



COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY

Building
Planning
Public

DATE: August 18, 2017 FILE: N/A
TO: Tyler Barrington, Principal Planner
FROM: Jessica Hankins, Public Works Project Manager
SUBJECT: **2nd Comments – Revised Zoning Code Amendments Related to Agricultural Marketing**

Background:

In March 2017 the Department of Public Works (DPW) reviewed an initial draft of proposed zoning text amendments to allow agricultural-related marketing events within rural areas of the County. A second draft of proposed zoning text amendments has now been distributed, and the comments below respond to these revised zoning text amendments. Among other changes, modifications to the original proposal include relaxing the time restrictions, removing the attendance limitations, and eliminating the size limitations for facilities within the RA district. The definition of the new use has also been added to the zoning text amendments and changed from “marketing events” to “agritourism uses.” The purpose of the zoning text amendments is to allow agritourism uses in rural areas of the County subject to building permit issuance and zoning compliance, similar to a Field Retail Stand or Farm Stand.

Comments:

Thank you for addressing DPW’s concerns regarding parking and backing out into the public right of way (item 4 from attached DPW comment letter dated March 31, 2017). These concerns are now satisfied. Item 10 no longer applies as size limitations were removed.

Other concerns noted in DPW’s March 31, 2017 comment letter still apply to the revised proposed ordinance. The majority of agritourism activities, such as farm dinners, classes, and farm tours, will likely have minimal impacts to County roads. However, there are no restrictions or any specific DPW review mechanism in place for larger-scale agritourism activities. While nothing on the scale of Bishop’s Pumpkin Farm or Apple Hill currently exists in Nevada County, DPW still has concerns that without a review process to determine site-specific impacts to County roads, larger-scale agritourism uses could be legally established without addressing impacts to County road safety, drainage, and circulation via traffic studies, traffic control, and road improvements. Additionally, for those agritourism uses that include facility and structural improvements, site plan review should occur to ensure that no net drainage would flow offsite which could impact surrounding properties or public roads.

DPW supports Nevada County's agricultural community and the overall goal of the ordinance, which is to support of the economic vitality of the County's farming operations. We have no desire to impose unnecessary or onerous requirements on low-impact agritourism activities. However, for those agritourism uses that may have impacts on public roads, DPW also has a commitment to ensure the safe and efficient movement of persons traveling on the roads and to prevent untimely roadway degradation. For these reasons, DPW suggests that the ordinance establish an Administrative Development Permit process for agritourism uses similar to that in place for certified farmers' markets (LUDC Sec. L-II 3.3C.5), with provisions for evaluation by DPW for any potential traffic, safety, road, or circulation issues.

If you have any questions, please contact me at 530-265-1254 or at Jessica.Hankins@co.nevada.ca.us.



COUNTY OF NEVADA Penn Valley Area Municipal Advisory Council

<http://www.mynevadacounty.com/nc/bos/district4/Pages/Penn-valley-Area-Municipal-Advisory-Council-.aspx>

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August 22, 2017

Tyler Barrington
Principal Planner
950 Maidu Ave., Suite 170
Nevada City, CA 95959-8617

RE: Proposed Zoning Code Amendments - Agritourism
File No. PLN17-0037; ORD17-2; EIS17-0009

Dear Tyler,

At a meeting on August 17, 2017, the Penn Valley Municipal Advisory Council (MAC) reviewed the proposed zoning code amendments related to agricultural marketing (Agritourism) as referenced above.

The Penn Valley MAC recommends that the language in Sec.L-II 3.3 Agricultural Uses, Section B. Definitions, article 1. Agricultural Products, be amended to include the addition of the language "cannabis or cannabis products" in the final sentence following, "wine or wine products".

Further, the Penn Valley MAC recommends that the language in Sec.L-II 3.3 Agricultural Uses, Section B. Definitions, article 1. Agricultural Products, be reviewed by county council for any inconsistencies and provide more defined clarification of products. More specifically, in our review of this definition we see potential conflict between the inclusion of "animal and animal products" in the definition of Agricultural Products, and the exclusion of "live animals".

Thank you for the opportunity to provide comment on this important issue to our county and the agricultural community's interests.

Regards,

Mike

Mike Mastrodonato
Interim Acting Chair, Penn Valley Municipal Advisory Council



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
ENVIRONMENTAL HEALTH DEPARTMENT**

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9853 www.mynevadacounty.com

TO: Tyler Barrington, Principal Planner

FROM: Randall Yun, REHS

DATE: August 23, 2017

RE: **PLN17-0037; ORD17-2; EIS17-0009, Revised Proposed Zoning Code Amendments
Related to Agricultural Marketing**

BACKGROUND

This is a public review draft of a zoning text amendment that would establish a definition of uses allowed as "Agritourism" and would allow those uses as an ancillary use to a farm, ranch or agricultural operation within the primary agricultural zoning districts in the County (AE, AG, FR and RA) subject to building permit issuance and zoning compliance with adherence to basically the same requirements as a Field Retail Stand or Farm Stand in that zoning district.

Discussion

See attached track changes for Environmental Health comments.

Sec. L-II 3.3 Agricultural Uses

A. **Purpose.** To encourage agriculture and to promote a strong and sustainable local agricultural economy.

B. **Definitions.**

1. **Agricultural Products** - For the purpose of this section, includes fresh fruits, vegetables, nuts, herbs, flowers, honey, poultry, fish, animal & animal products, hay and Christmas trees, but does not include plant nursery stock, live animals, wine or wine products.
2. **Agritourism**- The act of visiting a working farm or ranch, or any agricultural or horticultural operation for the purpose of involvement in the ancillary activities of the farm, ranch or agricultural operation that also adds to the economic vitality of the operation. Agritourism uses include, but are not limited to, marketing events, farm tours, facilities for the promotion of agricultural crops grown onsite, the sale of farm/ranch branded agricultural related merchandise, educational classes and lectures, U-pick produce, seasonal celebrations, and other gatherings, activities and uses found to be appurtenant to the agricultural business, but shall not include concerts and weddings or other commercial activities/events that are not related to the promotion of the working farm, ranch or agricultural/horticultural operation.
23. **Certified Farmers' Market (CFM)** (3 CCR § 1392.2) - A location approved by the County Agricultural Commissioner and the Environmental Health Department of that county where agricultural products are sold by producers or certified producers directly to consumers or to individuals, organizations, or entities that subsequently sell or distribute the products directly to end users. A certified farmers' market may only be operated by one or more certified producers, by a nonprofit organization, or by a local government agency.
34. **Community Supported Agriculture (CSA)** - Consists of a relationship between an agricultural producer certified by the County Agricultural Commissioner and buyer intended to support and promote the Nevada County agricultural economy and provide citizens with access to Nevada County grown agricultural products through a pre-paid subscription where the subscription pick-up location may include either the host farm or an off-site location when permission is previously granted from the landowner and when the use is not otherwise prohibited by the County Zoning Ordinance.
5. **Field Retail Stand (FAC 47030)** - Field retail stands are producer-owned and operated premises located at or near the point of production established in accordance with local ordinances and land use codes. Field retail stands are restricted to only selling fresh, farm-produced fruits, vegetables, nuts and shell eggs, grown by the producer on or near the site. Field retail stands are exempt from standard wholesale size and pack requirements, ~~and are exempt from the California~~

Health and Safety Code. And shall comply with the California Health and Safety Code

56. **Farm Stand** (FAC 47050) - 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, thus enhancing their income and the local economy (FAC 47000(d)). The Farm Stand shall comply with the California Health and Safety Code, section 114375.

C. Standards.

1. **Crop and tree farming.** In any district the use of land for crop and tree farming shall be allowed. Within those districts not intended for agriculture as a primary or secondary use, crop and tree farming shall be considered an interim use.
2. **Community Supported Agriculture.** Is an allowed use in any district where crop and tree farming is allowed? Pick-up locations shall be consistent with those outlined in the definitions above.
3. **Agritourism, Field Retail Stands and Farm Stands.** Agritourism activities and the sale of agricultural products from a field retail stand and/or a farm stand is an allowed use subject to building permit issuance, Environmental Health Approval and zoning compliance in the AE, AG, FR and RA zoning districts and the following standards:
 - a. Field retail stands and farm stands, as well as the sale of agricultural products at agritourism events are subject to authorization by the County Agricultural Commissioner and farm stands may require a permit from the County Department of Environmental Health, if processed agricultural food products are being sold and or sampling occurs.
 - b. The sale of agricultural products, shall comply with all applicable County, State and Federal laws and regulations pertaining to the direct marketing, handling, transport, and protection from contamination of food products.
 - c. A producer may sell products they grow out-of-county as long as it's no more than 1/3 of the volume sold as verified by the Agricultural Commissioner through submitted Certified Producers Certificates.
 - d. Field retail stands and farm stands shall be limited to a total of 1,000 square feet on any one site and shall be limited to 10 producers.

- e. Mobile trailers may be used for the temporary sale of produce but must be located outside of any buildings, may not be placed in designated parking areas, and must be removed from the site at the end of each season.
- f. Field retail stands, ~~and farm stands~~ and facilities used for agritourism activities shall meet the minimum requirements of the California Building Code for site accessibility and usability to persons with disabilities as determined by the County Building Official.
- g. Any structure used for a field retail stand, ~~or farm stand~~ or agritourism activities shall meet the requirements of the California Fire Code regarding general fire safety, Nevada County Land Use and Development Code regarding sewage disposal and California Health and Safety Codes.
- h. A field retail stand, ~~or farm stand~~ or property used for agritourism shall provide direct access to a publicly-maintained road or if the property does not have direct access to a publicly-maintained road, the applicant shall be required to form a new or join an existing road maintenance district (i.e., permanent road division, county service area, community service district). If a homeowners' or road association oversees the maintenance of the private road(s), participation in maintaining the road as defined by Section 845 of the California Civil Code is required.
- i. All parking shall be provided on site with adequate area for vehicles to enter and exit the site without backing into a road right-of-way or road.
- j. Driveways providing access shall meet County driveway standards. Any road improvements within the County right-of-way shall be subject to obtaining an encroachment permit from the County Department of Public Works.
- k. Field retail stand and farm stand Hhours of operation are limited to daylight hours. Agritourism activities shall cease 10 p.m.
- l. Noise generated shall not exceed allowable noise limits established by LUDC Sec. L-II 4.1.7.
- m. Agritourism activities that include overnight stays and food service shall meet all Health and Safety Code requirements.
- n. Environmental Health approved restroom facilities shall be provided for all proposed activities.
- o. An approved water supply shall be provided per Health and Safety Codes.

1. Signage shall be consistent with “Signs in Agricultural Districts” as shown in Section L-II 4.2.12.
4. **Farm Stands.** The sale of agricultural products from a farm stand may be allowed in the C1, C2, C3, CH, OP, M1, M2, BP, IDR, PD, P and REC districts subject to approval of an Administrative Development Permit for each site selling produce, providing that the farm stand satisfies those standards provided in LUDC Sec. L-II 3.3.C.3 and the following:
 - a. Farm stands are prohibited in the TPZ, R1, R2, R3, and OS zoning districts.
 - b. Farm stands may be permitted for up to 3 years.
 - c. The Administrative Development Permit application for a farm stand shall include the following:
 - 1) A site plan of the proposed location, drawn to a recognized engineer’s scale, delineating the following information:
 - a) The location of any existing uses including structures, parking, driveways, and road rights-of-way.
 - b) The proposed location for the market and parking area for the market.
 - c) Location of sanitation facilities that will be used during operating hours.
 - d) Location of animal enclosures, if applicable.
5. **Certified Farmers’ Markets.** Certified farmers’ markets may be allowed within all zoning districts except those provided under standard 5.a below, subject to an Administrative Development Permit and an annual County Department of Environmental Health Food Permit, based on the following standards:
 - a. Certified farmers’ markets are prohibited in the TPZ, R1, R2, R3, and OS Zoning districts.
 - b. This section authorizes the sale of agricultural products in accordance with California Food & Agriculture Code regulations governing certified farmers’ markets.
 - c. The sale of agricultural products at a certified farmers’ market shall comply with all applicable County, State and Federal laws and regulations pertaining to the direct marketing, handling, transport, protection from contamination, and provisions for adequate sanitation facilities, including

obtaining permit(s) issued by the County Department of Environmental Health pursuant to the California Health and Safety Code.

- d. Signage for certified farmers' markets shall be consistent with "Signs in Agricultural Districts" as shown in Section L-II 4.2.12, shall be temporary and removed at the close of the market each day.
- e. The additional sale of prepared foods, including baked goods and coffee, requires a separate Community Events Permit issued by the County Department of Environmental Health pursuant to the California ~~Uniform Retail Food Facilities Law~~, Retail Food Code. A Community Event can occur adjacent to, but cannot be a part of, the certified farmers' market.
- f. Certified farmers' markets located within Residential or Rural Districts are limited to sites that are developed with an institutional or community support facility with established parking, including schools, churches and community centers.
- g. The market site must have direct access to a County maintained road and may not be located in any public right-of-way or roadway.
- h. Driveways providing access to market sites must meet County driveway standards. Any road improvements within the County right-of-way shall be subject to obtaining an encroachment permit from the County Department of Public Works.
- i. The certified farmers' market site must provide adequate parking area for vehicles to enter and exit the site without backing into a road right-of-way or roadway. Parking shall be provided completely on the same site as the market. If operating during the business hours of an existing use, the market shall be limited to areas that do not interfere with required parking or parking lot circulation. In no case shall sellers set up within wheelchair-accessible parking stalls established on the site.
- j. Any structure used for a certified farmers' market shall meet the requirements of the California Fire Code regarding general fire safety and the California Retail Food Code.
- k. Certified farmers' markets shall occur no more than three consecutive days per week on any one site and may be permitted for up to 3 years.
- l. The Administrative Development Permit application for certified farmers' markets shall include the following:
 - 1) Written authorization from the property owner(s) on whose land the use is proposed.

- 2) A copy of the completed application for a certified farmers' market, signed by the Agricultural Commissioner or designee.
- 3) Certified farmers' markets proposing to utilize an improved parcel shall submit a market schedule and a facility schedule that demonstrates the market will not conflict with approved uses on the site.
- 4) A site plan of the proposed location, drawn to a recognized engineer's scale, delineating the following information:
 - a) The location of any existing uses including structures, parking, driveways, and road rights-of-way;
 - b) The proposed location for the market and parking area for the market.
 - c) Location of sanitation facilities that will be used during operating hours.
 - d) Location of animal enclosures, if applicable.
 - e) Certified and non-certified sections of the market. (Ord. 2427, 1/24/17; Ord. 2235)

Tyler Barrington

From: Bev Shefstad <bshefstad@goskywest.com>
Sent: Thursday, August 24, 2017 1:32 PM
To: Tyler Barrington
Subject: Proposed Zoning code Amendments Related to Agritourism PLN17-0037; ORD17-2; EIS17-0009

Follow Up Flag: Follow up
Flag Status: Flagged

I'm writing to comment on the proposed amendments that pertain to agritourism. I live in a residential neighborhood that is zoned for single family residential use and agriculture. As is the case with many neighborhoods in Nevada County, we are responsible for maintaining the neighborhood roads ourselves. In our neighborhood, the developers were given a waiver to build the roads as standard fire access roads (and not Class I roads). The developers did chip seal the road but it has practically no road base.

Currently, we have a small winery in our neighborhood. This has created problems within the neighborhood. Many people feel that it is not right that the winery brings in people/strangers into our neighborhood increasing the traffic, increasing the wear and tear on the road, increasing our liability and increasing noise. Increasing the traffic within a neighborhood could also increase the crime within that neighborhood.

And now the winery owner wants the neighborhood to pay to asphalt the roads! Obviously this isn't going to happen until he convinces enough people to get the required votes. But it does create dissension within the neighborhood making this not a nice place to live. And because of the rules that allow wineries to operate within a residential neighborhood, the winery owner feels he can do whatever he wants and refused to even talk about the situation at the last road meeting.

I'm not sure how anyone could have thought allowing wineries to operate tasting rooms, and now agritourism, in a residential neighborhood was a good idea. It might increase tax revenue but it causes a lot of problems in those neighborhoods with wineries. And I'll venture to say that allowing agritourism will increase these problems. I personally feel that allowing agritourism (and wineries) in residential neighborhoods makes Nevada County a less desirable place to live. And if others agree with me, you may see people leaving the county which could result in a reduction in property values.

And now we have the situation where someone recently purchased a house just outside of our neighborhood but with a shared property line. Some of the neighbors have been told by the new owner that she is converting the house to a "cannabis retreat" and will not be living there. Is this the kind of thing that we want to allow in residential neighborhoods? I don't think so.

And what about marijuana growers? That's agriculture. So are we going to allow this in our neighborhoods? Along with promotional events, etc.? Does that seem like a smart thing to do?

The proposed zoning amendments define agritourism uses to include marketing events, farm tours, facilities for the promotion of agricultural crops, the sale of agricultural related merchandise, educational classes/lectures, U-pick produce, seasonal celebrations and other gatherings. Basically it sounds like this definition is allowing commercial activity. I'm against

this. I'm against allowing any commercial activity within a residential neighborhood, and especially within a residential neighborhood that has private roads. Is it fair for the county to increase our road costs and liability for the sake of agritourism? I don't think so. If someone wants to engage in commercial activity then let them buy property that is zoned commercial!

A quick search of the Internet tells us that agriculture is the science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products. Merriam-webster.com, dictionary.com, Wikipedia.org, vocabulary.com all say the same thing.

Our parcels are zoned for agriculture not agritourism. Is it fair to change the rules after we bought our properties? I don't think so. If you want to allow agritourism then why not create a new zoning classification that allows this. And if someone wants to change their zoning classification to agriculture/agritourism then they can go through the process to change it. But to make these proposed changes, thereby forcing them upon existing property owners is unfair.

Our neighborhood has CC&Rs that state: No lot shall be used except for residential purposes and/or agriculture purposes and no buildings shall be erected, altered, placed or permitted to remain on any lot other than one single family residence, a private garage, a granny house, a home office, a workshop and such outbuildings as are usually necessary for the raising and maintenance of domestic animals and livestock.

It seems to me that agritourism would violate our CC&Rs. When people bought property here, we knew what the rules were. The proposed changes would conflict with our CC&Rs. If these amendments are enacted then there should be some kind of statement that says that a neighborhood's CC&Rs would take precedence over these changes. I would also suggest that agritourism activities cease at 8pm (instead of 10pm) if enacted.

The bottom line: I'm against agritourism, or any commercial activity, taking place in residential neighborhoods especially on **private roads** that may or may not be built to Class I standards. I also think it's unfair to change the rules of the game after the fact.

Thanks,
Bev Shefstad



EDMUND G. BROWN JR.
GOVERNOR

November 28, 2017

Tyler Barrington
Nevada County
950 Maidu Avenue, ste 170
Nevada City, CA 95959

Subject: Agritourism Ordinance Amendments (PLN17-0037; ORD17-2; EIS17-0009)
SCH#: 2017102065

Dear Tyler Barrington:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. The review period closed on November 27, 2017, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

**Document Details Report
State Clearinghouse Data Base**

SCH# 2017102065
Project Title Agritourism Ordinance Amendments (PLN17-0037; ORD17-2; EIS17-0009)
Lead Agency Nevada County

Type **Neg** Negative Declaration
Description Proposed amendments to the Nevada County Land use and development code chapter II zoning regulations related to ag marketing. The proposed project is an effect by the county to support the ag economy of Nevada County by allowing agritourism activities on a farm or working ranch within the primary ag zoning districts subject to the same basic health and safety standards as a field retail or farm stand within the zone and adds requirements that agritourism activities cease by 10 pm and adhere to the county's allowable noise limits established by land use and development code.

Lead Agency Contact

Name Tyler Barrington
Agency Nevada County
Phone 530-470-2723
email
Address 950 Maidu Avenue, ste 170
City Nevada City **State** CA **Zip** 95959
Fax

Project Location

County Nevada
City Grass Valley, Nevada City, Truckee
Region
Lat / Long
Cross Streets
Parcel No.

Township	Range	Section	Base
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Proximity to:

Highways
Airports
Railways
Waterways
Schools
Land Use n/a

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Economics/Jobs; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian

Reviewing Agencies Resources Agency; Central Valley Flood Protection Board; Department of Conservation; Department of Fish and Wildlife, Region 2; Cal Fire; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 3 N; Office of Emergency Services, California; Air Resources Board; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; State Lands Commission

Date Received 10/25/2017 **Start of Review** 10/25/2017 **End of Review** 11/27/2017