



A Special Blend of High Quality Land Use
and Public Relations Services

Santa Barbara County
Planning Commission
123 E. Anapamu Street
Santa Barbara, CA 93101

May 8, 2018

RE: Agricultural Employee Dwellings Ordinance

RECEIVED

MAY 07 2018

S.B. COUNTY
PLANNING & DEVELOPMENT
PERMIT SUPPORT

AGENDA ITEMS	
ITEM #:	1
MEETING DATE:	5-9-18

Dear Commissioner Blough:

Thank you for your thoughtful consideration to downshift the permitting requirements for Agricultural Employee Housing. Farmworker shortages continue to be dire for our local farmers who are increasingly challenged in finding a sufficient workforce to harvest the food we eat. We appreciate the county's recognition and effort to streamline the process to provide for additional affordable housing for agricultural workers and their families.

Farm labor is an increasing issue for our local producers who are under pressure to find legal means to hire and employ the necessary labor to harvest. Recognizing the importance of farming and farmworker housing, the State enacted the Employee Housing Act within the CA Health and Safety Code. In response, Santa Barbara County developed provisions specific to Farmworker Housing under Section 35.42.135 in the Land Use and Development Code.

It must be kept in mind that the Agricultural Employee Dwellings Ordinance, not necessarily the Farmworker Housing Ordinance, is key for providing solutions for farmworker housing. While we appreciate these changes are a step in the right direction, changes to this ordinance will apply to farmworker programs that can actually make a dent in our labor shortage. The Farmworker Housing Section is limited to 36 beds in group quarters, or 12 single-family style units. As such, for a farmworker program of any real magnitude, such as H2A or temporary visa programs, the Ag Dwelling Unit Ordinance will apply. To this point, the Betteravia Farms farmworker housing complex (aka Curletti) for a 600 bed H2A program was processed using the Ag Employee Dwelling ordinance, not the Farmworker Housing Section.

While these changes are welcomed and encouraged, we object to the elimination of the use of trailers and temporary dwellings for agricultural employee dwellings. Particularly for larger-scale farmworker housing solutions, the use of temporary dwellings becomes more important and practical to address the seasonal nature and fluctuations in demand for housing. Requiring only mobile homes or manufactured homes for a larger-scale farmworker housing complex could be detrimental and encourage urban expansion into rural areas. We recommend that development proposals that exceed 20 units, thus requiring a Conditional Use Permit, be granted more flexibility in the housing type used.

Lisa Bodrogi

Land Use Planning & Public Relations

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We do express concern that the changes do not go far enough to address the challenges in providing a sufficient workforce for our agricultural operators. An available workforce is one of the toughest challenges our local farmers face. In order to sustain a viable agricultural economy more needs to be done to provide solutions to increasing farmworker shortages.

Thank you for taking a step in the right direction to downshift the permitting requirements. Please consider allowing more flexibility for housing type for projects in excess of 20 units.

Kindly,

Lisa M. Bodrogi

COLAB

The Coalition of Labor, Agriculture & Business

May 5, 2018
SB County Planning Commission
Item # 2 May 9, 2018 Agenda
Agricultural Employee Dwelling Ordinance Amendments
By Email

AGENDA ITEMS

ITEM #: 2

MEETING

DATE: 5-9-18

Dear Planning Commissioners,

I am writing on behalf of COLAB to support streamlining the ordinances having to do with ag employee dwellings. COLAB has support and participation from every major commodity group in the county.

Our only concern with the proposal has to do with requiring the employees to live on the same parcel they work on. Whereas, that may suffice in most instances in the Carpinteria and the Santa Ynez Valley, it doesn't work so well in the Santa Maria and Lompoc Valleys where the majority of county agricultural production is located.

This has to do with the fact that our strawberry, vegetable and grape growing operations, albeit owned by the same family farming companies, are typically scattered across the North County, rather than confined to contiguous parcels.

We know of family farming operations headquartered in Santa Maria that farm in Lompoc and SLO counties, plus Los Alamos too!

The nature of vegetable and strawberry productions necessitates that the farmworkers move from farm to farm as these crops are picked as they ripen in order to satisfy the delivery of the same to market. That is, our vegetable growers harvest nearly every day of the year (berries are almost year around crops too). Therefore, the farming operations must move their workers from farm to farm as these crops are planted and harvested continuously.

We see no reason why the smaller size ag employee dwellings would need to have the more stringent requirement to work on the same parcel they live on in comparison to the larger size dwellings. Next to our farm labor shortage, the shortage and expense of securing housing for our farmworkers is the one of the biggest crises our farmers face. Accordingly, we are supportive of all efforts to streamline the permit process for ag employee dwellings.

Sincerely,

Andy Caldwell
COLAB

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Brownstein Hyatt
Farber Schreck

<u>AGENDA ITEMS</u>	
ITEM #:	<u>2</u>
MEETING DATE:	<u>5-9-18</u>

May 7, 2018

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Susan F. Petrovich
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VIA EMAIL TO DVILLALO@CO.SANTA-BARBARA.CA.US

Chair Daniel Blough
Santa Barbara County Planning Commission
123 East Anapamu Street
Santa Barbara, CA 93101

RE: May 9, 2018 Hearing, Item #2, Agricultural Employee Housing

Dear Chair Blough and Honorable Commissioners:

As you know, I am a long-time supporter of agriculture in this County. One of the primary obstacles to agricultural viability has been, and continues to be, the lack of adequate onsite housing for farmworkers. As a result, farmers and ranchers either must provide unpermitted housing or their workers must undertake a substantial commute that they can ill-afford. Between the cost of construction or of a modular home and the cost of permitting, few agricultural operations can afford adequate onsite worker housing. Commuting requires a reliable vehicle and a means to afford the increasing cost of gasoline – neither is readily available to most agricultural workers.

I urge you to support the proposed amendments to both the Inland and Coastal zoning ordinances to reduce permitting costs and encourage the construction of more safe and legally permitted agricultural employee housing. The most profitable agricultural crops in the County require relatively large numbers of workers, so I also support allowing more intensive employee housing. In this way, the County will provide a better opportunity to better meet the need for agricultural housing outside city limits and close to work.

I concur with the AAC's support of these amendments and ask that you approve them.

Sincerely,



Susan F. Petrovich

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Brownstein Hyatt Farber Schreck, LLP

Kelly A. Rose
P. O. Box 817
Los Olivos, CA 93441
kelly.rose1@verizon.net

<u>AGENDA ITEMS</u>	
ITEM #:	2
MEETING DATE:	5-9-18

May 4, 2018

Members of the County Planning Commission
County of Santa Barbara

Re: **May 9, 2018 Hearing on Amendments – Agricultural Employee Dwellings**

Dear Commissioners:

I am writing this letter because I will be traveling next week and will not be able to attend and speak at your May 9th Hearing.

I am in favor of most regulations which simplify processes and reduce bureaucratic red tape. However, with regard to the County's current regulations regarding Agricultural Employee Dwellings, they don't need simplification or streamlining. They need enforcement.

I noted that the public information on this Hearing prepared by Planning and Development frequently referred to Agricultural Employee Dwellings in the same sentences as the terms "Affordable Housing" and "Low Income Housing". This is the essence of the current problem with Agricultural Employee Housing – it is considered by Planning and Development and the County as synonymous with Low Income and Affordable Housing.

Once Planning and Development approves/permits an Agricultural Employee Dwelling, it no longer cares what it is used for. It goes into the County's inventory stock of Low Income and Affordable Housing which the County then reports to the State to show its compliance with State mandated regulations requiring a minimum level of Low Income and Affordable Housing.

This decision by Planning and Development not to enforce current regulations have resulted in Agricultural Employee Dwellings to be commonly used as rental property, guest houses and even for short term weekend rentals. There are hundreds of examples of this misuse of Agricultural Employee Dwellings – many of which have been reported to Planning and Development's Code Enforcement Department. However, Code Enforcement rarely follows up on these reported violations and in a number of cases has actively advised the property owner how to avoid the County's regulations.

I would like to share a real life example of the egregious behavior exhibited by Planning and Development in avoiding enforcement of its Agricultural Employee Dwelling Regulations. In 2004, in connection with an owner's renewal of permits for three Agricultural Employee Dwellings, the owner submitted a letter to Planning and Development that the three dwellings were being used by full time farm employees. No

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documentation was submitted to support the owner's statement and no documentation was submitted in accordance with the County's regulations, which require that support of "full time farm employment on the ranch or farm" be provided with permit renewals. In connection with the permit renewal, a number of neighbors submitted letters to Planning and Development indicating that the "full time employees" were in reality renters and they left the ranch each day to go to work and returned to the ranch each night. Instead of following up on with the property owner or following up with the neighbors, Planning and Development disregarded its own rules and renewed the permit for the three Agricultural Employee Dwellings. This approval was appealed to the Zoning Administrator who took no action. It was then appealed to the Board of Supervisors who took the position that even though the property owner provided none of the support required by the County's own regulations, they were satisfied based solely on the word of the property owner that the occupants of the Agricultural Employee Dwellings were legitimate agricultural employees who worked full time on the ranch.

In 2009, during the next permit renewal process, the neighbors brought up the same issues, including the fact that during the intervening five-year period, all of the occupants of the Dwellings had changed and the owner never notified Planning and Development of a "change in occupants" as required by the County's regulations. Again, the owner failed to provide any support to evidence that the occupants were actually full time farm employees. In response to complaints over the process, Planning and Development staff suggested that the owner submit statements that the occupants of the Dwellings were "independent contractors working full time on the ranch". Planning and Development then claimed that the owner was in compliance with the County's regulations.

Shortly thereafter, a complaint was filed by neighbors with the California Division of Labor Standards Enforcement who investigate the status of the occupants of the three Dwellings. The State investigator determined that occupants of two of the three Dwellings were neither employees nor independent contractors. They did no work on the ranch. The occupant of the other Dwelling was determined to be a full time employee who was not paid, except by way of free housing – a violation of State Labor Laws. The owner of the ranch was fined approximately \$15,000 for violating the minimum wage act and various other related regulations.

This information and the supporting documents prepared by the Division of Labor Standards Enforcement were provided to Planning and Development who indicated that they would commence an investigation. No such investigation was ever conducted, despite repeated follow up by neighbors. In 2014 the permit for the Dwellings was renewed based on "independent contractor" agreements with the occupants which the property owner used to support that such occupants worked full time on the ranch.

The bottom line is that once a Agricultural Employee Dwelling has been approved, Planning and Development takes extreme measures to ensure that the permits are renewed - regardless of the facts, lack of documentation, whether or not the owner is in compliance with the regulations, or past evidence showing that the owner has submitted

documents which have misrepresented the nature, role or relationship of the occupant of the Dwelling.

No amount of streamlining and simplifying is going to address or resolve the real underlying problem – Planning and Development reports Agricultural Employee Dwellings as “Low Income Housing” and “Affordable Housing” and therefore has no reason or incentive to enforce its permitting rules.

One can only hope that the recent decision by the California Supreme Court to severely limit the classification of workers as “independent contractors” will force Planning and Development to actually require proof of employment – things like payroll records, W-2 Forms, quarterly tax filings for Unemployment Insurance, Disability and Income Tax Withholdings, etc. If Planning and Development is forced to enforce its own regulations, the current arrangement which facilitates the misuse of Agricultural Employee Dwellings should be greatly reduced.

Thank you,
Kelly Rose

Kelly A. Rose
P. O. Box 817
Los Olivos, CA 93441
kelly.rose1@verizon.net

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