

Marin County Community Development Agency

Alex Hinds, Director

STAFF REPORT TO THE PLANNING COMMISSION

PUBLIC MEETING FOR THE PROPOSED DRAFT MARIN COUNTY DEVELOPMENT CODE UPDATE OF ZONING AND SUBDIVISION REGULATIONS

Item No: 6.
Project Area: Unincorporated Marin County
Planner: Brian C. Crawford, AICP, Deputy Director of Planning Services
Hearing Date: June 9, 2003 (Special Meeting)

SUMMARY RECOMMENDATION:

Pursuant to direction from the Board of Supervisors, conduct a public hearing to review and report on revisions to the Planning Commission Approved Draft Marin County Development Code ("Draft Development Code") with respect to three principal issues as follows: 1) Use Permit thresholds and related regulations for agricultural processing and agricultural retail sales facilities based upon their size (i.e. aggregate square footage) in addition to the origin of the products processed or sold; 2) clarifying the authority to regulate land use in the Design Review process; and 3) determining density for affordable housing projects through the Use Permit process if the approved density is consistent with the permitted density range in the Countywide Plan.

The Planning Commission should also review several other issues or revisions that have been raised in connection with the Board of Supervisors' hearings on the Draft Development Code and/or considered by the County's Agricultural Advisory Committee, including: the boarding of a limited number of horses on agricultural lands as a permitted use; clarification regarding the requirement for an agricultural management plan for existing commercial agricultural operations; and refinements to the new standards applied to non-agricultural land uses in agricultural zones.

BACKGROUND:

On March 18, 2003 the Board of Supervisors conducted a public hearing to consider the Planning Commission recommendations to adopt the Draft Development Code and certify the accompanying Final Supplemental Environmental Impact Report. The Board continued the hearing to April 29, 2003 to allow sufficient time for review of public comment and staff responses. At the April 29th Board meeting, the Board considered several responses and revisions intended to clarify or refine certain regulations in the Draft Development Code related primarily to processing of agricultural and affordable housing projects. (See Attachments 3 - 9.)

At the conclusion of the April 29, 2003 hearing, the Board directed staff to refer to the Planning Commission three additional revisions to the Draft Development Code for a report and recommendation prior to taking

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final action on the Planning Commission's previous recommendation to adopt the Development Code. This directive is consistent with State law requiring that revisions to the zoning ordinance not previously considered by the Planning Commission shall first be referred to the Commission for a report and recommendation before the Board take action on the matter. (See State Government Code Section 65857.) Although State law does not require the Planning Commission to conduct a public hearing on the Board's referral, staff recommends that the Planning Commission take public testimony on the revisions, which are the subject of this referral. The Board of Supervisors further directed that the Planning Commission report and recommendation be scheduled for the continued Board meeting of June 24, 2003.

The three principal revisions that are the subject of this referral are as follows:

- 1) Requiring a Use Permit for the processing and retail sales of agricultural products if the size of the respective facilities exceed a specified threshold, or if the agricultural products to be processed or sold are produced outside of Marin County as previously recommended by the Planning Commission;
- 2) Including a Use Permit finding in the findings for Design Review to further clarify the authority to regulate land use issues through the Design Review process;
- 3) Allow the density for affordable housing projects to be determined through a Use Permit, rather than a Rezoning, only so long as the approved density is consistent with the permitted density range for the property as established by the Countywide Plan land use designation.

In addition to the above revisions, there are several other modifications to certain provisions in the Draft Development Code that staff is requesting the Planning Commission include in their review and report for the purpose of providing the Board with the opportunity to consider adopting final text changes without another referral. In general, the additional modifications involve the following:

- o Consider allowing the boarding of a limited number of horses on agricultural lands as a permitted use, as distinguished from an equestrian center that requires a Master Plan or Use Permit in planned district zones;
- o Refine the non-agricultural standards pertaining to diversified uses on commercial agricultural land;
- o Clarify the exemption from Master Plan requirements for agricultural production land uses;
- o Clarify the Director's authority to waive the requirement for an agricultural management plan for existing commercial agricultural operations;
- o Clarifying the relationship between agricultural processing and agricultural accessory uses;
- o Clarify the regulations regarding retail sale of agricultural products produced on sites located outside of Marin County.

The Board also requested that the County's Agricultural Advisory Committee consider a request from the Marin County Farm Bureau to replace the definition of "Agriculture" in the Draft Development Code with a definition of the same term from the State Food and Agricultural Code. The Board also sought input from the Committee on the issue pertaining to the boarding of horses on agricultural land listed above. The Committee met on May 15, 2003 to discuss these issues, and concluded that the current definition of "Agriculture" in the Draft Development Code was sufficiently broad enough to include the agricultural production activities contained in the State Food and Agriculture Code. The Committee did not, therefore, recommend making a substitute change for this definition. As discussed below, the Committee endorsed the concept of allowing for the boarding of a limited number of horses on commercial agricultural lands as a permitted use subject to the non-agricultural use standards in the Draft Development Code.

REVISIONS:

The following is a brief discussion of the above revisions with related text changes.

Use Permit Thresholds & Design Review for Agricultural Processing and Retail Sale Facilities

The current zoning code requires a Use Permit for any agricultural processing or retail sales facilities. The Development Code proposes to eliminate the Use Permit requirement for processing and retail sales facilities that use products produced on-site or elsewhere in Marin. (Refer to land use tables in Articles II and V of the Draft Development Code.) This change in the current process is intended to reduce the economic hardship and disincentive resulting from the costs of obtaining a Use Permit for production and sales activities that contribute to or support the continuation of agricultural production. Instead of requiring a Use Permit for these uses, the Development Code would rely upon the Design Review process to maintain discretionary review authority and, in particular, to implement plan policies and zoning standards. As described below, staff has revised the Design Review findings to place a greater emphasis on the use aspects of a development proposal.

A variation of the Development Code proposal summarized above is to approach the issue of Use Permit controls from the standpoint of the size of processing and retail sales facilities in addition to the source of the product. That is to say that a Use Permit could also be required for a processing or retail sales facility if it exceeds a specified floor area and/or sales area. Design Review would also be applied to processing or retail sales facilities that do not exceed the floor area thresholds. The intent of using floor area as a permit trigger is to address the intensity of proposed land uses, which are, in part, a function of the size of the facilities as well as the amount of products being processed or sold. The text revision modifies Footnote (4) to stipulate that a Use Permit would be triggered for a retail sales facility that exceeds 1,000 square feet of total floor area and for a processing facility that exceeds 10,000 square feet of total floor area.

(4) Use Permit required if any agricultural products to be processed were not produced on the same site or on other agricultural properties located in Marin, or if the building(s) or structure(s) used for processing activities exceed an aggregate floor area of 10,000 square feet.

An example of this revision in the format of a complete land use table is shown in Attachment 1.

The above square footage figures have been used to exemplify the concept of applying a size limit to trigger a Use Permit, and different floor area thresholds should be considered by the Planning Commission.

Land Use Control as a Function of Design Review

The current Design Review provisions of the Zoning Ordinance (Marin County Code Chapter 22.82) provide the County with the authority to regulate the location and design aspects of buildings and other physical improvements. However, the County's ability to regulate land use issues or conflicts through Design Review is ambiguous at best notwithstanding language in the required findings that relates to the impairment of the use and enjoyment of property in the vicinity of a Design Review proposal. The scope of authority to address land use issues through the Design Review process should be clearly established by including an additional Use Permit finding as shown below and in Attachment 1. The inclusion of this finding would strengthen the County's regulatory tools for regulating land uses associated with agricultural processing and retail sales facilities in the absence of a Use Permit. As a more general proposition, it would also be beneficial in reviewing non-agricultural commercial projects that do not require a Use Permit by the zoning district standards.

22.42.060 - Decision and Findings

The review authority shall issue the decision and the findings upon which the decision is based. The review authority may approve or conditionally approve an application, with or without conditions, only if all of the following findings are made:

H. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest.

health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

Affordable Housing Use Permit

The current zoning ordinance allows affordable housing in any zoning district where residential uses are not permitted subject to Use Permit approval. This provision was carried forward to the Development Code, and should be clarified through revisions to the land use tables in Article II and Article V. Affordable Housing should also be specified in the land use tables as a permitted use (“P” or “MP”) in all zoning districts where residential uses have the same land use status. The revisions are described in Attachment 1. In addition, the text revision would allow the density for affordable housing projects to be determined through the Use Permit process consistent with the density established in the Countywide Plan as shown below in the new section under Chapter 22.22. These procedures would only apply to dwelling units that meet the County’s affordability criteria and meet the density permitted for the property according to the Countywide Plan.

CHAPTER 22.22 - AFFORDABLE HOUSING REGULATIONS

22.22.015 – Density for Affordable Housing Projects

The density for affordable housing units that meet the affordability requirements of this section shall be determined through the Use Permit procedures of Chapter 22.48 (Use Permits) if the proposed density complies with the density range established by the Marin Countywide Plan. This provision shall only apply to dwelling units that comply with the affordability requirements of this chapter.

Boarding of Horses on Commercial Agricultural Land

At the April 29, 2003 Board of Supervisors meeting, Supervisor Kinsey requested that staff examine the possibility of establishing regulations in the Development Code that would allow the boarding of a limited number of horses on agricultural lands as a permitted use (i.e., no Use Permit), but not as a commercial equestrian facility. For the purpose of considering this revision, “boarding” means the keeping of horses for a fee where persons other than the property owner own the horses. In keeping with the intent of allowing second units, B&Bs and other non-agricultural land uses in the Development Code, this revision would provide a means of supplementing farm or ranch income through a non-agricultural land use that is compatible with and accessory and subordinate to commercial agricultural production.

This issue is pertinent to the ARP, C-ARP and C-APZ zones where equestrian centers or the boarding of horses is subject to a Master Plan, which is usually waived in lieu of a Use Permit. It does not involve the A district zone where equestrian centers are allowed as a permitted use, although equestrian facilities may be subject to Design Review depending upon their size and location.

According to the C-APZ zone regulations of the current zoning ordinance and the Development Code, a Use Permit is required for the stabling of more than five horses on ranches where horses are the primary or only animal raised. The term “stabling” is not defined in either the current zoning ordinance or the Development Code, although it could be interpreted as meaning the keeping of horses for private purposes as distinguished from the term “boarding”. The C-APZ zone provision allowing the stabling of five horses could be expanded in the other planned district agricultural zones by allowing the boarding of no more than five horses as a permitted use on commercial agricultural property subject to the standards for other non-agricultural land uses that have been recommended for approval by the Planning Commission. (See Draft Development Code Section 22.32.115.) The text revisions that implement this change could be made as a revised Standard 5 in Table 3-5 of the Development Code, which sets out the general requirements for keeping horses and other large animals according to zoning district. The revised footnote is shown below and in Attachment 1. This

approach was considered and endorsed by the County’s Agricultural Advisory Committee. The Committee also suggested refinements to the non-agricultural standards that are discussed below.

**TABLE 3-5
GENERAL REQUIREMENTS FOR THE KEEPING OF LARGE ANIMALS**
(Cows, donkeys, exotics, goats, horses, mules, pigs, ponies, sheep, llamas & similar animals)

Zoning Districts	Allowed Animals and Applicable Standards	Standards
A3 to A60 and APZ to ARP	All animals allowed subject to standards 1, 4, and 5	1. Hog ranches/livestock feed ranches require a Use Permit in all zoning districts where permitted.
A2, RSP, RMP, RMPC	All animals allowed and all standards apply.	2. Hog ranches, livestock feed ranches, and the keeping of cows, goats, pigs, and sheep is allowed in the RSP, RMP, and RMPC zoning districts only where the site is three acres or more, and only with a Use Permit. 3. The keeping of livestock and large animals is allowed in compliance with Section 22.32.030.B. 4. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted. 5. A Use Permit is required for keeping more than five horses, donkeys, mules, or ponies within the APZ zoning district. <u>The boarding of up to five horses is permitted without a Use Permit or Master Plan on commercial agricultural property in the ARP, C-ARP, and C-APZ zones subject to the standards in Section 22.32.115.</u>

In addition the definition of “Equestrian Facilities” should be revised to clarify that it does not include the above provision for boarding of up to five horses.

Equestrian Facilities (land use). This land use consists of commercial horse, donkey, and mule facilities, including:

- horse ranches
- boarding stables
- riding schools and academies
- horse exhibition facilities
- pack stations

This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses. Noncommercial facilities of this type are included in the definition of "Agricultural Accessory Structures." This land use does not include the boarding of up to five horses on commercial agricultural property in the ARP, C-ARP and C-APZ zones as indicated in Standard 5 of Table 3-5.

Standards for Non-Agricultural Uses

As an outgrowth of reviewing the boarding of horses on agricultural land, the Agricultural Advisory Committee suggested refinements to the standards in the Draft Development Code that are applied to second units, B&Bs and other non-agricultural land uses. (See Draft Development Code Section 22.32.115.) The revisions are intended to provide flexibility in evaluating whether a non-agricultural land use is clearly accessory and incidental to agricultural production as the primary use of the land. The Committee did not prefer using the eligibility criteria for Williamson Act contracts, as suggested in correspondence from the Environmental Action Committee of West Marin, instead of the modified standards of the Development Code shown below. The Williamson Act criteria speak primarily to determining if agriculture is the primary use of the land being considered for a land conservation contract, while the Development Code standards are intended to insure that non-agricultural land uses are subordinate to the primary use of the land for commercial agriculture. The revised text below also includes modifications to the introductory paragraph suggested by the Point Reyes Village Association to clarify the intent of the section and standards.

22.32.115 – Non-Agricultural Uses

This Section applies only in those instances where Table 2-1, Table 3-5, and Table 5-1 expressly refer to this Section. The purpose of applying the following standards is to determine whether a specific non-agricultural land use is accessory and incidental to the primary use of land for agricultural production. The intent of these provisions is to ensure that non-agricultural uses do not become the primary use of agricultural land to the detriment of agricultural production.

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- A. Permitted use, zoning districts.** Non-agricultural uses may be allowed as a principally permitted land use in the following zoning districts: A2, A3 to A60, ARP, C-ARP, C-APZ, O-A, and C-OA, and are allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones - Permit Requirements and Development Standards).

B. Limitations on use:

- 1. Accessory Use.** In the aggregate, identified non-agricultural uses shall be accessory and incidental to the primary use of the property for agricultural production. The following factors shall be considered in determining whether a property is used primarily for agricultural production:

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- a. The primary use of the property is consistent with the definition of agriculture;
- b. The agricultural products produced on site are sold commercially; and

- 2. Referrals.** In determining whether a non-agricultural use is accessory and incidental to the primary use of the property for agricultural production, the review authority may refer such a question to the Marin County Agricultural Advisory Committee for a recommendation prior to making a determination. When determining whether a property is primarily used for agricultural production, the review authority shall consider the following:

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- a. Whether the aerial extent of land dedicated to agriculture is sufficient to support agricultural production;
- b. Whether the agricultural producer can demonstrate that agricultural products are sold commercially and that the sale of agricultural products is the primary source of income for the property; and
- c. Whether the agricultural land is used at a level of intensity that is consistent with similar agricultural activities in the County and in the State.

Deleted: income derived from agricultural land is reasonably equivalent to Countywide average income as expressed in the annual Crop Report

Master Plan Exemption for Agricultural Production Land Uses

One of the principal issues raised by the Marin County Farm Bureau during the public review of the Draft Development Code is the exclusion of agricultural production activities from the requirements for a Master Plan in planned agricultural zoning districts, namely C-APZ and C-ARP. Under the current planned district regulations, all uses, whether permitted or conditional, are subject to a Master Plan unless waived by the Director upon the request by the property owner. Historically, the County has not required a Master Plan for farming or ranching activities, nor have producers been required to submit a written request for a Master Plan waiver before pursuing them.

In response to this concern, the Draft Development Code was initially revised to state that agricultural accessory structures, agricultural improvements, and agricultural developments shall be exempt from the requirements of a Master Plan. (See Draft Development Code Section 22.44.040(A)(2)(b).)

Additional revisions were made in connection with the Board of Supervisors Aril 29, 2003 hearing to further clarify the mandatory nature of the Master Plan waiver for agricultural projects. The terminology used in the waiver provision was also revised to specifically refer to basic agricultural production activities intended to benefit from the waiver, including crop production or commercial gardening that does not result in more than 250 cubic yards of excavation (excluding discing or tilling of soil), dairy operations, livestock operations for grazing, large animals and small animals, nature preserves and the maintenance or repair of existing authorized or legal nonconforming agricultural structures or improvements (this text revision is shown in page 5 of Attachment 1 of the April 29, 2003 staff report to the Board of Supervisors; refer to Attachment 6 of this report).

Although the intent of the above revisions is to codify past administrative practice by establishing an express waiver of the Master Plan requirement for basic agricultural production activities or uses, they may nonetheless be interpreted as being contingent upon a written request by the property owner and subject to discretionary Master Plan waiver findings set out in Development Code Section 22.44.040(B). As shown below, an alternative approach to resolving this issue is to create a separate Master Plan exemption section that eliminates the administrative procedures for submitting a written waiver request and discretionary findings. This revision would treat the exempt agricultural land uses in essentially the same manner as the conventional agricultural zoning districts (most notably the A district zone) insofar as they would be permitted as a matter of right without the requirements for a Master Plan or Use Permit. In conjunction with this change, the land use tables in Article II and Article V should be revised to identify the exempt land uses as permitted ("P") similar to the corresponding land uses in the land use tables for the conventional A district zone.

22.44.035 – Exemption from Master Plan/Precise Development Plan Review

The following land uses are exempt from the requirements of a Master Plan and/or Precise Development Plan: crop production and commercial gardening that does not result in more than 250 cubic yards of excavation (excluding discing or tilling of soil), dairy operations, livestock operations for grazing, large animals and small animals, nature preserves, agricultural accessory activities, and the maintenance or repair of existing authorized or legal nonconforming agricultural structures or improvements, such as roads and water storage and distribution facilities. The above uses are not subject to the Master Plan/Precise Development Plan waiver provisions in Section 22.44.040 below.

In conjunction with the above revision, the Master Plan waiver provision in Section 22.44.040(A)(2)(b) should be revised for consistency purposes as follows:

- A. Projects eligible for waiver.** Table 4-2 identifies the types of projects for which a Master Plan and/or a Precise Development Plan shall be required, and projects for which these requirements may be waived and a Use Permit and Design Review may instead be required.

1. In general, a Master Plan and Precise Development Plan are required for the review of the uses and design features proposed in large or otherwise major projects, and a Use Permit and Design Review may be required for the review of the uses and design features proposed in small or otherwise minor projects.
2. The following requirements of a Master Plan shall be waived for the following:
 - a. One single-family dwelling, in a planned district, on a parcel having no residual development potential for additional dwellings based upon the potential maximum density established by the governing zoning district. The development potential for additional dwellings referred to in this section shall not include residential second units or agricultural worker housing.
 - b. Agricultural accessory structures.

Deleted: , agricultural improvements, and agricultural developments, in an agricultural Planned District shall be waived from the requirement for a Master Plan

Waiver of Agricultural Management Plan

Development standards in the planned agricultural zoning districts (C-APZ, C-ARP, and ARP) allow the County to require the submittal of an agricultural management plan when reviewing a discretionary permit request. Management Plans are not mandatory for all discretionary projects, but may be required at the discretion of the Director. In general, the purpose of this plan is to ensure the proper use and management of agricultural lands. Members of the agricultural community have commented that requiring an agricultural management plan for an existing agricultural production operation may be unnecessary based upon their land stewardship abilities. As shown below, the Development Code could be revised to clarify the Director’s authority to waive the submittal of a management plan for agricultural projects on existing commercial agricultural properties.

22.66.040 - C-APZ Zoning District Standards

C. **Development standards.** All development permits in the C-APZ district shall be subject to 6the following standards and requirements:

3. **Management plans and organization.** The creation of a homeowner’s association or other organization and/or the submission of an agricultural management plan may be required to provide for the proper use and management of agricultural lands, and their availability for lease, and/or for the maintenance of community roads or mutual water systems. The Director may waive the requirement for a management plan for a project involving an existing commercial agricultural production operation or an existing commercial agricultural property.

Distinguishing Between Agricultural Processing and Agricultural Accessory Uses

Following their testimony at the April 29, 2003 Board of Supervisors hearing, the Point Reyes Village Association (PRVA) provided written comments suggesting revisions intended to more clearly distinguish agricultural processing land uses and structures from agricultural accessory uses and structures. (See Attachment 10). Although these comments followed the Board of Supervisors April 29, 2003 hearing, and were not included in the Board’s directive to the Planning Commission, staff is recommending that the suggested revisions be included in the Planning Commission’s review on June 9th, if time permits, insofar as they provide helpful clarification of existing regulations. If the Planning Commission does not have sufficient time to fully review these revisions, then staff recommends that they be deferred to a subsequent phase of the Development Code update process.

In summary, the PRVA recommends revising and amending the definitions in Article VIII to clearly separate activities and structures that are accessory and incidental to agricultural production from the current definition

of “Agricultural Processing”. This approach is consistent with the current zoning ordinance that, by way of example, allows structures for packing and handling of products raised on the premises as principally permitted in the A district zone (i.e., no Use Permit). By excluding accessory and incidental production activities (e.g., hay baling, drying and packing of vegetables and fruits) from the proposed Use Permit thresholds, it would also be consistent with the Development Code efforts to facilitate the permit review process for agricultural processing.

Incorporating this change into the Development Code would basically involve the following text revisions summarized below and written in their entirety in Attachment 1.

- Create a new definition of Agricultural Accessory Activities that includes uses customarily accessory and incidental to agricultural production, but which do not require the scrutiny or regulatory oversight of a Use Permit. (Note: The definition drafted by staff does not include “Dairy Operations” since the Development Code contains a separate definition for this land use.)

Agricultural Accessory Activity (land use). This land use consists of accessory activities customarily incidental to agricultural operations, including but not limited to:

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| -alfalfa cubing | -grain cleaning and grinding |
| -corn shelling | -hay baling and cubing |
| -custom milling of flour, feed and grain | -pre-cooling and packaging of fresh or farm dried fruits and vegetables |
| -drying of corn, rice, hay, fruits, and vegetables | -tree nut hulling and shelling |
| -sorting and packaging of fruits and vegetables | |

Any of the above activities performed in the field with mobile equipment not involving permanent structures are included under the definition of “Crop Production”.

Another approach to this revision is to insert the land uses specified in the above definition and include them in the definition of “Crop Production”, which already includes, among other things, “crop processing” activities. This revision would avoid the need for including a new definition of “Agricultural Accessory Activities”.

- Revise the definition of “Agricultural Processing” to focus on land uses that may warrant closer regulatory oversight through the Use Permit process, according to the thresholds discussed above, rather than the accessory and incidental activities described in the preceding revision. (Note: The revised definition drafted by staff does not, as suggested by the PRVA, restrict processing to only those products primarily produced on the property or elsewhere in Marin County. Although the Planning Commission can consider this restriction, staff recommends not addressing at this stage of the Development Code update process since it involves a change to the current zoning regulations, which do not regulate processing (or retail sales) of agricultural products based on the origin of the product. The staff revision also differs from the PRVA recommendation in that it does not create an exclusive list of processing activities by substituting “Including, but not limited to” for “Including”.)

Agricultural Processing (land use). This land use consists of the processing of harvested crops and other agricultural products to prepare them for on-site marketing or processing and packaging elsewhere, including, but not limited to the following:

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| www | -food oil production, such as olive oil |
| -milk, butter, cheese, and other dairy products | ---- |

- Deleted:** to prepare them for on-site marketing or processing and packaging elsewhere. Includes
- Deleted:** alfalfa cubing¶
- Deleted:** corn shelling¶
- Deleted:** cotton ginning¶
- Deleted:** custom grist mills¶
- Deleted:** custom milling of flour, feed and grain

-shellfish processing

-wine production

Deleted: dairies (but not feedlots, see instead "Livestock Operations, Sales Yards, Feedlots, Stockyards")

Deleted: drying of corn, rice, hay, fruits and vegetables

Deleted: sorting, grading and packing of fruits and vegetables tree nut hulling and shelling

Any of the above activities performed in the field with mobile equipment not involving permanent structures are included under the definition of "Crop Production." Also includes structures used in connection with the above activities.

- Revise the definition of "Agricultural Accessory Structures" to primarily reflect structures related to the uses in the definition for "Agricultural Accessory Activities". As with the preceding revision, staff recommends maintaining flexibility in the types of structures that could be considered under this definition by using the term "Including, but not limited to" rather than the more exclusive term "Including" as suggested by the PRVA.

Agricultural Accessory Structures (land use). This land use is an uninhabited structure for the storage of farm animals, implements, supplies or products, that contains no residential use, is not accessory to a residential use, and is not open to the public. including, but not limited to:

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-barns

-pens

-coops

-silos

-corrals

-stables

-grain elevators

-facilities for cleaning, drying, pre-cooling, and packaging of fruits and vegetables produced on-site

-facilities for milking

-other similar structures

Does not include commercial greenhouses (which are under "Plant Nurseries") or structures for agricultural processing activities (which are under "Agricultural Processing"). Wind machines for water pumping or other conversion of wind energy to mechanical or thermal power are included under the definition of "Wind Energy Conversion Systems" (WECS).

- Delete the definition of "Agricultural Facilities" to avoid confusion with the revised definition of "Agricultural Accessory Structures" and other facilities more specifically related to and referenced in "Agricultural Processing, Retail Sales of Agricultural Products", and other land use definitions. Furthermore, the definition of "Agricultural Facilities" is extraneous insofar as it is not referred to in the land use tables of the current Development Code.

Deleted: Agricultural Facilities. Facilities that are reasonably related to on-site agricultural production activities, such as buildings for the storage and processing of agricultural products. These facilities are accessory to the primary agricultural use of the land.

- Revise the land use tables in Article II and Article V to include "Agricultural Accessory Activities" and "Agricultural Accessory Structures" as permitted uses ("P"). (See Attachment 1.)
- Revise the land use tables in to include a modified version of Footnote (4) for Agricultural Processing to clarify that a Use Permit will be required for processing of products not produced on the property or in Marin County or if the aggregate floor area or structures used for processing exceeds the specified square footage threshold. This same revision should also be shown for Sale of Agricultural Products". (See Attachment 1.)

Staff also agrees with the PRVA recommendation to substitute "crop harvesting" for "crop processing" in the definition of "Crop Production".

Crop Production (land use). This land use consists of commercial agricultural field and orchard uses, including production of:

-field crops

-ornamental crops

-flowers and seeds
-fruits
-grains
-melons

-tree nuts
-trees and sod
-vegetables

Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop harvesting, and sales in the field not involving a permanent structure.

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Retail Sales of Agricultural Products

The PRVA has suggested several revisions to the Development Code regulations pertaining to retail sale of agricultural products. The most substantive issue raised is the current definition of "Sale of Agricultural Products" and its limitation on selling products only if they are from the same property where the products are sold or elsewhere in Marin County. The "Marin only" clause in this definition conflicts with Footnote (4) of the land use tables in Article II and Article V, which allow retail sale of agricultural products from outside Marin County if a Use Permit is first approved. The broader provision in Footnote (4) is consistent with the current zoning ordinance, which does not regulate the sale of agricultural products based upon the geographic origin of the product to be sold, but does require a Use Permit for any retail sales facilities irrespective of its size or whether the sales products are from Marin County or elsewhere. Staff recommends revising the definition of "Sale of Agricultural Products", as shown below, by eliminating the reference to products from the property where products are sold or other property in Marin County. This revision would be consistent with both the current zoning regulations, and the Use Permit threshold concept that the Planning Commission approved in its previous review of the Development Code. The Planning Commission should, however, consider the "Marin only" revision recommended by the PRVA, in addition to their suggestion to include products *processed* in addition to those produced on the property or elsewhere in Marin County. A variant of this concept is to require that a majority of the products sold be produced on-site or on property within Marin County. This issue could, of course, be addressed at a subsequent phase of the Development Code update process.

Staff agrees with the PRVA recommendation to expand the definition of "Sale of Agricultural Products" to include both permanent or temporary sales structures since the regulations in the current zoning ordinance and the Development Code do not restrict the duration of sales activities. The issue of treating seasonal retail sales differently from year round sales operations should be addressed in a subsequent phase of the Development Code update process.

Sale of Agricultural Products (land use). This land use consists of sales of agricultural produce. Includes seasonal structures for seasonal sales, such as roadside stands, which are open structures for retail sales, and permanent structures for year-round sales. Does not include hay, grain and feed sales; see "Farm Equipment and Supplies."

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CONCLUSION:

The Planning Commission should first address the issues referred by the Board of Supervisors, including: Use Permit thresholds for processing and retail sales of agricultural products; land use controls in the Design Review process; and determining density for affordable housing projects through the Use Permit process. The Commission should endeavor to complete their deliberations on these issues at the June 9, 2003 meeting to comply with the Board's request for a report and recommendation at their continued meeting of June 24, 2003. Staff also recommends that the Planning Commission also address the other issues discussed in this report at the June 9th meeting so the Board has the opportunity to consider adopting them along with the previous recommendation from the Planning Commission.

RECOMMENDATION:

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Staff recommends that the Planning Commission take the following actions:

1. Conduct a public meeting focusing on the issues referred by the Board of Supervisors;
2. Adopt the attached Resolution recommending the revisions in Attachment 1 of this report and Exhibit A of the recommended Resolution.

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- Attachments:
1. Revisions to Draft Development Code
 2. Planning Commission Resolution adopting revisions
 3. March 18, 2003 staff report to Board of Supervisors
 4. March 18, 2003 staff memorandum to Board of Supervisors
 5. March 18, 2003 Board of Supervisors hearing minutes
 6. April 29, 2003 staff report to Board of Supervisors
 7. April 29, 2003 staff memorandum to Board of Supervisors
 8. April 29, 2003 staff memorandum to Board of Supervisors
 9. April 29, 2003 Board of Supervisors hearing minutes
 10. Point Reyes Village Association letter, May 2, 2003

Note: The materials contained in Attachments 3-9 have been previously distributed to interested members of the public in connection with the March 18, 2003 and April 29, 2003 Board of Supervisors hearings. Therefore, they are included only in the Planning Commissioners' staff reports for the June 9, 2003 meeting. Copies of these materials may, however, be obtained upon request at the Marin County Community Development Agency Planning Division, 3501 Civic Center Drive, Room 308 San Rafael (415-499-6269).

i:cur/bc/pcreport/DevCodeHR6.09.03Hearing