

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No 2011-20

A resolution recommending an environmental determination and an amendment to Title 17, Zoning, to amend the Agriculture Exclusive (AE) Zone and the Supplementary Standards to allow Bed and Breakfasts and Transient Rentals with an on-site manager as a permitted use in the AE zone

WHEREAS, the Mariposa County Board of Supervisors initiated Code Amendment Application No. 2010-168 based upon the recommendation of the Agricultural Advisory Committee; and

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 17, Chapter 17.40 establishes the Agriculture Exclusive (AE) zone; and

WHEREAS, pursuant to Zoning Amendment No. 09-87, Section 17.40.010.A.1.c was amended to include "Bed and Breakfast and Transient Rentals in accordance with the standards of Section 17.108.180" as a conditional use in the AE Zone; and

WHEREAS, prior to Zoning Amendment No. 09-87, the requirement for a conditional use permit for a bed and breakfast or a transient rental in the AE zone was established by Section 17.108.180, Mariposa County Code; and

WHEREAS, Section 17.108.180 defines bed and breakfast establishments as a "single family structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department;" and

WHEREAS, Section 17.108.180 defines residential transient rental establishments as "a single family structure which is available for rental to a family or group on a transient basis;" and

WHEREAS, Section 17.108.180.A limits the number of bedrooms available for occupancy by transients to five in a bed and breakfast establishment; and

WHEREAS, Section 17.108.180.A limits the number of bedrooms available for occupancy by transients to three in a transient rental establishment; and

WHEREAS, as a result of public input received from Indian Peak Ranch (the Robinsons) at a public hearing for Zoning Amendment No. 09-87, the Board of Supervisors directed that the request from Indian Peak Ranch be forwarded to the Mariposa County Agricultural Advisory Committee for review and recommendation; this input had not been part of the public review and hearing process at either the Agricultural Advisory Committee meetings or the Planning Commission public hearings; and

WHEREAS, at their meeting on the 30th day of September, 2010, the Agricultural Advisory Committee considered the written proposal from Indian Peak Ranch as submitted to the Board of Supervisors for the public hearing on Zoning Amendment No. 09-87; and

WHEREAS, the Agricultural Advisory Committee also considered the memorandum from staff dated the 24th day of September 2010; and

WHEREAS, as a result of the review and discussion, the Agricultural Advisory Committee recommended the Board of Supervisors initiate an amendment to the Zoning Ordinance to make bed and breakfasts and transient rentals with a permanent on-site manager a permitted use in the AE zone; and

WHEREAS, the Board of Supervisors of the County of Mariposa initiated an amendment to Chapter 17.40 of Mariposa County Code on the 23rd day of November 2010 with Resolution No. 2010-538; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 5th day of August 2011; and

WHEREAS, the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report and testimony presented by the public concerning the application.

NOW BE IT THEREFORE RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors adopt a resolution directing staff to file a Notice of Exemption for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Code Amendment No. 2010-168.

BE IT THEREFORE FURTHER RESOLVED THAT the proposed amendment to Chapter 17.40 will allow bed and breakfast and transient rental establishments with a permanent on-site manager to be permitted uses in the AE zone.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to Chapter 17.40 of the Mariposa County Code will read as follows (new text shown in *italicized underlined type* and deleted text shown in ~~strike-thru-type~~) (only amended portions of Chapter 17.40 are shown):

Chapter 17.40

AGRICULTURE EXCLUSIVE ZONE (AEZ)

Sections:

17.40.010 Agriculture exclusive zone (AEZ).

17.40.010 Agriculture exclusive zone (AEZ).

The Agriculture Exclusive Zone (AEZ) as designated on the Mariposa County land use map, is applied to land considered to be most desirable for agriculture use. The purpose is to preserve the agricultural industry of Mariposa County as a viable economic activity.

A. Development standards for the AEZ. Development standards for the AEZ shall be as follows, with the express provision that any agritourism or agri-nature tourism use shall comply with all federal, state and local laws and regulations. In this code, agritourism and agri-nature tourism are subject to the same standards and regulations:

1. Uses:

a. Permitted uses: Ranching and commercial vineyards and orchards, nurseries, greenhouses, wineries, processing plants for products grown on-site (not including dairies), seasonal sale of agricultural products grown on-site from roadside

stands or produce stands, permanent facilities for sale of and /or tasting rooms for agricultural products produced or processed on-site in accordance with the standards established by Section 17.108.070, u-pick operations, collaborative sales of agricultural products in accordance with state and federal standards, agricultural homestays in accordance with standards established by Section 17.40.010.A.4 and in conjunction with the primary agriculture production use of the property, Bed and Breakfasts and Transient Rentals which are managed by permanent on-site managers in accordance with the standards of Section 17.108.180; Collaborative AgriNature Tourism Events, horseback riding as an agritourism use, commercial row crops and other similar agricultural uses when conducted in a manner consistent with proper and accepted customs, standards, and practices, except those listed as administrative or conditional uses below; low density residential and employee housing in accordance with the density standards of this chapter; accessory buildings and accessory uses, barns, private stables, farm equipment shelters, and other out buildings; home enterprises, rural home industry, public schools, public parks and other public facilities, such as volunteer fire departments, utility transmission and distribution lines, towers, poles and substations; mining, rock and mineral processing when in compliance with the Surface Mining and Reclamation Act; private airstrips and heliports for personal use by the property owner; and agricultural activities associated with a 4-H and/or FFA project or projects; and those applicable uses listed under Chapter 17.108. Limited agritourism and agri-nature tourism uses and activities pursuant to the definitions for agritourism and agri-nature tourism and in accordance with the development standards established by Section 17.40.010.A.4 shall be permitted when conducted in compliance with all of the following:

i. A daily use or activity is limited to no more than an average of 15 persons per day with a maximum of less than 106 in any given week (not counting employees). If averages are used, they must be on a per week basis.

b. **Administrative Use Permit uses:** Larger and more frequent agritourism and agri-nature tourism uses and activities pursuant to the definitions, and including but not limited to Collaborative AgriNature Tourism Events, petting zoos of resident animals, and hunting dog trials when no fire arms are discharged. All of the uses shall be conducted in compliance with all of the following:

i. A daily use or activity is limited to no more than an average of 35 persons per day with a maximum of 250 in any given week (not counting employees). If averages are used, they must be on a per week basis

ii. The use or activity is conducted in accordance with the development standards established by Section 17.40.010.A.4.

iii. Submittal of an agritourism facility compliance form to the Mariposa County Planning Department is required annually for reporting of agritourism activities and events. The report shall include information on the number of participants, days of activity, and hours of operation.

Agricultural activities associated with a 4-H and/or FFA project or projects shall not be subject to an administrative use permit.

Prior to issuance of an administrative use permit, the use or activity is subject to submittal of proposed use or activity and site plans for review by County departments and State agencies as to compliance with applicable laws, policies, codes and regulations.

Said County department review may determine that proposed activity or use is required to obtain a conditional use permit as defined below in this section.

c. Conditional uses: Intensive commercial agricultural uses including but not limited to the following: commercial hog ranches, livestock feed lots when confinement is for the purpose of finishing livestock for market, and commercial poultry farming; fertilizer plants or yards; animal sales yards; dairies; dairy processing plants; experimental agricultural operations determined by the planning director that the operation could impact other agricultural operations in the county, including, but not limited to, those associated with the agri-biotech industry and genetic technologies; dormitory style housing facilities for employees; slaughter houses; very large and frequent agritourism uses and activities pursuant to the definition for agritourism for groups of 36 or more persons per day for ongoing activities up to more than 250 people per week and in accordance with the development standards established by Section 17.40.010.A.4; commercial hunting, hunting dog trials when fire arms are discharged, and game bird clubs; commercial target or shooting ranges, including archery; dude or guest ranches, riding clubs, commercial stables or animal boarding facilities and similar activities (which are not established as part of an agritourism operation or as a Rural Home Industry operation and meeting the standards and provisions listed in Section 17.108.080 and pertinent standards in 17.108.070); private schools, except as permitted by Section 17.108.060(I); churches; and recreational camps or religious organization camps; ~~Bed and Breakfasts and Transient Rentals~~ with no on-site manager in accordance with the standards of Section 17.108.180; Glamping in accordance with the standards established by Section 17.108.180, except as modified by the standards herein. In addition to other conditions placed on them by the planning commission, slaughter houses shall have a minimum setback of fifteen hundred (1500) feet from state highways and adjacent higher density land use classifications or property lines. Agricultural activities associated with a 4-H and/or FFA project or projects shall not be subject to a conditional use permit.

d. Prohibited uses: All other uses not listed above are prohibited, except similar uses in compliance with Section 17.08.120 and 17.108.030 of this Title.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to Chapter 17.40 of the Mariposa County Code is written based upon successful completion of the amendments proposed by Zoning Amendment No. 09-87.

BE IT THEREFORE FURTHER RESOLVED THAT all other text in this Section of County Code shall remain unchanged.

BE IT THEREFORE FINALLY RESOLVED THAT the recommendation for project approval is based on the following findings supported by substantial evidence in the public record:

1. **Finding:** The amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

Evidence: The public will benefit by having County Code and the General Plan in alignment (consistent) with each other, and by having state law implemented by county code. The amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding:** The amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making.

Evidence: This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it, by ensuring that county code implements the general plan, and by ensuring that county code is consistent with state law.

3. **Finding:** That such amendment conforms to the requirements of state law and county policy.

Evidence: According to state law, general plans take precedence over zoning ordinances. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan. This amendment ensures county code is consistent with state law.

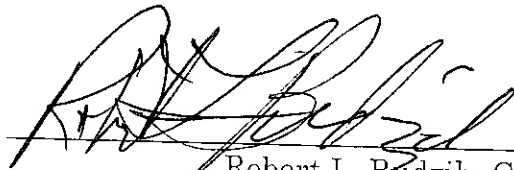
ON MOTION BY Commissioner Marsden, seconded by Commissioner Tucker, this resolution duly passed and adopted this 5th day of August, 2011 by the following vote:

AYES: ROSS, TUCKER, RUDZIK, FRANCISCO, MARSDEN

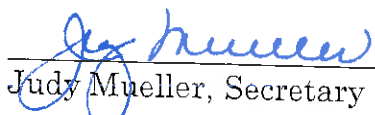
NOES: NONE

ABSENT: NONE

ABSTAIN: NONE


Robert L. Rudzik, Chairman
Mariposa County Planning Commission

Attest:


Judy Mueller, Secretary to the Planning Commission