



Agenda Date: 11/21/2006
Agenda Placement: 8E
Set Time: 1:30 PM PUBLIC HEARING
Estimated Report Time: 30 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Brian Bordona, Supervising Planner , 259-5935
SUBJECT: Public Hearing - Farm Management Ordinance

RECOMMENDATION

Director of Conservation, Development and Planning requests two actions related to farm management uses:

1. First and final reading and adoption of an ordinance amending Sections 18.08.040, 18.16.030, 18.20.030 and 18.104.220 of the Napa County Code to define farm management uses, to include farm management uses as an agricultural use, and to establish standards for when farm management uses will be allowed with and without a use permit; and
2. Adoption of a resolution temporarily waiving investigation fees for buildings constructed or modified without building permits that are proposed to be legalized as part of a farm management use.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration Prepared. According to the Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, potentially significant environmental impacts in the following areas: Aesthetics. This project does not affect any known site on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

(CONTINUED FROM NOVEMBER 7, 2006)

EXECUTIVE SUMMARY

The proposed ordinance amends Sections 18.08.040, 18.16.030, 18.20.030 and 18.104.220 of the Napa County Code to legalize existing farm management uses, allow for the expansion of existing uses, and allow for the establishment and operation of new farm management operations within the unincorporated areas of Napa County by defining farm management as part of "agriculture" under certain conditions.

The proposed resolution exempts buildings that were constructed or modified without proper building permits from fines (also known as "investigation fees") for a two year period if those buildings are legalized as part of a farm management use. The purpose of this exemption is to encourage existing farm managers to bring their operations into compliance with the Napa County Code.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	By waiving "investigation fees" normally charged for buildings that are constructed or modified without benefit of proper building permits for a two year period, the Board's action would incrementally reduce expected revenues in the Building Inspection division. This reduction is likely to be off-set by increased permit applications filed by farm management uses once they are permitted as a legitimate use in agricultural areas.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The long term cost to the County would be negligible.
Is the general fund affected?	Yes
Future fiscal impact:	Negligible.
Consequences if not approved:	Farm management uses would continue to be allowed only in commercial or industrial areas and/or the county would offer no incentive (i.e., waiving the "investigation fees") for farm managers to bring their buildings into compliance with County Code.

Additional Information:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration Prepared. According to the Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, potentially significant environmental impacts in the following areas: Aesthetics. This project does not affect any known site on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

On April 4, 2006, the Board of Supervisors directed staff to prepare necessary amendments to the County Code that would allow for farm management entities to reside and operate within all zoning districts where agriculture is a permitted land use and directed staff to work with industry representatives to ensure that appropriate conditions were in place to avoid unanticipated impacts to adjacent properties or the agricultural preserve.

The Nature of Farm Management and the Definition of "Agriculture"

Based on the Board's direction, County staff solicited input from farm managers working in Napa County, toured active operations, and spent several months working with industry representatives to refine an earlier proposal defining farm management as part of "Agriculture" in County Code Section 18.08.040. As a result of these deliberations, the proposed ordinance was crafted to legalize existing farm management uses, allow for the expansion of some existing uses, and allow for the establishment and operation of new farm management operations within the unincorporated areas of Napa County by defining farm management as part of "agriculture"

under certain conditions.

“Farm management uses” would be defined to include the operation, maintenance and storage of farm machinery, equipment, vehicles and supplies that are used exclusively for agricultural cultivation and harvesting, where all machinery, equipment, vehicles, and supplies are leased or owned and operated by the farm manager, whether the manager is an owner, tenant or agricultural contractor and regardless of whether the managed properties are contiguous or under similar ownership. Additionally, to qualify as a farm management use, all of the following would have to be satisfied:

- | At least 75% of the managed properties must be within Napa County;
- | Offices used for farm management shall meet the definition of accessory uses in Section 18.08.020;
- | Farm management activities established or expanded after June 30, 2006, alone or in combination with any wineries subject to Section 18.104.220 cannot occupy more than fifteen acres or twenty-five percent of the parcel size, whichever is less;
- | No single farm management building or structure newly constructed or expanded after June 30, 2006 can exceed five thousand gross square feet. Multiple smaller buildings are permitted as long as they conform to the lot coverage standard listed above;
- | Uncovered storage areas must be screened from pre-existing residences on adjacent parcels and from designated public roads defined in Chapter 18.106 (Viewshed Protection Program). Screening must generally consist of evergreen landscape buffers;
- | Farm managers must possess all applicable local, state and federal permits and licenses.

As a result of the environmental review process, an additional condition was added based on a standard condition applied to wineries constructed in agricultural areas:

- | All exterior lighting, including landscape lighting, for farm management uses must be shielded and directed downward, located as low to the ground as possible, and the minimum necessary for security, safety, or operations. Additionally, it must incorporate the use of motion detection sensors to the greatest extent practical. No flood-lighting or sodium lighting of buildings is permitted, including architectural highlighting and spotting. Low-level lighting shall be utilized in parking areas as opposed to elevated high-intensity light standards. Prior to issuance of any building permit for construction, two copies of a separate detailed lighting plan must accompany building plans showing the location and specifications for all lighting fixtures to be installed on the property shall be submitted for department review and approval.

In response to suggestions by the industry representatives, the ordinance was drafted to permit farm management uses that do not meet conditions related to building size, lot coverage, or screening to be approved if they obtain a use permit. Also, the ordinance includes a provision that would prevent the winery lot coverage standard established by the Winery Definition Ordinance (WDO) from being affected by the presence/absence of farm management uses on the parcel.

In addition, County staff agreed to seek a resolution from the Board that would exempt buildings constructed or modified without permits from “investigation fees” for a period of two years after the effective date of the ordinance if the buildings were associated with an existing farm management use. “Investigation fees” are the fines assessed when buildings that are built or modified without permits are brought into Code compliance. The two-year exemption from these fines is intended as an incentive for existing farm management uses to bring their buildings up to current fire and life safety (building) codes. During the two-year period, farm managers could apply for permits to legalize existing structures or past modifications and they would be subject to standard fees, but not the additional investigation fee. Farm managers could also request a Code-compliance audit by senior County staff during this two year period. The audit would provide the farm manager with a list of building and site improvements required to bring their operation into conformance with applicable codes and regulations. The

waiver provisions would take effect on December 21, 2006 (approximately 30 days after the ordinance becomes effective) and would expire on December 31, 2008.

Near Consensus

The efforts of industry representatives to build a coalition and forge a consensus around this issue appears to have been largely successful, with the vast majority of participants in agreement. At the Planning Commission hearing, a wide variety of individuals and organizations spoke in support of the ordinance. Only the Farm Bureau, while supporting the overall concept, requested revisions to the text of the ordinance.

The revisions requested, while ultimately rejected by the Planning Commission, would have stated that owner-operated farms were not subject to the new farm management conditions and would instead be considered "accessory" uses. Other speakers opposed the suggested revisions, explaining that owner-operated farms range in size and scale (just like wineries and commercial farm managers) and that all farmers and "farm managers" undertake the same tasks and look the same in terms of their land use. Speakers urged the Commission to focus on whether the proposed conditions are reasonable or onerous, rather than seeking to exempt a particular group of farmers and farm managers.

Environmental Review and General Plan Conformity

As explained above, the proposed ordinance and resolution were analyzed pursuant to the California Environmental Quality Act (CEQA) and a mitigated negative declaration was prepared and circulated for public review for 20 days prior to Planning Commission hearing. The mitigated negative declaration concluded that the proposed ordinance could have a significant effect due to light and glare from potential new and expanded farm management uses unless a mitigation measure addressing this issue was included in the project. As a result, the mitigation measure has been included within the text of the proposed ordinance. The mitigated negative declaration and a mitigation monitoring program are attached for the Board's review and adoption.

As stated in the attached staff report prepared for the Planning Commission, the proposed project is consistent with the spirit and intent of applicable goals and policies of the Napa County General Plan. The ordinance would narrowly define farm management uses, require offices to be "accessory" -- meaning small and incidental -- to farm management, and support the County's vibrant agricultural economy.

Recommended Actions

On October 4, 2006, at a duly noticed public hearing before the Napa County Conservation, Development and Planning Commission, the ordinance was introduced, public testimony was taken, and the Planning Commission recommended that the ordinance be forwarded to the Board of Supervisors for adoption. Any written comments provided prior to or during the Planning Commission hearing are attached.

Planning staff recommends that the Board make the following environmental findings and then adopt the proposed ordinance and resolution:

1. Find that the Board has read and considered the Mitigated Negative Declaration prior to taking action on said Mitigated Negative Declaration.
2. Find that the Mitigated Negative Declaration is based on the independent judgment of the Board.
3. Find that the Mitigated Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act.
4. Find that, as mitigated, there is no substantial evidence in the record as a whole that the project will have a significant effect on the environment because revisions in the project have been made.
5. Find that the Secretary of the Planning Commission is the custodian of the records of the proceedings on

which the decision is based. The records are located at the Napa County Conservation, Development & Planning Department, 1195 Third Street, Room 210, Napa, California.

6. Find that considering the record as a whole there is no evidence that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
7. Adopt the Mitigated Negative Declaration.
8. Adopt the attached Mitigation Monitoring Program.

SUPPORTING DOCUMENTS

- A . Ordinance (Redlined Version)
- B . Ordinance (Final)
- C . Resolution with Final Attachment A
- D . Redlined Version of Attachment A to Resolution
- E . Staff Report and Initial Study from Oct. 4, 2006 Planning Commission Hearing
- F . Farm Bureau Letter
- G . Jack Neal Letter
- H . Napa Valley Grapegrowers Letter

CEO Recommendation: Approve

Reviewed By: Andrew Carey