



REGULATORY BARRIERS TO AGRICULTURAL WORKFORCE HOUSING IN SAN MATEO COUNTY

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Lisa Grote, Land Use and Planning Consultant

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I gratefully acknowledge and thank all the applicants who have recently gone through the Agricultural Workforce (Farm Labor Housing) application process who shared their thoughts and experiences with me so that specific regulatory barriers to agricultural workforce housing could be identified and recommendations could be made about how San Mateo County can address those barriers.

I also gratefully acknowledge and thank San Mateo County staff from the Planning and Building Department, the Environmental Health Department, the Department of Public Works, and Cal Fire, who review Farm Labor Housing applications and contributed their thoughts and experiences with these applications and made suggestions about how to improve the review process and address regulatory barriers.

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Executive Summary

The Regulatory Barriers to Agricultural Workforce Housing report was commissioned by the San Mateo County Housing Department and the Planning and Building Department in conjunction with Supervisor Don Horsley's office as a follow-up to the "Agricultural Workforce Housing Needs Assessment" (Needs Assessment) completed by San Mateo County in October 2016. The Needs Assessment noted the possibility of regulatory barriers that inhibit the provision of much needed agricultural workforce housing (Executive Summary, pages v and vi of the Needs Assessment). It recommended that the County further explore the general comments made by focus group members, stakeholders, and survey responders about the possible difficulties applicants could be encountering during the agricultural workforce housing application process and how the County could address these difficulties (Recommendations, pages 66 – 68 of the Needs Assessment).

The Regulatory Barriers report followed up on the Needs Assessment recommendation by interviewing the following participants in the review process: 1) applicants for agricultural workforce housing that went through the application process between 2010 and 2016, or are in the process now; and 2) Staff from County Departments and Divisions, and staff from Special Districts that review these applications. The purpose of the interviews was to determine where the specific regulatory barriers exist and at what level of government they exist (State, County, or Special District). The questions asked were primarily open-ended so that the full extent of each participant's experience could be discussed. The responses to the questions were then analyzed to determine the type of barriers that exist and recommendations were made about how the County can improve its review process to reduce or remove these barriers. Staff and applicant responses to the questions were taken at face-value to gain an overall understanding of the type of experiences participants have during the application review process and to develop recommendations about how that experience might be improved. It was not within the scope of work for the project to review each Farm Labor Housing application made within the last six years.

Throughout the interviews with recent applicants many positive comments were made about the County staff and the work that they do related to agricultural workforce housing. Applicants were especially appreciative of the application fee waiver for farm labor housing applications, the implementation of coastside office hours, and the planner that staffs the coastside office and does the majority of the Planning review for farm labor housing applications. Many recent applicants noted that this individual is especially knowledgeable and helpful during all aspects of the application process. Other staff members were noted for their knowledge and helpfulness as well.

This report focuses on the comments made by recent applicants that helped identify barriers to agricultural workforce housing because that was the intended scope of the project and followed up on the statements made in the "Needs Assessment".

The analysis of interview responses revealed three types of regulatory barriers: 1) Process barriers; 2) Technical/Engineering barriers; and 3) Communication barriers. Process barriers include the issues which arise before or during the application review process such as conflicting information or direction; inconsistencies or lack of clarity about the type of information required; misunderstanding or not being told about the steps in the review process or the amount of time it takes to complete the review; and general confusion about what is happening during a review process. Technical/Engineering barriers include uncertainty or disagreement about how to meet technical standards related to grading and

drainage requirements (C.3/C.6 standards), building code requirements, and septic system requirements, or the timing of submitting the required design detail. Communication barriers include issues about how information is distributed to potential and current applicants; slow response times when questions or problems arise; websites that are out-of-date or incomplete; and a lack of proactive outreach to current or potential applicants for agricultural workforce housing.

Recommendations are made at the end of the report to address each of these three areas. Recommendations for process improvements include, amongst others: developing a comprehensive Farm Labor Housing (FLH) Guidebook which will explain all required application materials and steps in the review process; incorporating on-site visits into the review process; better use of appointment times; increased Coastside office hours; and additional or reallocated staff resources to process FLH applications. Recommendations for technical/engineering improvements include, amongst others: considering the way existing grading and drainage requirements are applied to large agricultural parcels; evaluating the need for upgrades to existing single-family units when converting them to farm labor housing; and clarifying how the conversion of existing structures to FLH units are processed. Recommendations for communication improvements include, amongst others: updating information/outreach materials on the website; participating in regular outreach workshops; and upgrading maps on the website so that they are more useful as background documents for application submittals. The recommendations are presented with general timeframes for implementation that include those that can be implemented in the short-term; those that can be implemented within a mid-term period of time; and those that will require a longer-term implementation period.

In all cases, the recommendations are intended to reduce or eliminate regulatory barriers and make the FLH application process smoother for applicants and staff.

It should be noted that the County will develop a formal response to this report and will be indicating which recommendations can be implemented and which may not be advisable at this time for Farm Labor Housing applications.

Introduction and Methodology

This report was commissioned by the San Mateo County Housing Department and the Planning and Building Department in conjunction with Supervisor Don Horsley's office as a follow-up to the "Agricultural Workforce Housing Needs Assessment" (Needs Assessment) completed by San Mateo County in October 2016. The Needs Assessment concluded that the unmet need for agricultural workforce housing in San Mateo County is between 1,020 and 1,140 units (Executive Summary, page iii of the Needs Assessment) and noted the possibility of regulatory barriers as one potential problem for farm owners who are trying to provide the needed housing (Executive Summary, pages v and vi of the Needs Assessment). It recommended that the County further explore the general comments made by focus group members, stakeholders, and survey responders about the possible difficulties applicants could be encountering during the agricultural workforce housing application process and how these difficulties could be inhibiting the provision of agricultural workforce housing (Recommendations, pages 66 – 68 of the Needs Assessment).

The Regulatory Barriers report followed up on the Needs Assessment recommendation by interviewing the following participants in the review process: 1) applicants for agricultural workforce housing that went through the application process between 2010 and 2016, or are in the process now; and 2) Staff from County Departments and Divisions, and Special District staff, that review these applications. Approximately half of the applicants had gone through the agricultural workforce housing application process multiple times and approximately half were experiencing the process for the first time. The County and Special District staff involved in the review process had tenures that ranged from a year to twenty years reviewing agricultural workforce housing applications and all had the dual responsibility of assisting applicants through the process while ensuring that all health and safety codes are met.

The purpose of the interviews was to determine where the specific regulatory barriers exist and at what level of government they exist (State, County, or Special District). The questions asked of staff and applicants are attached to this report as Appendices A and B, respectively, and are primarily open-ended so that individual experiences could be fully expressed. Applicants and staff were not asked exactly the same questions because their roles in the application process are different and the purpose of the interviews was to gain an understanding of the review process as a whole. Different questions needed to be asked of applicants and staff to reach that goal. Each interview lasted approximately an hour, although several took two hours, and included an opportunity for an interviewee to discuss his or her thoughts about all aspects of the FLH application process, not just those thoughts related to the specific questions. Staff and applicant responses to the questions were taken at face-value to gain an overall understanding of the type of experiences participants have during the application review process and to develop recommendations about how that experience might be improved. It was not within the scope of work for the project to review each Farm Labor Housing application made within the last six years.

As many detailed responses as possible have been included in this report, without attributing specific comments to individuals, to give an accurate representation of the experiences applicants and staff have during the agricultural workforce housing review process. The responses were analyzed to identify major topic areas and trends which, in turn, helped identify the regulatory barriers that exist which inhibit the provision of agricultural workforce housing in San Mateo County. The results of that analysis have been aggregated and presented in this report. The accompanying recommendations stem from the analysis of the responses as well as from suggestions made directly by applicants and County staff.

Throughout the interviews with recent applicants many positive comments were made about the County staff and the work that they do related to agricultural workforce housing. Applicants were especially appreciative of the application fee waiver for farm labor housing applications, the implementation of coastside office hours, and the planner that staffs the coastside office and does the majority of Planning review for farm labor housing applications. Many recent applicants noted that this individual is especially knowledgeable and helpful during all aspects of the application process. Other staff members were noted for their knowledge and helpfulness as well.

This report focuses on the comments made by recent applicants that helped identify barriers to agricultural workforce housing because that was the intended scope of the project and followed up on the statements made in the “Needs Assessment”.

As a point of clarification, the San Mateo County Planning and Building Department calls the application process for agricultural workforce housing the “Farm Labor Housing” (FLH) application process and as such, both sets of questions in Appendices A and B refer to farm labor housing and not agricultural workforce housing. Farm labor housing is defined as housing for farm laborers who derive more than 20 hours per week average employment from on-or-off site agricultural operations within San Mateo County and who earn at least half their income from agriculturally-related work (Farm Labor Housing – Application Process and Procedures handout, County of San Mateo Planning and Building Department, October 8, 2014).

It should also be noted that the County will develop a formal response to this report and will be indicating which recommendations can be implemented and which may not be advisable at this time for Farm Labor Housing applications.

Discussion

When developing the questions to ask recent farm labor housing (FLH) applicants and County and Special District staff who review FLH applications, the intent was to ask questions that would provide an opportunity for all aspects of the process to be discussed and evaluated, including preapplication preparation stages as applicants are attempting to collect and organize the required submittal information and when understanding the type of information that will be required and how to get that information and how much it will cost is especially important, through the application in-take and review process when timeliness of responses, both from staff and applicants, and the frequency and quality of communication is especially important. Understanding the entirety of the process from the perspective of the applicant and the staff provides the best opportunity to identify regulatory barriers and develop recommendations for addressing them.

While the questions were developed to generate as much detail as possible, specific categories of analysis were not envisioned until the answers to the questions were analyzed. As that analysis took place, it became clear that three categories of concern arose from the answers given by applicant interviewees. Those categories are: process concerns; technical/engineering concerns; and communication concerns. The level to which each of these concerns were expressed varied upon individual experiences, but to one degree or another, these concerns were articulated by all the applicants interviewed. To great extent, the areas of concern that were raised by staff corresponded to the concerns raised by applicants albeit from a different perspective. In all cases, the recommendations

included at the end of this report are intended to present the County with ideas for an improved review process and enhanced communication that will help applicants and staff.

Process Barriers: include the lack of clarity or certainty about the FLH in-take and application review process and how long each step is expected to take and the relationship between the steps in the process.

Technical/Engineering Barriers: include the type and level of technical detail required for grading, drainage, building, and environmental health, and when that level of detail is required to be submitted for a FLH application.

Communication Barriers: include difficulties in communicating FLH application information to a potential applicant before an application is made and how communication between an applicant and staff member transpires during the review process.

Each of these categories is discussed below and each is directly related to one or more of the questions asked of applicants or staff as noted in the discussion along with references to specific questions in Appendices A and B. Each area of concern is synonymous with barriers that are encountered during the review process. It should be noted that the categories are not meant to be mutually exclusive. Some concerns easily fall into more than one category. The concern is placed within a specific category to help organize the discussion and the corresponding recommendations.

Process Barriers:

When staff members were asked to identify the biggest challenges encountered by FLH applicants (Appendix A, Question No. 2), the answers that fell into the process category included:

- Length of time a FLH application takes to review and process. Staff understood that it is difficult for a farm owner to wait six months or more for a decision.
- The policies and requirements of the Local Coastal Program (LCP) which define development very specifically and require permits for almost all structures, including FLH units and other agricultural structures, when non-coastal communities may be able to exempt those structures from permit requirements. Being in the Coastal zone leads to additional policies that need to be implemented and closer public review of all applications.
- The need to reconcile conflicting LCP policies such as preserving agricultural production while meeting Scenic Corridor requirements for additional setbacks. Meeting the additional setback for a Scenic Corridor can result in FLH units being located within active farmland which directly conflicts with other LCP policies calling for the preservation of that farmland.
- The recent change in the California Environmental Quality Act (CEQA) which removed FLH from the “affordable housing” exemption which means that an environmental review must be conducted for each FLH application and a Negative Declaration (ND), including appropriate mitigation measures, must be prepared. This review adds approximately six to eight weeks to the review process.
- The need to verify the legality of some agricultural parcels through the Certificate of Compliance process either concurrently or prior to the processing of the FLH application. When this additional process is required, it can add time and further application requirements to the overall process.

- The fracturing of submissions by the applicant meaning that there is no single point of contact for the applicant's team which leads to confusion for the reviewing staff when trying to get comments to the appropriate person on the applicant's team.
- The general difficulty an applicant has finding the appropriate professional assistance when putting together the submittal package (this is also an issue that is discussed further in the Technical concerns section of this report).

It is interesting to note that the first six issues above were also the ones staff identified as the biggest process concerns they, as staff, encounter when reviewing FLH applications (Appendix A, Question No. 3). Additional process challenges staff encounter include:

- Coordinating innovative solutions internally when a parcel is especially constrained. It takes longer to reach a decision when multiple Divisions or Departments are involved or new techniques will be used.
- Coordinating with other agencies such as Fish and Game and the Army Corp of Engineers if a bridge over a creek is needed for access to the site. Up to seven other agencies can become involved in these applications which extends the timeline for review.
- Managing an increasing workload when multiple FLH applications, along with other applications, are submitted simultaneously.

When staff members were asked how often applicants had to resubmit information (Appendix A, Question No. 4), they indicated that almost every application required one to two resubmittals for additional or clearer information and that in a few cases applicants had to return four or five times before all the information had been submitted. The following information was noted by staff as most often in need of further clarification or resubmittal:

- Clearer drainage and grading plans
- Clarity between septic plans and grading and drainage plans
- Clearer site specific topographic plans with septic system information superimposed on the topographic plan
- More or clearer septic system information including results of a perc test
- Better information on flood plains and how it is being addressed
- More information on potential locations for domestic wells and information regarding pad and supporting structure for pumps
- More complete biological assessment due to sensitive habitat or creeks/streams on-site
- Specific information on the FLH units themselves such as cut sheets, elevations, or floor plans
- Better site plans including a scale and a size which can be easily reviewed

When recent applicants were asked about their experiences with the FLH application review process, concerns about the lack of clarity regarding the process were some of the most strongly expressed. When asked if the application in-take process was clear (Appendix B, Question No. 2), most applicants responded that the application process was not clear. Applicants that had gone through the FLH process multiple times indicated that the staff's level of knowledge about the FLH review process varied widely which led to applicants receiving inconsistent direction from staff about the type and level of detail that would be needed when submitting an application. This inconsistency resulted in many applicants making multiple trips to the Planning Division with a variety of documents before an application would be

accepted. It also led to a lot of disparity in the type of information and level of detail that was accepted as part of different applications.

When applicants were asked if their applications were accepted the first time they were submitted or if additional information was required (Appendix B, Question No. 3), many answered that they believed it depended upon the planner staffing the public counter when they were making the application. Many noted that sometimes an application would be accepted even though all the application materials were not included in the original packet. The planner taking in the application would allow the applicant to bring in the missing information later. In other applications, the same applicant was not allowed to submit the application unless all the application materials were attached to the submittal. In the cases where the application was not accepted, the type of information typically missing included:

- Detailed grading and drainage plans;
- A biological assessment if there was a stream or sensitive habitat on the site;
- Septic system information including the location and full design of drainfields and perc test information

Applicants also gave the following examples of inconsistency about information that needed to be included in an application package overall:

- Being required to show the location of existing and proposed water lines in one application and then not being required to show the location of water lines in another application;
- Being required to show grading and drainage plans for an entire site in one application even though grading and drainage work was being conducted in a limited area of the site and then only being required to show grading and drainage plans for the limited area where work would be taking place in another application. In this example, the applicant understood why grading and drainage would be required to be shown in the area where work would be taking place, but did not understand why a grading and drainage plan would be required for an entire site when grading would not be occurring on the whole site and drainage would not be an issue;
- Having 8 ½" x 11" plans accepted as the only plans submitted in one application and then having full-sized plans (24" x 36") required in another application;
- Being required to show the detail of a water storage tank in one application and then not in another;
- Being required to show the location of a flood zone *adjacent* to a site in one application and then not being required to show an adjacent flood zone in another application even though in both cases no work was to be done in or near the flood zone;
- In one application being required to submit a "meets and bounds" legal description for a parcel that was over 100 acres in size and then not being required to submit such a legal description in another application that involved a parcel over 100 acres in size. In both cases, no work was being proposed close to property lines or within required setbacks;
- In several recent applications (within the last year), the septic system was required to be fully designed as part of the Planning application, while an application submitted about 18 months ago was only required to show the location and dimensions of the drainfield and did not have to fully design the entire system until application for the building permit.

While the information being requested by staff is often needed to do a thorough review of a FLH application, it is in many cases, the same information that had been asked for by some staff members on an inconsistent basis leading applicants to question whether the information was really needed at all.

Many applicants stated that no one had explained the relationship between the Planning Division review process for FLH and the Building permit review process which takes place after Planning approval. Many applicants registered surprise that an additional review by the same reviewers was needed after the Planning review was completed. Applicants said that this would have been very helpful to know about at the beginning of the overall process so they could factor the time for the additional review into their overall project schedule rather than hearing about it at the end of the Planning process.

Once an application was submitted, many applicants indicated that they had not been made aware of, or did not understand, that there is a 30-day timeframe within which the reviewing staff is required to determine whether the application is complete. This timeframe is set by the State of California Permit Streamlining Act and requires that a local government inform an applicant about the project's completeness within 30 days of the submittal date. If an application is not complete, the jurisdiction is required to tell the applicant what additional information is needed to make the application complete. When an application is determined to be complete, the applicant should be notified that it is moving on to the next step in the review process (environmental review, preparation of staff report, public meeting, or public hearing etc.). The purpose of the Permit Streamlining Act is to keep applications advancing in the review process in a timely manner and to facilitate communication between the local jurisdiction reviewing the application and the applicant.

Whether an applicant knew about or understood the 30-day timeframe, the majority said that they were not contacted about the status of their application within 30 days of submittal. Many noted that they did not hear from the County for up to two months after submitting their application (Appendix B, Question No. 4). In the most extreme case, an applicant had not heard from the County within a year of submitting the application although the County itself had initiated the first contact as part of a renewal process for all existing farm labor housing. That applicant found it confusing as to why it took the County so long to get back to them after application submittal when the County had initiated the contact. The majority of applicants noted that the County typically notified them about application completeness within two to two and a half months of application submittal, and that the 30-day timeframe was seldom met.

Applicants also noted that they had not known that they could track their application on-line once it was submitted and had been assigned an application number. Of those few applicants that did know about the on-line permit tracking system, they did not find it easy to use or up-to-date when they accessed it. Many commented that submittal dates, or dates on which comments were expected, or when applicants responded to staff comments, appeared to be incorrect or were not present and that the system was not as helpful as it could be because of incorrect or missing information.

Staff noted, however, that the on-line system was very helpful for them as a means of tracking and commenting on applications, especially because many of the reviewers are in separate geographic locations. The on-line system helps staff manage the review process and increases communication amongst various staff members (Appendix A, Question No. 7).

Applicants also noted that the long-standing practice of the project planner compiling all the comments from the different reviewing Departments and forwarding those comments to the applicant was inconsistently applied. Some applicants were not told that the project planner would do this compilation and forwarding. These applicants were pleasantly surprised when this occurred and found it to be very helpful. Others were told to expect this compilation and forwarding of comments and were confused when it did not happen.

When asked about the specific obstacles or bottlenecks they had encountered (Appendix B, Question No. 5), the answers applicants gave that fell into the category of process barriers included:

- Slow response times from planners when applicants asked questions about the comments made by reviewers. This happened repeatedly when a planner needed to coordinate with another Division or Department to obtain an answer. In several instances, applicants mentioned that it took up to a month to get answers when the question related to a Department of Public Works requirement.
- Staff in the Department of Public Works and in Environmental Health have lost or misplaced plans and important forms (C.3/C.6 form in Public Works) and the applicant was required to resubmit additional copies after submitting two copies initially. This caused the applicant to lose a month in the review process.
- Staff make generic comments that don't relate to the actual FLH proposal. This was noted regarding the Department of Public Works and the Planning Division in two specific examples:
 - On the standard checklist used by the Department of Public Works (DPW), a requirement was checked that would have required the applicant to regrade an existing driveway entrance to match the elevation at the crown of the road. Meeting this requirement would have resulted in more grading and site disturbance than necessary and could have created drainage problems immediately in front of or behind the new driveway. The applicant questioned the need for this requirement when using an existing driveway and it was ultimately removed from the list of approval conditions.
 - The Planning Division referenced a standard requirement for a large on-site concrete washing area (10'x10') to be installed during the placement of the FLH units so that concrete residue could be washed and filtered. The applicant questioned the need for this requirement when no concrete was to be used in the project and it was ultimately removed from the list of approval conditions.
- As a result of the above two examples, and other examples given by applicants and included elsewhere in this report, some applicants do not have confidence that the staff is reviewing the actual plans, but rather just referencing standard requirements that don't apply to the specific application. In addition, these applicants experienced difficulty in resolving these types of issues due to slow response times from staff (this can also be considered a communication issue).
- There is a disconnect between the Planning review process and the Building permit review process as noted in the discussion above, which is further exacerbated by the Building Division which has held onto the FLH building permit application up to four weeks before routing it to an outside plan checker (CSG) who then makes comments completely unrelated to FLH and treats the application as if it is a standard single-family residence.
- Comments from reviewers come in at different times and are not comprehensive. Often a comment is made in the second or third round of comments that should have been made in the

first round. In addition, there did not appear to be clear coordination between comments made by the staff from different Departments reviewing the application.

- FLH applications would be placed “on-hold” and not processed if there were other small land use violations on the site. An example was given that included an application that had been submitted for a year before the planning staff began its review. During that year, a meditation class was started on the site, which is not permitted under the existing zoning, so the staff stopped processing the FLH application which further delayed the review until the minor infraction was resolved.
- The above point makes applicants reluctant to invite staff onto the site even though a site visit would ordinarily be very helpful in understanding the FLH application.
- The FLH application process takes so long that new regulations are approved and are applied to an application that is already in process which requires changes to be made to the application. This was noted by several applicants about Department of Public Works grading and drainage regulations.
- It can take anywhere from 2 months to a year to put together the required application materials and most applicants had to hire professional consultants at some point in the process including land use planners, professional engineers, biologists, geotechnical experts and septic system experts (Appendix B, Question No. 10). The cost for these consultants is discussed further in the Technical concerns section of this report.
- The conversion of a permanent structure such as a barn, shed, or old farmhouse, to FLH requires the same Planning review as a new FLH structure or manufactured housing unit. Applicants stated that this is a disincentive for converting existing structures to FLH when, in fact, there would be very little if any impact from this type of conversion. Applicants understood the need to obtain a building permit for this type of conversion for safety reasons (although many questioned the need to include fire sprinklers in a converted structure as discussed below in the Technical concerns section of this report), but did not understand the need for a full Planning review including public hearings given that the structure already exists.
- Coastside office hours are too limited and not enough real assistance is available. Although applicants greatly appreciated the Coastside office and the Planner that staffs it, they indicated that being open every other Friday is not often enough and that information or needed materials are not available at the office when it is open. This was especially true for building and public works information and staff. One applicant noted that he was not allowed to drop off building permit plans for a FLH application at the Coastside office to be taken to Redwood City by Building Division staff and that he was required to drive to Redwood City to drop off the plans himself.
- The County doesn’t consider the agricultural uses on a site as a whole and doesn’t understand the relationship between FLH and these other agricultural uses. It artificially bifurcates FLH from other agricultural uses makes the approval process confusing, more difficult, and more expensive.
- The CDP exemptions are too narrow and don’t consider enough agricultural uses, such as FLH, and other uses that are considered accessory to agriculture exempt from the Coastal Development Permit and Planned Agricultural Development process.

When applicants were asked how long it took for a decision to be made on a FLH application once it was submitted, (Appendix B, Question No. 14), the answers varied from six months to a year, with the majority around eight months. Decisions on a couple of applications are still pending and it has been over a year since submittal. Applicants also noted that the review and approval timeframe did not include the six months to a year it had taken them to compile the necessary information to submit the application (this is discussed further in the Technical section of this report). In addition, when a timeline is started on planning application submittal date, through building permit approval, to actual placement of the units on the ground, it can often take 18 to 24 months.

The last process related question that was asked of applicants and staff addressed the Agricultural Advisory Committee (AAC) and the Planning Commission (PC) and the number of times each body reviewed a FLH application (Appendix A, Question No. 5 and Appendix B, Question No. 14, respectively). Applicants and staff agreed that the AAC and PC each reviewed a FLH application once and that any issues that may have been encountered during the review process had been resolved by the time the AAC and PC reviewed it. One applicant noted that there is a month between the AAC and PC reviews and that it would be a time savings if that could be reduced.

Technical/Engineering Barriers:

When staff was asked to identify the biggest challenges encountered by applicants (Appendix A, Question No. 2), the responses that fell into the technical/engineering category included the following:

- Lack of a site plan that has appropriate detail and is scalable.
- Topographic maps that are not specific enough to the site (applicants try to use the ones on the County website and they aren't detailed enough).
- Conflicts or lack of clarity between the grading and drainage plans and the septic system plan. The septic plan needs to be superimposed on the grading and drainage plan to ensure that water is not draining into the septic system leachfields. Also, DPW and Environmental Health need to know that the spoils from the on-site grading are not located on the leachfields.
- Flood plain issues – the Building Division requires that FLH units be moved out of a flood plain (see Technical concerns raised by applicants listed below).
- Extra fire requirements if the units are located within a moderate to high fire risk area (although trailers don't have to put in fire sprinklers pursuant to California state law).
- Providing a domestic water supply.
- Septic system details and the size of drainfields.
- Access roads and the difficulty widening them on some sites.
- Conversions of existing structures to FLH are required to go through the same review process as new structures including bringing them up to all current residential and fire codes.
- Some of the maps on the County website cannot be used as part of the application materials because they are either at a scale that is too difficult to read or are not site specific enough.
- The cost of preparing background information and technical documents along with the cost of the on-site infrastructure itself can be prohibitive.

When applicants were asked about the obstacles they'd encountered with the FLH process (Appendix B, Question No. 5), technical/engineering concerns were abundant. Those concerns included:

- The Department of Public Works often requires all storm water runoff to be funneled into underground pipes which then eventually release the water in one location which has a worse environmental impact at that location than letting the storm water gradually dissipate into landscaped areas on the site. Similarly, the DPW did not allow the use of bioswales or other “low impact development” techniques for storm water runoff.
- DPW staff was not willing to discuss alternative solutions to address grading and drainage concerns related to the above examples (this is also a communication issue that is discussed in the Communication section of this report).
- DPW staff did not appear to understand their own C.3/C.6 forms and required the applicant to provide a pipe profile with HGL/EGL calculations when those calculations had previously been submitted as part of a Master Plan for the site and were not being changed by the FLH application which was for placement of the fourth of four previously approved units that were part of the Master Plan.
- Related to the above concern, DPW staff did not make the connection between the subject application which was adding the fourth of four previously approved units that had been approved as part of a Master Plan for the site.
- DPW required a flood plain on adjacent property to be shown on the Grading and Drainage plan for the FLH application even though no work was proposed on the adjacent parcel or near the flood plain (this was also mentioned as an inconsistency in the application process in the Process section of this report).
- DPW requirements, as noted above, appeared to be designed for urban sites, including subdivisions, and are not applicable on agricultural parcels where there is room for alternative solutions to grading and drainage issues.
- Many applicants don’t understand why the Department of Public Works is reviewing and commenting on FLH projects on private property (this is also a communication barrier).
- The topographic maps on the County website are not sufficiently site specific for use in the FLH application. It’s frustrating to have maps on the website if they can’t be relied upon to use in the actual application (this can also be considered a communication concern and is addressed in the Communication section of this report).
- Building Division staff won’t allow FLH units in a flood plain because the units can’t be elevated or protected during a flood although several professional engineers that have worked with farm owners state that preassembled units (trailers) can be elevated and tied down such that the unit is safe during a flood and should be allowed in a flood plain if all building codes can be met.
- Environmental Health staff requires that the perc test be successfully conducted prior to submittal of the planning application or they will not approve the application.
- Environmental Health requires the septic system to be fully designed as part of the Planning application rather than allowing applicants to indicate the basics of the system (general size and location) and deferring the detail until the building permit stage (this was pointed out as an application inconsistency in the Process section of this report).
- Environmental Health does not accept the use of package waste water treatment systems and requires traditional septic systems with full drainfields even though other adjacent Counties do accept package waste water treatment systems.
- Conflict between the Planning Division and Building Division definitions of FLH. The Planning Division considers FLH to be accessory to agriculture which means that it is not a residential use

while the Building Division considers FLH to be a residential use and requires all residential building codes to be met including the provision of fire sprinklers in permanent structures that are converted to FLH use. This creates confusion for applicants who are converting a barn, shed, or existing farmhouse to a FLH unit and adds requirements they had not expected or been made aware of during the Planning process.

- One applicant indicated that he is encountering technical problems with the California State Department of Water Resources because his well is too shallow.
- One applicant indicated that he had technical problems with the Coastside County Water District (CCWD) because they had not taken the time to review his request in enough detail to understand that his property had been grandfathered into CCWD's service area. CCWD had denied his request without doing the proper review. Fortunately, he did not need additional water from the District and did not need to pursue his request further with them.
- The cost of preparing application materials was another concern of most applicants (Appendix B, Question No. 11), with estimates ranging between \$10,000 and \$20,000 for preparing background information, site plans, septic plans, grading and drainage plans. Many applicants hired professional consultants including planning consultants, geotechnical consultants, professional engineers, and septic system experts to help prepare the required information. A few applicants could reduce the costs by preparing some of the materials themselves, however, all applicants required some level of professional assistance at some point in the process.

To further illustrate applicant's technical/engineering concerns, when they were asked what information they needed for their application that they did not have (Appendix B, Question No. 9), the answers all fell into the Technical/Engineering category as follows:

- Topographic information specific to the site
- Septic system information
- Grading and drainage information (C.3/C.6 forms)
- Geotechnical information
- Biological information (when a stream or sensitive habitat was on the site)

There are clear parallels between the Technical concerns raised by applicants and the Technical concerns raised by staff. These parallels provide a basis for considering modifications to the technical/engineering requirements or perhaps the timing of when that information is required.

Communication Barriers:

When staff was asked if there is enough internal communication amongst the staff reviewing the applications, and if all Divisions and Departments understand the FLH process, the answer was, yes, that the internal communication is generally good (Appendix A, Question Nos. 6 and 7). Generally, staff thought a strong review team is in place and that the team is strengthened when the staff involved have been in-place for a while and understand the process and regulations, and use the communication tools available such as the on-line tracking system. It was noted that the Department of Public Works uses multiple staff members to review FLH applications and thus the requirements that are applied and the comments that are made can vary from one application to another.

When County staff were asked whether they thought the FLH informational handouts were helpful (Appendix A, Question No. 8), the general answer was yes, but many commented that most of the

handouts and the website needed further updating. Improvements to all the informational materials have been made gradually over the past several years, but additional improvements have been identified and some of those are in-process. The staff stated that the materials should be comprehensive and should include all Department and Division requirements, not just Planning and Building requirements with short references to other Departments.

The County staff thought they were helpful to applicants during the FLH review process (Appendix A, Question No. 9), but acknowledged that the competing demands on their time sometimes make it difficult to be as responsive as they would like to be in all instances. Many staff stated that on-site meetings at the beginning of the review process helped all members of the team understand the specifics of the site and reduced the number of questions later in the review process.

Applicants expressed frustration about the lack of communication with staff and these concerns were brought up often during applicant interviews. When asked how they had prepared for their FLH application (Appendix B, Question No. 1), applicants that were going through the process for the first time said they searched the County website for relevant information and talked with planners at the public counter several times. One applicant contacted Supervisor Horsley's staff who then set up a meeting with other County staff, and two contacted the County Agricultural Ombudsman who then set up meetings with County staff. Applicants who had gone through the FLH application process multiple times typically knew the type of information that was going to be required (although there were inconsistencies as noted above in the Process discussion) and often had a team of professionals in place that could assist with preparing the required materials.

When asked about the specific obstacles they faced (Appendix B, Question No. 5), applicant responses that fell into the communication category included the following:

- Planning and Building Department website is not intuitive and relevant information is difficult to find (which may explain why many applicants were unaware of the 30-day timeframe for a completeness review because the timeframe is listed on the website but many applicants did not find it when searching for information).
- Application forms on the website don't work. An applicant can complete some FLH forms on-line and some forms cannot be completed on-line. Some FLH forms can be partially completed on-line and then half-way through the application form, it stops accepting on-line information.
- Information regarding prime soils posted on the website is no longer current, although that is not stated on the website, and County staff uses prime soils information from a different source which is not posted on the website.
- Other information posted, such as topographic maps, cannot be used for application purposes because it is not detailed enough or site specific.
- Contact information for other County Departments and Divisions posted on the website is either incorrect or missing as is information for other agencies.
- The FLH information on the website was incomplete and didn't include Environmental Health or fire requirements and the site plan shown as an example of what would be accepted as part of an application was deceptively simple and not an example of a plan that would be accepted as part of an application.
- The published information amounted to "false advertising" regarding the type, level of detail, and length of time that would be involved in a FLH application.

- The poor website resulted in applicants losing trust in the County's information and caused them to stop using the website and made them feel like they had to "bug" the staff to get answers to simple questions.
- Electronic submittals and resubmittals are not consistently accepted which then means an applicant needs to go to Redwood City to make the submittal or resubmittal in person.
- It took between four and ten meetings with staff before an application was ready to be submitted.
- Walk-in meetings are not useful. Really need to make an appointment with the planner who knows the most about FLH to get useful information.
- Almost always must go to Redwood City to submit an application, the Coastside office hours are too limited.
- Geotechnical staff are especially difficult to reach and since the long-term staff person retired and has not been replaced, there hasn't been anyone consistently available to answer questions.
- Some staff in the Building Division and Department of Public Works don't return phone calls. One applicant had called the Building Division staff person nine times in three weeks and did not receive a return call. Multiple examples were given of not being able to reach a Department of Public Works representative in a timely manner related to grading, drainage, and C.3/C.6 requirements.

When applicants were asked to identify the elements of the FLH application process that they didn't understand and which aspects of the process would have been helpful to understand earlier (Appendix B, Question Nos. 7 and 8), most of the answers fell into the communications category and could have been addressed through better communication between staff and the applicant. Applicants didn't understand the following:

- Why so much detailed information is required up-front.
- Why the process takes so long.
- How applications are reviewed and who reviews them.
- That the website would not be helpful.
- What it means to have a complete application.
- That they would have to hire so many experts to help them put together application materials.
- That the Department of Fish and Game fees would still apply for filing the environmental document.
- That school district fees would still apply when the building permit is issued.
- That other structures on the site, such as farmstands, greenhouses, and sheds would also need planning and building permits if they did not already have them and that those structures could not be combined in a FLH application.

When applicants were asked if, overall, the County informational materials were helpful and accurate and if County staff were helpful (Appendix B, Question Nos. 12 and 13), the answer was, no, the informational material was not helpful for the reasons stated above and that only some staff were helpful. Applicants stated that how much help they received depended upon who was assigned to process their application. Applicants did believe that there is support for FLH at the Board of Supervisor

and management levels, but that support doesn't flow to the line-staff who implement FLH policies and FLH isn't really a priority for line-staff.

Other Applicant Comments Related to FLH and Agriculture:

The following general comments were made by recent applicants about FLH and other agricultural issues that did not necessarily fall into any of the three categories above but should be noted:

- Although there has been speculation that some FLH units are being used for non-FLH purposes, no official complaints have been registered and therefore no use violations have been found.
- FLH units that are spread out over multiple sites are easier to manage than consolidated units on a larger site and have less negative impact on an area.
- The Agricultural Workforce Housing Replacement Program is an excellent program. The County should consider increasing the maximum amount granted to \$140,000 from \$100,000 because that better reflects the actual cost of providing the FLH units and supporting infrastructure.
- Rather than focusing on FLH, the County should focus on providing more affordable housing in general. FLH is too restrictive in terms of type and location of employment whereas low income housing focuses solely on income level.

Recommendations

When asked at what level of government the obstacles to FLH were occurring (Appendix B, Question No. 6), all applicants said the obstacles occurred at the County level. This was substantiated by the answers to almost all the interview questions. In addition, one applicant noted that his problems were occurring at the State level with the Water Resources Control Board, and one noted that problems had occurred at the special district level with the Coastside County Water District.

The fact that the Process and Communication barriers are occurring primarily at the County level means that the County is in a strong position to address those obstacles and many of them can be reduced or eliminated through improvements to the San Mateo County review process. Although many of the Technical/Engineering barriers are the result of State requirements, the County has some authority to address how those State requirements are met and many recommendations below encourage the County to review how it allows applicants to meet State requirements.

The recommendations below correspond to the three areas of concern that were identified through the analysis of the answers to applicant and staff questions and are presented in a timeframe that can be implemented in the short-term, mid-term, and longer-term. It should again be noted that the County will be issuing a response to this report which will include an analysis of each of the following recommendations and whether the recommendation should be implemented.

Process Improvements:

Short-term Implementation:

- 1) Create a comprehensive FLH Application Guidebook which includes all required application materials for a FLH application. This guidebook should include materials required for all Departments and Divisions, not just the Planning Division.

- a. The Guidebook should also include the steps in the process, including internal routing procedures, the 30-day deadline for the completeness review, the environmental review, public review of environmental documents, public notice requirements for hearings, information about the AAC meeting and the PC meeting along with estimated timeframes for each step.
- 2) Incorporate on-site meetings into the initial 30-day review period with attendance by all staff responsible for reviewing the application.
- 3) Fully explain the relationship between the Planning review and the Building Permit review in the Guidebook.
- 4) Designate a FLH contact person for each Department and Division that reviews FLH applications and publicize that contact information so that applicants can call those individuals directly if there are questions about regulations specific to that Department/Division or about a specific application.
- 5) Require applicants to designate a central contact person for the applicant's team and give that information to all staff so that staff comments can be forwarded to the applicant contact and distributed as needed to the applicant team.
- 6) Make better use of existing tools like the on-line permit tracking system and ensure that applicants understand how to use the system.
- 7) Begin updating FLH information on the website and ensure that all application and companion forms can be completed on-line.
- 8) Implement and publicize pre-application meeting times for FLH applications and questions.
- 9) Explore designating specific blocks of time during the week when applicants or prospective applicants can set-up in-person or phone meetings with staff that are assigned to review FLH applications. This concept should be explored within all Departments/Divisions that review FLH applications.
- 10) Hire a replacement for the recently retired County geologist so that FLH applicants (and others) have a County contact for geologic information and questions.

Mid-term Implementation:

- 11) Prioritize FLH applications so that they move immediately to the top of the review list for all Departments and Divisions. This priority should extend to all other related FLH permits, including building permit applications, and well drilling and operating permits. Establishing this type of priority for FLH would require the full support of the County Manager's Office and the Board of Supervisors because it could have implications for the timing of other permits within the County.
- 12) Clarify Planning's code enforcement policy so that minor use violations that are non-life threatening do not stop the processing of the FLH application. The violations would still need to be resolved using the regular code enforcement process, but the FLH application would not be delayed while the enforcement process takes place.
- 13) Consider increased Coastside office hours and increased resources at the office including Department of Public Works staff. Correlate the number of hours the Coastside office is open with the percentage of Planning and Building Department work that is generated by projects on the coast. Although this recommendation is not solely applicable to FLH applications, it would

directly benefit FLH applicants and potential applicants by providing increased resources on the coast.

- 14) Consider allowing structures that are accessory to agricultural use such as farmstands, greenhouses, and sheds, to be combined with FLH applications, with fees to be waived, to streamline the review process and acknowledge the integral relationship between these accessory structures and FLH.
 - a. Currently these two types of applications are separated because FLH applications must be renewed and other Coastal Development Permits do not need to be renewed.
 - b. Consider exploring ways of requiring the FLH aspect of the application to be renewed through conditions of approval.
- 15) Consider hiring additional part-time staff to process FLH applications to reduce the backlog of applications.
 - a. Alternatively, reallocate existing staff time to process FLH applications when multiple applications are submitted simultaneously.
- 16) Fully incorporate the Agricultural Ombudsman into the process of updating informational materials and conducting educational outreach.

Long-term Implementation:

- 17) Consider developing a hierarchy of agricultural sites that would consist of easy sites on which to locate FLH, moderate sites for locating FLH, and difficult sites for locating FLH.
 - a. Each level of site would have different application requirements based on the sites topography and other constraints such as streams, sensitive habitats, steep slopes etc.
 - b. Implementing this recommendation could take a considerable amount of time because a detailed analysis about types of site characteristics would need to be conducted to determine the different levels of review.
- 18) Allow applicants to do a Master Plan and permitting process
- 19) Consider amending the agriculturally related Coastal Development Permit exemptions to include FLH and associated agricultural uses.
 - a. This would be a very long-term goal because it would require a Coastal Program amendment to be approved by the California Coastal Commission and amendments of this nature have been known to take between eight and twelve years.

Technical/Engineering Improvements:

Short-term Implementation:

- 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.
- 21) Consider modifying the timing of when the details of the septic system design and perc test results are required.
 - a. Consider requiring these details at the building permit stage rather than at the planning stage
 - b. General location and size of drainfields would still be required at Planning stage, but actual system would not be designed until building permit stage

- c. Conditions of approval would be used to require septic details as are currently used for domestic water supply.
 - d. This type of change may require meetings with Environmental Health staff to determine whether the amended approach would meet all Local and State requirements.
- 22) Consider allowing FLH in a flood plain if no other reasonable location exists, the building code can be met, and the potential impacts of a flood event can be mitigated to the Building Manager's satisfaction.
- a. Implementing this recommendation may require meetings with professional engineers who have recently gone through the FLH process, the Director of Planning and Building, the Building Division Manager, and his staff to determine that FLH units can be designed and placed in such a way to meet the building code and can sufficiently mitigate potential impacts.
- 23) Provide clarifying documentation explaining why an existing main house that is converted to FLH on an agricultural site is required to provide fire sprinklers. If that documentation does not exist, consider changing the practice of requiring sprinklers when an existing single-family house is converted to a FLH unit. Converting a non-residential structure to a FLH unit would still be required to provide fire sprinklers because that is a change of use.

Mid-term implementation:

- 24) Require on-going staff training regarding the latest grading and drainage techniques specifically for agricultural sites.

Long-term implementation:

- 25) Consider modifying how conversions of existing structures to FLH are processed such that a staff level CDP would be required, along with a building permit, rather than a full CDP with accompanying public meetings and hearings.
- a. This change would allow Planning to attach conditions of approval to a staff level decision and track the structures that are being converted to FLH, but would significantly reduce processing time.
 - b. This change would likely require an amendment to the Planned Agricultural District (PAD) zoning requirements would require meeting with the Director of Planning and Building and the County Counsel's office to insure it can be done in accordance with existing LCP policies.
- 26) Consider updating and upgrading maps on the Planning website so that they can be used as background maps for applications.
- 27) Explore the use of package waste water treatment systems as an alternative to traditional septic systems.
- a. This consideration may require meetings with Environmental Health Department staff to ensure that all Local and State requirements continue to be met.

Communication Improvements:

Short-term Implementation:

Implement Short-term Process Improvements 1 – 9, which are also communication improvements.

Mid-term Implementation:

- 28) Participate in outreach workshops to discuss FLH and the application process with the farming community. These workshops could include other agricultural topics as well.
- 29) Request that the Agricultural Ombudsman develop and maintain a list of professional consultants that can assist with FLH applications with a clear disclaimer that the Ombudsman is not endorsing the professionals on the list but is providing their names as information. This recommendation may require legal review to ensure that there is no conflict of interest for the Agricultural Ombudsman when maintaining this sort of informational list.
- 30) Explore funding sources for FLH assistance.

Appendices:

- A. Staff Questions Regarding Farm Labor Housing Application Process
- B. Applicant Questions Regarding Farm Labor Housing Application Process