



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250
(360) 378-2354 | (360) 378-2116
dcd@sanjuanco.com | www.sanjuanco.com

MEMO

REPORT DATE: August 7, 2020
TO: San Juan County Planning Commission
CC: Erika Shook, AICP, DCD Director
FROM: Sophia Cassam, Planner I
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: August 21, 2020

ATTACHMENT: A. Agricultural Resources Committee Memo dated January 28, 2020.

Purpose

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

Feedback Requested

Please provide a recommendation 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 August 20, will be provided to the Planning Commission. 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.

Background

The Agricultural Resource Committee (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 accommodation are essentially exchanging this public benefit for the right to develop worker housing on a property.

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 rural and natural resource lands is to maintain undeveloped land 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.

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 goal in the land use element can help clarify to 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] [ARC, Dunsmore]**

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 XXXXXXX 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 Housing Element draft are more of 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 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’s 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.

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.

Option 1A: Allow farm worker accommodations without requiring participation in open space or current-use taxation programs, provided farm owners can demonstrate that they are eligible for those programs. Adopt a new Land Use and Rural Element Policy, and amend SJCC 18.40.230(B)(2).

Option A would allow an alternative for developing farm worker accommodations without requiring farms participate in the open space tax program. It would require either participation or demonstration that a parcel is eligible to participate in the open space tax program. This would effectively allow most commercial farms to develop farm worker accommodations while still requiring demonstration that the parcel is used for commercial production of agricultural products.

The Planning Commission was briefed on the open space taxation program in February 2020. The staff report discussing the program is available online at <https://www.sanjuanco.com/DocumentCenter/View/19792>. This staff report provides detailed information on the requirements for the open space taxation program. Some of the definitions of agricultural land in the open space tax program are:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres and are:
 - a. Devoted primarily to the production of agricultural products for commercial purposes;
 - b. Enrolled in the federal conservation reserve program administered by the United States Department of Agriculture; or
 - c. Other commercial agricultural activities established under Chapter 458-30 WAC.
2. Any parcel that is five acres or more but less than 20 acres, devoted to agriculture, and has produced a gross income equivalent to \$200 or more per acre per year for three of the five calendar years preceding the date of application. Any parcel that is five acres or more but less than 20 acres gross income from agriculture includes the wholesale value of agricultural products donated to nonprofit foodbanks or feeding programs.
3. Any parcel that is five acres or more but less than 20 acres, devoted to agriculture, and has standing crops with an expected harvest within:
 - a. Seven years and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre; or
 - b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre.
4. Any parcel of land less than five acres devoted primarily to agriculture that has produced a gross income of \$1,500 or more per year for three of the five calendar years preceding the date of application.

Option 1A requires applicants to provide information about how they would meet these requirements as part of their application to build farm worker accommodations.

A general land use policy for farm worker accommodations would be adopted in Section 2.2.A, Element B.2 Land Use and Rural. The possible new general land use could read:

General Land Use Policy: Allow farm worker accommodations on properties designated Agricultural Resource or where commercial agriculture is conducted. Commercial agricultural operations can be confirmed by either:

- a. Current enrollment in the Assessor's current-use farm and agriculture or open space farm conservation tax programs, or
- b. Demonstration that a parcel is eligible for the Assessor's current-use farm and agriculture or open space farm conservation tax programs.

Housing Policies

1. Support the agriculture community and industry by allowing viable and safe housing options for farm workers.
2. Promote programs that provide resources for the construction, improvement, repair and purchase of housing for farm workers.

In addition to adopting new policies, Option 1A would require a change to the Farm worker accommodation regulations in SJCC 18.40.230(B)(2). The proposed changes are:

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 be designated Agricultural Resource or currently be in the assessor's tax category of agricultural open space have an active agricultural operation. Active agriculture is demonstrated by either:
 - a. Participation in the Assessor's current-use farm and agriculture or open space farm conservation tax programs, or
 - b. Demonstration that the site is eligible for the Assessor's current-use farm and agriculture or open space farm conservation tax programs.
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.

The benefits of Option 1A include:

- More farms would qualify for farm worker accommodations, as requested by the ARC;
- Allowing more farms to develop farm worker accommodations supports the commercial viability of agriculture; and
- Requiring farms to demonstrate eligibility for the open space taxation program maintains an important threshold for determining that the farm is a commercial agriculture operation.

The drawbacks of Option 1A include:

- Removing the requirement that farms to participate in the open space taxation program gets rid of the long-term guarantee that farms will continue to be used for agriculture because the tax penalty for changing the use only applies to parcels participating in the program;
- Farms that are unable to demonstrate eligibility for the open space taxation program would not be eligible; and
- Option 1A allows more development in agricultural resource land than allowed under the current regulations.

Option 1B (Agricultural Resource Committee Recommendation): Allow farm worker accommodations without requiring participating in open space or current-use taxation programs, amend Housing Element Policies, adopt a new Land Use and Rural Element Policy, and strike SJCC 18.40.230(B)(2).

An alternative to requiring the applicant to demonstrate that they are participating or eligible for current use or open space taxation is to remove the requirement entirely. This would allow these accommodations on any parcel with established agricultural activities. Agricultural activities are defined in SJCC 18.20.010 "A" definitions and in RCW 90.58.065(2)(a) as:

"Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation

A general land use policy for farm worker accommodations would be adopted in Section 2.2.A, Element B.2 Land Use and Rural. The possible new general land use could read:

General Land Use Policy: Allow farm worker accommodations and farm stays on properties where commercial agriculture is conducted.

Housing Policies

1. Support the agriculture community and industry by allowing viable and safe housing options for farm workers.
2. Promote programs that provide resources for the construction, improvement, repair and purchase of housing for farm workers.

In addition to adopting a new policy, Option 1B would make the following changes to the Farm worker accommodation regulations in SJCC 18.40.230(B)(2):

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.

43. Accommodations shall be clearly subordinate to agricultural activities on site or in the affected agricultural area and shall not detract from the rural environment.

54. 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.

65. 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.

Eliminating the requirement that farms participate or demonstrate eligibility for current use or open space taxation would increase the number of parcels that are eligible for farm worker accommodations. This is both a possible benefit and a potential drawback.

Some of the benefits of Option 1B are:

- significantly reducing the requirements, making it easier to develop farm worker accommodations.
- Removing this requirement would make it easier for parcels that only have some agricultural activities but are not necessarily working farms.

Some of the drawbacks of Option 1B include:

- Option 1B could lead to allowing additional development in rural and resource lands with less of a guarantee that the development was supporting a working farm. One of the primary purposes of the current use and open space requirement is to ensure that the farm is commercially productive.
- Requiring participation in the open space taxation program provides some assurance that the farm will continue to be a productive farm by establishing a disincentive for changing the use from agriculture by charging a penalty. Removing the open space taxation requirement would also remove this disincentive.

Option 1C: No Change.

The County is not required to make a change the code for farm worker accommodations. The benefit of allowing farm worker accommodations without participating in the open space program might not outweigh the drawbacks of enabling further development. Furthermore, no change should be made to the farm worker accommodation regulations if allowing development of farm worker accommodations ought to be conditioned on participation in the open space taxation program. In other words, Option C should be selected if the open space requirement is necessary to ensure that the parcel is and will continue to be actively farmed.

The benefit of Option C is that development of farm worker accommodations can only take place on parcels that participate in the open space taxation program; ensuring that the farm is commercially productive. Furthermore, the current use and open space requirement provides some assurance that the farm will continue to be a productive farm by establishing a disincentive for changing the use from agriculture by charging a penalty.

A drawback of Option C is that some farmers that operate commercially productive farms but do not participate in the open space taxation program will not be able to develop farm worker housing. This could make it more difficult for some farms to house workers and operate at a scale needed for profitability.

Staff Recommendation

Staff recommends Option 1A. Demonstrating eligibility for the open space tax program is a good way for applicants to show that they are an active farm without requiring participation in the program. Amending the regulations to allow for farm worker accommodations on parcels that either participate in or can demonstrate eligibility for the open space taxation program allows more farms to develop farm worker accommodations without opening the door for this development on parcels that do not necessarily have commercial agricultural operations. This would, in effect, accomplish the aim of the ARC's proposal by making it easier for farmers to develop farm worker accommodations without removing the requirement entirely.

Issue 2: Temporary farm worker accommodations.

Another issue raised by the ARC is temporary farm worker accommodations. The ARC ~~would like the code to~~ proposes to allow famers 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 is allowed to be used for farm worker accommodations.

Option 2A: Amend the definition and performance standards for farmworker accommodations to include temporary structures.

One of the ways the County can allow farm worker accommodations in temporary accommodations is to amend the definition of farm worker accommodations in SJCC 18.20.060 "F" definitions and the performance standards in SJCC 18.40.230 Farm stay and farm worker accommodations. Amending the definition would clarify that temporary living quarters can be used for farm worker accommodations. Option A would add a standard to the performance standards to ensure that temporary living quarters are not used for permanent housing.

The proposed amendment to SJCC 18.20.060 "F" definitions is:

"Farm worker accommodation" means a residential use associated with agricultural labor. Accommodations may be permanent or temporary, such as tiny homes, recreational vehicles or tents.

Option A proposes a new standard in SJCC 18.40.230 Farm stay and farm worker accommodations to ensure that temporary living quarters are not used as permanent housing. The proposed amendment to SJCC 18.40.230(B) is:

SJCC 18.40.230(B) Farm stay and farm worker accommodations.

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.
7. Temporary accommodations must not be occupied for more than 180 days in a calendar year.

Some of the benefits of allowing temporary farm worker accommodations in temporary accommodations are:

- Farmers would have more options for housing temporary workers;
- Putting up seasonal workers in temporary accommodations can be a less expensive alternative to building permanent structures for housing;

- Provides farmers with 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; and
- Establishing health and safety standards for temporary farm worker accommodations would help to ensure that workers are not housed in substandard arrangements.

Some of the drawbacks of allowing temporary farm worker accommodations in temporary accommodations are:

- Temporary structures, RVs, tiny homes on wheels, and park models might not be engineered for continuous habitation for up to 180 days. Because they do not require a County building permit, the County has limited review of the construction of the temporary structure;
- Neighboring property owners might object to the visual appearance of temporary structures; and
- Temporary accommodations would place additional demand on on-site sewage systems, which could require additional capacity. Expanding on-site septic could be cost-prohibitive for some farms.

Option 2B: No change.

The County is not required to make a change for temporary farm worker accommodations. The combination of State regulations for farm worker housing and County regulations for farm worker accommodations might adequately address the issue without further amendment.

Staff Recommendation

Staff recommends Option A to amend the definition of farm worker accommodations in SJCC 18.20.060 "F" definitions and the performance standards in SJCC 18.40.230 Farm stay and farm worker accommodations. Option A clarifies the regulations for farm worker accommodations in temporary living quarters. It also adopts a specific provision to prevent temporary living quarters from being used for permanent housing.

Issue 3: State farm worker housing

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.

Option 3A: Allow Temporary Worker Housing Allowed and Licensed by State law by adding “Seasonal-Duration Farm Worker Housing (State Reviewed)” to the land use tables in SJCC 18.30.040 Land use table – Rural, resource, and special land use designations and adopt performance standards.

The Department of Community Development (DCD) often gets questions regarding the state allowance and how it applies. Addressing it in code could provide clarity to planners and the public in how this program relates to local regulations. Under Option 3A, the use “Seasonal-Duration Farm Worker Housing” would be allowed outright in all land use designations. The state law regulating this use specifically supersedes local land use controls except for height, setback, and road access requirements.

A definition for “seasonal-duration farm worker housing” would need to be adopted in SJCC 18.20.190 “S” definitions. The proposed definition is:

“Seasonal-duration farm worker housing” means temporary housing on a rural worksite used for workers employed on the worksite.

The proposed performance standards for Seasonal-duration Farm Worker Housing (State reviewed) are:

Add a New Section to Chapter 18.40 SJCC - Seasonal-duration farm worker housing (State reviewed).

A. Seasonal-duration farm worker housing may be allowed on a rural worksite if approved by the Washington Department of Health (DOH) in accordance with RCW 70.114A.050.

B. Seasonal-duration farm worker housing must meet the following conditions:

1. Seasonal-duration farm worker housing must be located on the farm site where the work is occurring;
2. Projects with 10 or more occupants including accompanied family members or five or more dwelling units requires licensing by DOH and local review is limited to building height, setback, and access requirements per RCW 70.114A.050; and
3. Projects with 9 or less 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. Under this option, DOH would conduct review and licensing. Local review would be limited to building height and setback, and road access requirements of the local zone. If the operator elects to not have the project processed by DOH, the project would then need to comply with one of the other categories of farm worker housing provided under San Juan County Code.

The primary benefit of adopting regulations for seasonal-duration farm worker housing is clarifying for the public what is allowed under the state law

One of the drawbacks of Option 3A is that by duplicating the State law, any changes the legislature makes to the state regulations will require amendments to the County Code.

Option 3B: No Change.

The County is not required to adopt standards for seasonal-duration farm worker housing and adopting new standards will not effectively change the way the use is regulated. The state law allows this kind of development independent of the local land use controls, except for height, setback, and road access requirements.

Staff Recommendation

Staff recommends Option 3B. No change is required because the use is already regulated by the state law. A more effective way of communicating the what is required for seasonal-duration farm worker housing would be an informational brochure for applicants that describe the regulations and how to contact the DOH to get a permit.

SJCC 18.40.230 Farm stay and farm worker accommodations: The full text of SJCC 18.40.230 with the possible changes from Issues 1 and 2 in ~~strikeout~~/underline is shown for reference below.

SJCC 18.40.230 Farm stay and farm worker accommodations

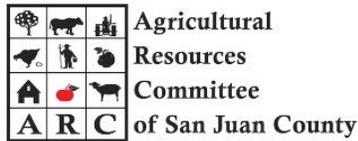
A. Farm Stay Accommodations. The following standards apply to all farm stay accommodations:

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~~ be designated Agricultural Resource or have an active agricultural operation. Active agriculture is demonstrated by either:
 - a. Participation in the Assessor's current-use farm and agriculture or open space farm conservation tax programs, or
 - b. Demonstration that the site is eligible for the Assessor's current-use farm and agriculture or open space farm conservation tax programs. (Issue 1, Option A recommended)
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.



Memorandum

To: Planning Commission
County Council

CC: Sophia Cassam, Planner I, DCD
Linda Kuller, AICP, Planning Manager, DCD
Erika Shook, AICP, Director, DCD
Ryan Page, Affordable Housing Coordinator SJC Health & Community Services

From: San Juan County Agricultural Resource Committee (ARC)
Steve Bernheim, Chair, ARC
Faith Van De Putte, Coordinator, ARC

Date: January 28, 2020

Subject: Comments on Preliminary Draft Housing Element dated January 9, 2020

Purpose

To provide the Planning Commission and County Planners with the ARC's recommendations for the 'Preliminary Draft Housing Element' dated January 9, 2020.

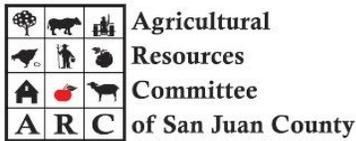
Background

The Agricultural Resource Committee (ARC) is a Citizen Advisory Committee composed of 15 voting seats, half of whom are members of the farming community. The ARC 2019 Work Plan includes engaging and collaborating in the Comprehensive Plan Update process by researching and proposing amendments to ensure consistency and support for a stronger agricultural economy. The ARC also serves as a listening post for the Agricultural community and conducts outreach throughout the year to help inform priorities.

All ARC members have had the opportunity to suggest changes to the recommendations. The ARC then voted on and passed the final recommendations by electronic (e-mail) vote completed on January 27, 2020.

Attachment

The ARC's adopted recommendations are attached.



Recommendations are based on the draft found at:

https://www.sanjuanco.com/DocumentCenter/View/19635/2020-01-09_DCD_Cassam_Housing_Element_HNA_CC_StaffReport

Narrative Comments:

Housing affects the viability of agriculture in San Juan County through two important factors: labor and succession. The housing needs of farms differ from those of non-farm properties, and innovative zoning, land use and development regulations that take those differences into account will be needed in order to ensure generational farm succession and adequate access to farm labor for long-term agricultural viability. Housing is reported as a primary area of concern and challenge at listening sessions organized by the ARC on Orcas, San Juan and Lopez in 2019 and 2020.

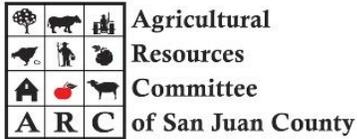
Agricultural businesses are labor intensive. With limited affordable housing in the islands many farms provide housing in order to attract and retain workers. According to the [*Economic Analysis of Resource Land*](#) (2017) agricultural employment in San Juan County is projected to increase at a compound annual growth rate of 1.5% per year. There has been a tradition of trailers, tiny homes, rooms in barns, tents and other substandard housing options to meet the need for both seasonal and long term housing on farms. However, these uses often don't fit into the current regulatory framework or provide adequate long term housing. The ARC hopes to both provide a regulatory pathway for alternative housing options such as tiny homes and clarify the regulations around farm worker housing.

Ownership transition is the time when farmland is at the highest risk for development. The complexities of handing over a farm business and land ownership are exacerbated by the common problem that the owner's main asset is the land. The average farmer in San Juan County is 65 and many struggle with the challenge of how to hand their farm over. If we in San Juan County are serious about protecting farmland we must look carefully at issues of succession and allow for regulatory pathways for succession housing.

There is a clear need for additional housing on working farms and farms transitioning to the next generation. Innovative solutions can help meet this need without opening up regulatory loopholes and ensure that any additional housing is consistent with preserving rural character and the goals of Agricultural Resource Land and Rural Farm Forest.

Recommended Amendments by Section

The ARC strongly supports the bulk of the Preliminary Draft Housing Element and very much appreciates the opportunity to provide these comments and proposed amendments.



Goal 1

Policy 4: Increase the availability of seasonal rentals for workers. Support development of specific standards for locating seasonal and year-round worker housing such as dorms, bunkhouses, hostels, group homes, home shares, farm worker housing and other communal living arrangements.

Policy 5: Allow farmworker housing on ARL and RFF land designation properties where commercial agriculture is conducted, including, but not limited to those ~~not only those~~ properties in agricultural open space tax programs.

Goal 4

Policy 6: Develop standards for tiny home building site plans where water and sewer services exist, ~~and~~ adopt the Washington State Building Code Council's tiny home codes in 2020 and form an advisory committee to evaluate drafting regulations for siting tiny home communities.

Goal 4 New Policies

New Policy 8: Allow for Tier 1, 2 and 3 grey water systems and encourage innovation and adoption of systems that meet state requirements.

New Policy 9: Allow for sewage and wastewater treatment with products listed on the List of Registered On-site Treatment and Distribution Products As Established in Chapter 246-272A WAC.

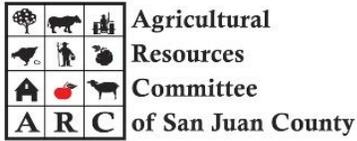
Goal 5 Revised

Goal 5. Demonstrate the County's promotion of ~~Promote~~ climate resiliency by minimizing the environmental impacts of the existing and future housing stock in San Juan County and reducing the County's greenhouse gas emissions associated with housing by 50% by 2030.

Goal 5

New Policy 5: Adopt new "Sustainable Development" codes that incentivize sustainable housing development.

New Policy 6: Support working farms and farmland succession by 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.



Goal 6

New Policy 5: Encourage public-private partnerships with Land Trusts and owner-occupied housing cooperatives to create affordable housing on RFF and ARL consistent with rural character.

New Policy 6: Support USDA Rural Development Farm Labor Housing Direct Loans & Grants programs that provide construction, improvement, repair and purchase of housing for domestic farm laborers.

Thank you for considering our recommendations.

On Behalf of the Agricultural Resource Committee

Steve Bernheim, ARC Chair

Faith Van De Putte, ARC Coordinator