



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

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**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo**

MEETING DATE: June 13, 2017
TO: Board of Supervisors
FROM: Brian Foss, Director of Planning
SUBJECT: BOS Discussion and Direction on Potential Amendments to LUDC Sec. L-II 3.3 for an Update to Agricultural Uses to Include Agritourism Events and Activities (All Districts).

RECOMMENDATION: Staff recommends the BOS discuss the AAC's Marketing Events recommendation and other options described, provide direction to staff, and close Board Order 17-01.

ATTACHMENT:

1. AAC Draft Agricultural Marketing Ordinance

SUMMARY: Agricultural Marketing (agritourism) holds opportunities for rural California communities and economies by encouraging sustainable local businesses and by exposing the public to agriculture. Agritourism encompasses a diverse range of activities such as farm tours, festivals that celebrate regional crops, school group field trips, on-farm weddings, farm stay bed and breakfasts, picking fruit at a u-pick operation, culinary events, and farm classes. Other types of agricultural marketing can include attractions that have little or nothing to do with food production but that offer entertainment such as hay rides, petting zoos, pumpkin patches, Christmas tree farms, and concerts. Agritourism requires an entrepreneurial approach driven by an understanding of market trends, consumer behavior, consumer attitudes and consumer preferences to lead and shape product development and marketing.

The Nevada County Agricultural Advisory Commission (AAC) is requesting to allow events attended by 50-300 people, depending on parcel size, without a permit, to provide for a more flexible and streamlined process for promotion and sales of all local agricultural products on agriculturally zoned land.

CURRENT PROCESS: Currently, most of these events are allowed under the existing Zoning Ordinance with a Use Permit. The County's existing tiered permitting process for agricultural uses and events is summarized below, with higher intensity and frequency events requiring a discretionary Use Permit; Farm Retail Stands and Farm Stands allowed "by right" on agriculturally zoned land, and requiring an Administrative Development Permit (ADP) on non-agriculturally zoned land, and medium-sized infrequent events eligible for an Outdoor Event Permit.

- **Events and Facilities Requiring a Use Permit:** In the AE, AG, FR and RA zoning districts, Use Permits are required for Social Event Facilities which include, but not limited to, weddings, seasonal harvest festivals such as pumpkin patches and cornfield mazes, catered dinner parties, and other facilities that may be rented or leased for social and entertainment events. Depending on the length of proposed stays, location of the guest quarters, and the type and frequency of food service, farm-stays and similar overnight agritourism uses may be subject to the Bed and Breakfast Inns section of the zoning ordinance, which also requires a Use Permit to allow these activities. The Use Permit application requires site and project-specific detailed information regarding the type and nature of the events proposed to be held, as well as technical reports prepared by qualified professionals to address potential impacts to biological and cultural resources. This information is then reviewed by applicable County Departments, and other State and local agencies and stakeholders, which allows comprehensive consideration of a project's merits and potential impacts on a site-by-site and project-specific basis.

The Use Permit review process requires approximately 90 days from the date that a complete application is received, until the public hearing, assuming that there are no significant issues and a Mitigated Negative Declaration can be completed for the project. Filing fees for a Use Permit with staff preparing an Initial Study are currently \$4,861.84 which is a minimum fee to the actual cost of processing the application, for the Departments of Planning, Environmental Health, and Public Works.

- **Field Retail Stands and Farm Stands:** The next level of permitting for agricultural marketing events involve field retail stands and farm stands which are allowed by right, or Administrative Development Permit (ADP) depending on the zoning of the property.

The sale of agricultural products from a field retail stand and/or a farm stand is an allowed "by right", without the need for a discretionary permit, subject to building permit issuance and zoning compliance in the AE, AG, FR and RA zoning districts. Field retail stands are producer-owned and operated premises located at or near the point of production and are restricted to only selling fresh, farm-produced fruits, vegetables, nuts and shell eggs, grown by the producer on or near

the site. Farm stands are field retail stands, that sell or offer for sale California agricultural products grown or produced by the producer, and also sell or offer for sale non-potentially hazardous prepackaged food products from an approved source or bottled water or soft drinks. Farm stands allow farmers to sell fresh produce and eggs grown on their farm as well as Processed Agricultural Products made with ingredients produced on or near the farm.

Within 30 days of application submission, the Building Department would either issue a building permit or letter of corrections required to permit the Field Retail Stand or Farm Stand. The cost of the application would depend on the extent of improvements such as new structure(s) and number of required inspections. Because these activities are open to the public ADA parking and other accessibility improvements are required.

Field Retail Stands and Farm Stands located within commercial, industrial, and other non-agricultural zoning districts are subject to approval of an Administrative Development Permit (ADP). ADPs provide an administrative review process for smaller, low-intensity land uses and development projects. ADPs have a minimum application fee of \$141.54 and require applicable development fees, including those for roads, recreation and fire protection. ADP applications are distributed to all applicable agencies who have 21 days to respond. Within 10 days of receiving agency comments, the Planning Department will determine if the application meets the required development standards by approving the project, approving it with conditions, or denying the application if not in conformance with applicable requirements.

- **Outdoor Event Permit:** Outdoor Events are outdoor public gatherings of more than 100 people participating in or attending a commercial, recreational, or civic or social function, such as a music festival, and are limited to a maximum of four events per property per calendar year. Outdoor Event Permit applications must be submitted at least sixty (60) days prior to the date of the event, along with a \$250 filing fee, and are reviewed and issued by the Nevada County Sheriff's Department. Information required includes, but is not limited to, the sponsor's contact information; an explanation of the applicant's ability and prior experience related to outdoor events; hours of operation and maximum number of attendees; provisions for public health and safety; a contingency plan in the event attendance exceeds the estimate; event insurance; consent for county officials to inspect the event; and statements of any criminal records by each applicant.

PROJECT DESCRIPTION/BACKGROUND: On February 14, 2017, the Board of Supervisors issued Board Order 17-01 (BO17-01) directing the Planning Department to return to the Board within 120-days with a report on Agritourism, based on recommendations by the Agricultural Advisory Commission and Planning Commission. As a result of this direction, the AAC prepared a draft set of regulations and permitting

requirements for Agricultural Marketing Events (*Attachment 1*) to support the agricultural economy of Nevada County, based on the table below.

Acres	Max Number of Attendees [1][2]
3.0 – 5.0	50 People
5.01 – 10.0	100 People
10.01 – 20.0	200 People
Over 20.0	300 People

[1] Permitted as an accessory use on agriculturally zoned land; the primary use of the parcel must be agricultural
[2] Outdoor activities are limited to Sunday through Thursday 8:00 am to 7:00 pm and Friday, Saturday, and holidays 8:00 am to 9:00 pm. Indoor activities are permitted without any time restrictions

The AAC recommendations were then distributed to various County Departments and other local agencies requesting their feedback regarding the draft ordinance language. Project comments were provided from the Department of Public Works, the Environmental Health Department, the Penn Valley Fire Protection District and the Nevada County Consolidated Fire District. Responses from those agencies expressed concerns about the potential scale and scope of the AAC proposal, which would allow events with up to 300 people as an accessory use on agriculturally zoned land (> 20 acres), with very few exceptions. Currently, that level of intensity is allowed for farm marketing of agricultural products such as the case with Farm Retail Stands, however, when venue's and facilities are rented for large, in some cases non-agricultural related events such as weddings, a Use Permit is currently required, as is the case for similar events at local wineries. The scale and scope of these non-agricultural marketing events typically require a Use Permit because of potential for incompatibility with adjacent land uses and neighborhood character such as loud noise; impacts on surrounding roadways and traffic circulation; effects on public health and safety; and environmental damage.

With rising production costs farmers are increasingly in need of additional sources of income to be economically viable by providing for the sales of value added products while protecting the agricultural character and long-term production of agricultural lands, and provide for compatibility with adjacent land uses. It is important to consider the trade-offs when assessing the benefits that agritourism can bring to a region.

OTHER COUNTY'S ORDINANCES: Staff has researched the level of permitting requirements and environmental review for agricultural marketing events, and have summarized the processes of other local Counties' below.

Yolo County: In July 2014, Yolo County approved a Comprehensive Zoning Update, with an environmental determination based on an Initial Study and Negative Declaration that tiered off their 2009 Final Environmental Impact Report for their General Plan update. They now allow special events on agricultural and residential land and structures that are used for for-profit paid events such as weddings, tastings, special or seasonal celebrations, rodeos, and other gatherings using tiered system of permitting requirements

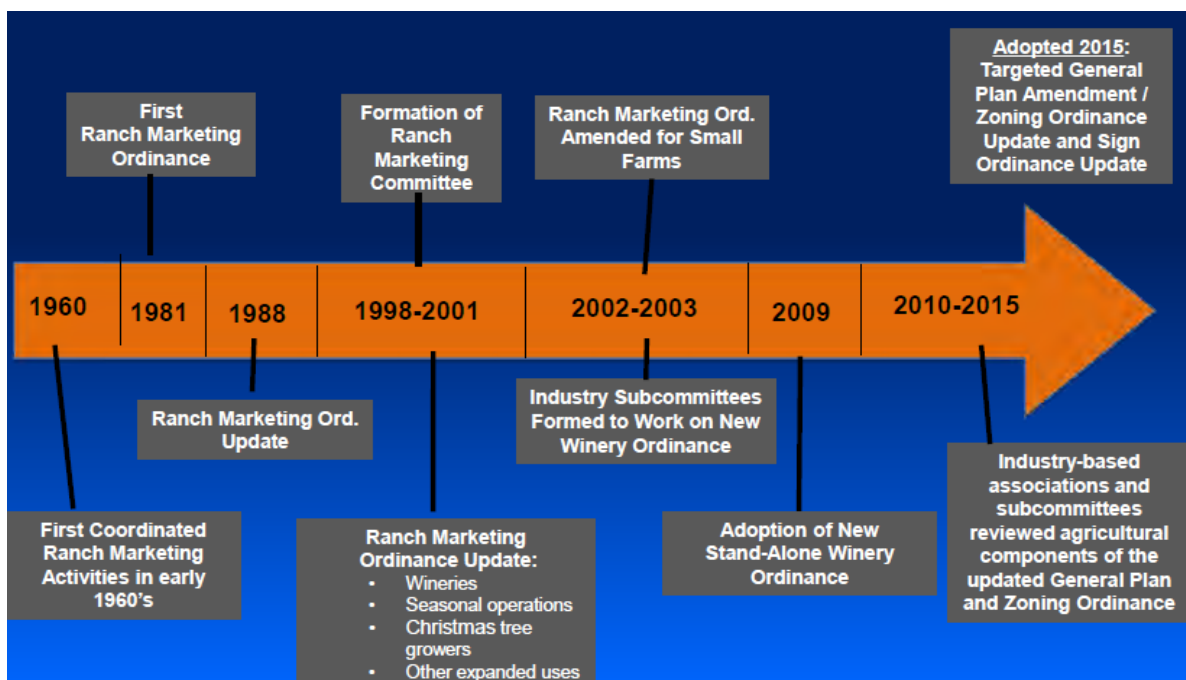
ranges from land uses allowed by right, requiring administrative approval, and those requiring discretionary Use Permit approval.

Events and facilities are characterized as “small” or “large” depending on the parcel’s acreage (< 40 acres) construction of new structures (Yes/No), the number of events that are held in a given year (1 per month, 8 per year or 12 per year), the number attendees (< 150 people), and the amount of traffic each event generates (< 100 vehicle trips). Other agritourism uses such as farm stays have a similar range of permitting requirements.

Yolo County					
Agricultural Commercial Land Uses	Ag Intensive	Ag Extensive	Ag Commercial	Ag Industrial	Ag Residential
Special Event Facilities, over 40 acres, 8 events per year, less than 150 attendees	A	A	NP	A	NP
Special Event Facilities, small	ADP	ADP	A	A	minor UP
Special Event Facilities, large	minor UP	minor UP	ADP	ADP	Major UP
Farm stays, farm dinners	A	A	ADP	NP	minor UP
Other agri-tourism uses	ADP/minor UP	ADP/minor UP	ADP	NP	ADP/minor UP

Other applicable site development standards require structures used by the public to be fully permitted with respect to the proposed occupancy group; noise generating activities shut down by 10 p.m.; adequate onsite parking (including ADA); connected directly to a public road or approved by the Fire Marshall where a facility is located on a private road; appropriate amount of infrastructure to accommodate the projected number of attendees (e.g., restrooms), and compatible with adjoining agricultural operations and single family residences (e.g., building setbacks, landscaping, etc.).

El Dorado County: El Dorado County has been working on agritourism for nearly 60 years.



El Dorado County completed a Comprehensive Zoning Update in May 2009 and targeted ranch marketing activities in 2015 that allowed most Agricultural Marketing on parcels over 10 acres “by right” during harvest season. Special events are limited to number of events per calendar year (24 events); maximum capacity of 250 people at one time; limited in time duration to 48 hours; and the event site shall be returned to its pre-event condition after each use, unless the next event is within two weeks, or an administrative permit is approved by the Director. Again, El Dorado County’s updates were based on the findings in Environmental Impact Reports (EIR).

El Dorado County		
Ranch Marketing Uses for Crop Production	Limited Agricultural (10+ acres)	Planned Agricultural (10+ acres)
Bake Shop	CUP	A
Marketing/promotional Events	minor UP	A
Special Events	CUP	A/minor UP/CUP/Temp. UP

Uses Requiring and ADP:

- 1) Non-ranch marketing use of an existing commercial kitchen established for a bake shop or food stand as an owner-operated or leased catering facility, subject to approval from all applicable agencies including, but not limited to El Dorado County Environmental Management Department, California Department of Public Health, and California Department of Food and Agriculture.
- 2) Ranch marketing activities that do not have direct access to a county-maintained road or state highway, provided that the operator of the facility has entered into an agreement to participate in any road maintenance entity (homeowner's agreement, Zone of Benefit, Community Services District, or County Service Area) on roads that serve the site.

Ranch Marketing Uses Requiring a Use Permit:

- 1) Special events that exceed the provisions of this Section that are on-going or reoccurring. One-time special events may be authorized by Temporary Use Permit.
- 2) Dining facility to the following standards:
 - a) Dining facilities and any other sale of food products shall comply with the California Health and Safety Code, subject to approval from all applicable agencies including, but not limited to Environmental Management, California Department of Public Health, and California Department of Food and Agriculture.
 - b) A commercial kitchen established for a bake shop, food stand or dining facility can be used off-season to make value-added products from cold storage produce.

The on- or off-site sale of said value added products is not limited to its harvest season.

Placer County: In 2012, members of the public expressed concerns community/event centers associated with wineries in farm and agricultural zone districts. These concerns included attempts to get around County zoning regulations regarding the potential issues associated with holding "large-scale" events at on lands zoned for agricultural use without an established primary use. To address these concerns Placer County made a determination that all stand-alone Event Center applications in agricultural Zone Districts will be reviewed and heard by the Planning Commission to assure the highest level of public review and scrutiny.

Placer County		
Agricultural Event Center	Residential (RA, RF)	Agricultural (AE, F)
Small Agricultural Event Center	CUP	CUP
Intermediate Agricultural Event Center	CUP	CUP
Large Agricultural Event Center	CUP	CUP

Common Themes: Other Counties that have approved county-wide ordinances that reduce the discretion for similar projects have established a task force to develop thresholds such frequency and attendance of events, have required an EIR. Jurisdictions have reported similar problems with such events including noise complaints, facilities exceeding the allowed number of attendees, and exceeding the allowed number of events, inadequate private roads to handle the traffic, and people driving at night on unfamiliar country roads after an event.

There are a number of costs and benefits of agritourism for farmers. Advantages include diversified income sources, sharing lifestyle challenges and satisfactions with others, development of interpersonal and communication skills, and it can be relatively inexpensive. Disadvantages include risks associated with inviting the public onto private land, additional guest facilities may require additional time and money, and planning and permitting can be frustrating.

CONSIDERATIONS: Based on the AAC's proposal and staff's research of other jurisdictions agritourism activities and permitting requirements, the Board of Supervisors may wish to consider the following three options if directing staff to develop further recommendations for agricultural marketing events in Nevada County.

1. In order to codify the AAC's proposal to allow non-agricultural marketing related events without a permit significant environmental review needs to occur. Conformance with CEQA would need to occur at a large and comprehensive scale which would likely require hiring a consultant to prepare an EIR to address potentially significant impacts resulting from the proposal. The facilitation,

coordination and growth of agritourism as a distinct economic activity requires the emergence of institutions and associations that can coordinate strategic planning, event management, joint promotion, advertising campaigns and information management.

2. Potentially a more inclusive list of agriculture marketing events and more refined tiered permitting process could be created. This could include the establishment of a task force or advisory group to develop recommendations of performance criteria and standards that must be achieved for an event or facility to be recommended for approval to the hearing body, but it is unlikely the tiered permitting will achieve the level of activity desired by the AAC.

Examples of performance criteria the Board of Supervisors may want to consider include:

- Establish a minimum parcel size for events.
 - Establish standard hours of operations.
 - Establish a maximum number of events that can be held.
 - Establish distance limitations from other similar uses to prevent congestion.
 - Establish minimum access standards (e.g., must access directly onto public roadways).
 - Establish maximum structure sizes.
 - Require events to be directly related to and support an on-site agricultural use.
3. Continue with the existing permitting process that provides flexibility for agricultural marketing related activities including allowing some uses by-right, requires administrative permitting of medium sized facilities and limited frequency events, and requires site-specific analysis and a discretionary Use Permit process for larger, reoccurring events where agricultural facilities are operating as public and/or privately leased venues, based on the individual merits of a project proposal.

SUMMARY: There are currently a number of options to permit agricultural marketing events. To provide additional flexibility and certainty, the AAC has provided Draft Code recommendations which was distributed to other County Departments and local agencies. Additionally, staff has researched how other Counties are addressing agritourism events. Comments received and issues reported from other jurisdictions raise concerns about potential for incompatible land uses and changes to neighborhood character, loud noise levels, impacts on surrounding roadways and traffic circulation, effects on public health and safety, and environmental degradation. Either CEQA needs to be completed for all potential scenarios in the unincorporated areas of the County, or needs to be completed on a case-by-case basis. The more open-ended and broadly applicable the ordinance, the more robust the project's environmental document will need to be.

RECOMMENDATION: Staff recommends the BOS discuss the AAC's Marketing Events recommendation and other options described, provide direction to staff, and close Board Order 17-01.

Item Initiated by: Patrick Dobbs, Director of Planning

Item Approved by: Brian Foss, Director of Planning