubey – yes, Nick Knoellinger-yes, Sheila Gaquin – yes, Camille Uhlir – yes. Motion passed unanimously.

Discussion was held regarding “home-shares” and bed and breakfasts. Concern was expressed about the public perception that “Home-Shares” are vacation rentals and that might need to be made clearer that they are not. Regarding bed and breakfasts, how many are there and how might that affect the cap.

Vacation Rentals in UGA and Accessory Dwelling Units

Discussion was held and then it was brought forward that at the September 18, 2020 Planning Commission meeting it had already been recommended to only allow one vacation rental per property in the UGA.

The Planning Commission brought up issues that are still unresolved and will need to be addressed at some point:

- Business license requirement for vacation rentals.
- Water use requirements.
- Septic requirements.
- Number of permits allowed per owner.
- Performance standards for vacation rentals and what can be done about them.
- Review of the ADU lottery process (affordable housing effect, long term rentals).

Adam Zack responded to further questions and comments from the Planning Commission.

Return to Admin Items

Planning Commissioner Tim Blanchard let the Planning Commission know that he had submitted a letter to the County Council in regard to continuing on with the Planning Commission during the duration of the Comprehensive Plan Update. He had not had a response at this time.

Planning Commissioner Michael Pickett stated that his term was up at the end of December and that he would not be applying for another term.

Adjournment

The meeting was unanimously adjourned at 1:35 p.m. The next meeting of the Planning Commission is scheduled for Friday, November 20, 2020, at 8:30 a.m. in the County Council hearing room, Legislative Building, 55 Second Street, Friday Harbor, San Juan Island.

Respectfully submitted,

Lynda Guernsey

