

DEPARTMENT OF COMMUNITY SERVICES
LAND USE PLANNING DIVISION
MULTNOMAH COUNTY PLANNING COMMISSION

MINUTES OF MAY 1, 2017

- I. Call to Order:** Chair John Ingle called the meeting to order at 6:33 p.m. on Monday, May 1, 2017 at the Multnomah Building, Room 101, located at 501 SE Hawthorne Blvd., Portland, OR.
- II. Roll Call:** Present - John Ingle, Katharina Lorenz, Timothy Wood, Jim Kessinger, Alicia Denney and Chris Foster. Absent –Susan Silodor and Bill Kabeiseman.
- III. Approval of Minutes: April 3, 2017 -** Motion to approve with date changes to header, call to order and approval of minute sections by Lorenz; seconded by Wood. Motion passed unanimously.
- IV. Opportunity to Comment on Non-Agenda Items:** None.
- V. Hearing: Amendments to consider Zoning Code provisions for Agri-Tourism events in the Exclusive Farm Use (EFU) zones of East Multnomah County (PC-2016-4864) –** Rich Faith, Multnomah County Senior Planner presented the staff report for agri-tourism provisions. State statute does not specifically define agri-tourism but sets parameters to identify them as promotional events or activities that are incidental and subordinate to the existing farm use in the tract. Farm tours, classes and crop tastings are some examples of agri-tourism events. They are not celebratory events, weddings, corporate events or concerts. They are not sporting events or amusement rides. Agri-tourism can occur on its own or in conjunction with a farm stand or winery as a promotional event. State statute that pertains to stand alone agri-tourism events can be found under ORS 215.283(4) giving Counties the authority to allow and regulate agri-tourism events in its EFU zones subject to mandatory and discretionary provisions. Multnomah County does not currently allow stand-alone agri-tourism as a permitted land use in its EFU zones.

Several Comprehensive Plan policies related to agri-tourism stem from the work done during the development of the Sauvie Island/Multnomah Channel Rural Area Plan. Agri-tourism provisions should only be adopted for East Multnomah County but with strict standards to minimize impacts to surrounding properties and be more restrictive than allowed by State law. A tiered review process should be developed based on the number and or size of the events and; involve the Citizen Advisory Committee (CAC) to prepare code language. East County CAC members assisted with developing the proposed standards.

The proposed amendments:

- Adds a definition of “agri-tourism event” to clarify what qualifies and what does not.
- Lists a single, one-day event (Type 1 review process, not requiring notice) within a calendar year as an allowed use in the EFU zone; lists up to six, one-day events (Type 2 review process, requiring notification of property owners within 750 ft of property line) within a calendar year as a review use in the EFU zone.
- Sets maximum attendance of 20 persons and 20 vehicles for the allowed use and 50 persons and 35 vehicles for the review use.
- Sets a minimum farm tract size of ten acres where events can be held.
- Limits the hours of events to 9:00 AM to 9:00 PM.
- Sets a noise limit of 60 decibels at the property lines and allows amplified sound only between 9:00 AM and 8:00 PM.
- Requires any temporary structure to be erected and taken down on the same day as the event and to be setback at least 100 feet from the property line.

- Establishes requirements for outdoor lighting, sanitation facilities, solid waste, and signage.
- Prohibits camping at agri-tourism events.
- Requires events to be open to inspection by various enforcement personnel.
- Allows the Planning Director to approve minor modifications to a multi-day agri-tourism permit without the need for a new permit application. Defines what constitutes a minor modification.

For a the single, one-day event the applicant would need to get a new Type 1 permit each year; for the Type 2, six one-day events, the initial permit would be valid for one year, subsequent permits would be valid for two years.

Public Testimony PC-2016-4864

Shari Sirkin – has been operating a 9.77 acre farm in Corbett since 2002 on MUA-20 land. They offer CSA subscriptions, conduct tours for people to come to the farm to see where their food comes from. They have been hosting “farm to fork” dinners without knowing that it wasn’t allowed. Works closely with neighbors to make sure there is minimal impact on the community. She would like the same opportunities and benefits on their MAU-20 land as those who are on EFU lands; please allow agri-tourism in the MUA-20 lands. She feels that six events a year is too restrictive but that eighteen would be too many. She would also like clarification that farm to fork dinners come under “crop tastings” as agri-tourism events.

Jessica Kyrie Eppley – lives on 33 acres of EFU land and is a neighbor of Shari’s. Has concern with the County placing limitation for hosting educational visits from eighteen to six per year with only fifty attendees. Need to allow more than 50 visitors for these educational events.

Carol Chesarek – staff did a fabulous job and recommends adoption.

Mark Greenfield – spoke in support of the ordinance, appreciated the clarity of what is allowed and what isn’t allowed. He further stated that the legislative history related to farm stands may apply to agri-tours that educational tours would not be regulated if no fee was collected. He felt that the limitation on number and scale of events are appropriate and insures that the events do not become the primary use of the property.

Alison Knieriem - Submitted written testimony by way of an email received shortly before the hearing. She was represented by Michael Cerbone, Planning Director, who read her testimony aloud (**H-1**).

Commissioner Foster **moved** for adoption of PC-2016-4864; Commissioner Lorenz **seconded**.
Postponed until June 5, 2017.

Chair Ingle asked for clarification of the discussion regarding MUA-20 lands from the prior work session. He asked what the rational was for dropping it from MUA-20 lands. Faith indicated that they had received written comments raising concerns that MUA-20 parcels would be too small to host this type of activity. He stated that the County is not precluded from extending these provisions to MUA-20 lands even though they were written for EFU lands.

Commissioner Kessinger spoke with regard to the MUA-20 being allowed at the State level to conduct up to eighteen events. He felt that we have restrictions in place to maintain a low impact with the nature and size of the events allowed. He supports extending these provisions to the MUA-20 zones.

Commissioner Foster asked what about extending it to Rural Residential zones as well. He is concerned that we will hear from people in other zones and lot sizes that will want these uses. He cautioned extending these to residential zones and encouraged a “go slow approach”.

County Deputy Attorney, Jed Tomkins, stated that MUA-20 properties designated as Urban or Rural Reserves could be subject to the Reserves Rule which prohibits adding new uses in reserve areas. This would pertain to adding agri-tourism as a new use.

Commissioner Kessinger made an **amendment** to include MUA-20 zone subject to Urban Reserve rules. Commissioner Denney **seconded** the motion. The vote is postponed to the June 5th hearing.

Commissioner Kessinger **moved** to continue the hearing to June 5, 2017 and keep the written record open until May 15, with public testimony allowed at the next hearing. Commissioner Woods **seconded** the motion. Motion passed 4 to 2.

VI. Hearing: Amendments to Chapter 35 of the County Zoning Code to eliminate farm stands as a conditional use in the MUA-20, RR and SRC zones and to amend Chapters 33-36 to add provisions for farm stands, including promotional activity, in the EFU zones. Establish different permit requirements based on the size of the farm stand operation or the inclusion of promotional activity (PC-2017-7340) - Rich Faith, Multnomah County Senior Planner, stated farm stands are also regulated by State statute. It is an allowed use in the EFU zone. Farm stands are allowed to sell incidental items not related to the farm operations and to have limited agricultural promotional activities. A key provision of the farm stand statute limits the annual sale of incidental items and fees from promotional activities to no more than twenty five percent of the total annual sales of the farm stand.

The same tiered approach we used in agri-tourism permits would apply to farm stands. A farm stand that occupies one acre or less, inclusive of parking area, ingress and egress driveways, product display area outside the farm stand structure, and has no promotional activities, would be reviewed as a Type I permit. A farm stand that occupies more than one acre, inclusive of parking area, ingress and egress driveways, product display area outside the farm stand structure, or has one or more promotional activities, would be reviewed as a Type II permit.

The major elements of the proposed code amendments relating to farm stands are summarized as follows:

- Removes farm stands as a conditional use in those zones East of Sandy River where it is currently listed -- Chapter 35 MUA-20, RR, and SRC
- Repeals Sections 35.6750, Definitions, and 35.6760, Criteria for Approval, pertaining to farm stands as conditional uses.
- Adds a definition of “promotional activity” to clarify what qualifies and what does not.
- Establishes tiered permit requirements based on the size of the farm stand operation or the inclusion of promotional activity as part of the farm stand operation.
- Sets a maximum area of 1,000 s.f. for all farm stand structures.
- Sets two acres as the maximum land area that can be occupied by farm stand structures and associated permanent parking.
- Limits the area that can be used for promotional activity, including temporary parking area, to five acres or five percent of the farm stand property, whichever is less.
- Prohibits gravel surfacing of temporary parking areas or to be otherwise rendered unusable for agriculture.
- Limits amplified sound at promotional events to the hours of 9:00 AM to 8:00 PM.
- Requires farm stand operators to submit an annual financial report that certifies compliance with the 25% sales limitation for incidental items and promotional activity.

- Amends the Off-Street Parking section of the code to remove “farm stands” as a specific use or activity where temporary field parking may be surfaced with gravel.

Public Testimony PC-2017-7340

Carol Chesarek – complimented staff on implementing the Comprehensive Plan policies in this proposal. She is please with the limitations on parking and structures. She felt that the noise limitations are particularly important. She supports the proposal before the Commission.

Mark Greenfield - has two concerns regarding this proposal. He stated that there are a couple of farm stands that are over four to five thousand square feet. He feels that it would be unfair to those wanting to amend an existing farm stand permit to require them to meet the new standards imposed by this ordinance. He believes that there is a need to grandfather these larger farm stands and needs to be stated explicitly in code. The second issue is regarding the 25% provision. Total gross annual revenue is based on retail sales and not wholesale activities from the farm and it is not clearly stated in the proposed ordinance.

Diane Kunkel – her family has been farming on Sauvie Island since the mid-seventies. Has had a produce permit since 1999. She operated a small farm stand selling products from their farm. She stated that a thousand square feet is too small for a farm stand and supports grandfathering larger structures. She suggested limiting the size to two or three thousand square feet.

Kari Egger – feels that one thousand square feet is much too small for a farm stand. She is very supportive of the 75/25% policy; however she doesn’t feel that this requirement is enforceable. She has been required to gravel their parking area under a previous permit but the new provisions doesn’t allow for this type of surface. Due to current restrictions they will never amend their permit so that they don’t lose their current uses.

Commissioner Foster asked staff if a grandfather provision can be allowed. Cerbone indicated that a provision could be added to grandfather existing structures. Commissioner Foster went on to ask where the basis for the square footage allowance came from. Faith responded that the number came from a review of the more prominent farm stands in the area using aerial photographs.

Commissioner Kessinger thought it would be good to see a list of farm stands used to determine that number and a list of those in Multnomah County and the size of those permitted uses. He went on to ask where the 5% or five acre rule regarding land consumed for the promotional activity came from. Faith stated that those figures came directly from the Comprehensive Plan policy.

Commissioner Wood **moved** to close the hearing and continue deliberation to June 5; Lorenz **seconded**. Motion passes 4:2.

VII. Hearing: Amendments to Chapters 33-36 of the County Zoning Code to add provisions for wineries, including promotional activity, in the EFU zones (PC-2017-7341). Rich Faith, Multnomah County Senior Planner presented the staff report. He pointed out that State statute allows wineries in the EFU zone along with associated activities such as marketing and selling wines, tasting rooms, wine clubs, tours and promotional events. It allows up to eighteen days of agri-tourism or other commercial events annually. Statute distinguishes between wineries and large wineries each having its own section within statute. Similar to farm stands, the income from incidental sales and agri-tourism cannot exceed 25% of the gross annual income from the onsite retail sale of wine produced by the winery. The winery statute defines agri-tourism more broadly than under farm stand or agri-tourism statute to include

concerts, facility rentals, celebratory gatherings such as weddings and corporate retreats. Educational cultural health or lifestyle events are also listed in the definition of agri-tourism under the winery statute.

The CAC for the Comprehensive Plan decided that the policy on farm stands served as a good model to apply to wineries intending to limit agri-tourism and commercial events to what is directly related to a winery operation. Although the policy mirrors that for farm stands, the actual code provisions for wineries deviate substantially from farm stands in order to comply with State winery statute's broader scope and prescriptive nature.

The major elements of the proposed code amendments relating to wineries are summarized as follows:

- Adds “large winery” and winery related agri-tourism or other commercial events as review uses in the EFU zone.
- Incorporates the definitions of “winery”, “large winery” and “agri-tourism or other commercial events” from statute (ORS 215.452 and 215.453).
- Incorporates the standards from statute for establishment and operation of a winery.
- Establishes minimum parking standards for wineries and their associated activities.
- Incorporates from statute the list of uses and activities allowed in conjunction with a winery.
- Consistent with statute, sets Type I review licensing requirements for up to six days of winery-related agri-tourism or other commercial events and Type II review permitting requirements for 6 to 18 days of such events.
- Limits events to the hours of 8:00 AM to 9:00 PM.
- Sets the maximum land area that can be used for temporary event parking as five acres or five percent of the winery tract, whichever is less.
- Sets a noise limit of 60 decibels at the property lines and allows amplified sound only between 9:00 AM and 8:00 PM.
- Establishes requirements for traffic management, sanitation facilities and solid waste.
- Prohibits gravel surfacing of temporary parking areas or to be otherwise rendered unusable for agriculture.
- Prohibits a winery that conducts agri-tourism or other commercial events authorized by the winery statute from also conducting agri-tourism events authorized by the agri-tourism statute.

Faith stated that staff would like to suggest a change to the definitions section XX.6805(C)(1)(c) to insert after the phrase long-term contract the words “of at least three years” to provide clarity. This change would be reflected in XX.6805(C)(2)(c) as well.

Public Testimony – PC-2017-7341

Carol Chesarek – (H-2) Shared her concern with the amount of water that wineries may use in the Tualatin Mountain where soils do not infiltrate water well. She felt that the County should include standards regarding waste water treatment.

Commissioner Foster **moved** to recommend adoption of the proposed ordinance with the change identified by staff; Commissioner Wood **seconded**. Motion passed unanimously.

VIII. Director’s Comments: Michael Cerbone, Planning Director, stated that staff will research the Urban Reserves impact and provide a chart showing 10 acre parcels in the MUA-20 zone for the next hearing.

Meeting adjourned at 8:56 p.m.
Recorder, Stuart Farmer