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Multnomah County Planning Commission
c/o Michael Cerbone, Planning Director
Multnomah County Department of Community Services
1600 SE 190th Avenue, Suite 116
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Subject: Draft Zoning Code Amendments Pertaining to
Agri-Tourism, Farm Stands and Wineries

Dear Planning Commissioners:

I have reviewed the draft zoning code amendments pertaining to agri-tourism, farm stands and wineries and offer the following comments and suggestions that I hope you will consider at your December 5 work session.

Overall, staff has done an excellent job in developing these regulations. They are comprehensive and go far to implement plan policies aimed at preserving the character of agricultural areas. Staff deserves much credit for what it has done.

That said, I believe that the draft language can be strengthened, and there are some omissions to be filled. My suggestions and comments are set out below.

A. Draft Agri-Tourism Code Amendments.

1. 35.005 (Definition of Agri-tourism event)

I recommend that this definition be amended to read as follows, with new language shown in bold type.

Agri-tourism Event. A commercial event or activity that is incidental and subordinate to the existing farm use and that is **significantly and directly** related to and supportive of that farm use. Any assembly of persons shall be for the purpose of taking part in agriculturally based operations, events or activities such as classes about animal or crop care, cooking or cleaning farm products, tasting farm products; learning about farm or ranch operations; or other similar events or activities **relating to the farm uses on that farm**. Agri-tourism does not include commercial events or activities that are not incidental to the existing farm use and do not **directly** support that use, including but not limited to celebratory gatherings, weddings, **concerts, corporate retreats, motocross events and similar non-motorized activities, amusement park rides, or**

similar activities where the primary focus is the underlying cause for the gathering or activity rather than the farm operation.

Comment: By authorizing agri-tourism in the East County area, Multnomah County in effect will be permitting activities allowed at farm stands to occur on other identified farm properties. Comprehensive Plan Policy 3.26 directs the County to adopt agri-tourism provisions for this area, but it limits those provisions to lands zoned EFU and it seeks approval standards that are “more restrictive” than those provided in ORS Chapter 215.

In terms of activities allowed, I believe the limitations on uses applicable to farm stands identified in Comprehensive Plan Policy 3.18 should establish the correct level of restriction for agri-tourism events on EFU properties that do not include farm stands. As with farm stands, the primary focus of such events and activities should be on the farm operation rather than the underlying cause for the gathering. Staff appears to agree with this, but its proposed language should be strengthened because certain activities, like concerts, corporate retreats and motocross races (see next paragraph) have little if anything to do with farming operations. If the intent is to allow on most EFU properties only those kinds of uses that are permitted at farm stands, then I recommend the regulations spell out those activities in Policy 3.18 that are omitted here, because once regulations are enacted, applicants may look only to those regulations and not to the plan policies they implement.

You will notice that I added “motocross events and similar non-motorized activities” to the list. Such an event occurred at Kruger Farm on Sauvie Island this past weekend. It not only filled the entirety of Kruger’s parking lot, it also filled all the entirety of the Howell Territorial Park parking area, the sides of the road leading to that parking area, and a parking lot more than one-quarter mile away on Reeder Road, causing people to walk to the farm on substandard Sauvie Island Road, sometimes two abreast. It may be that such use is permitted under the mass gathering statute (and if so, county adoption of limitations on the scale of such uses may be appropriate and necessary), but this type of use certainly does not have the farm operation as its primary focus. Because it is happening and has happened in years past, I recommend that you specifically identify it as something that is not agri-tourism. We do not need disruptive activities like this to occur multiple times over the year.

2. 35.6805 (Standards for One-day event)

Subsection (A): I recommend that you delete the second sentence allowing agri-tourism events on farm tracts that are less than 10 acres in size. The primary purpose of the agri-tourism statute is to help *commercial* farming by helping full-time farmers gain income to help make their operations commercially profitable. Five-acre farms in EFU zones are too small to be commercially viable, as state land use minimum lot size requirements recognize. Further, with few exceptions, the people who own just five acres of land are not and are unlikely to become full time commercial farmers as that term is used and understood under Oregon land use law. Instead, if they farm at all, they tend to be hobby farmers, for whom the benefit is a farm tax deferral in exchange for producing some minimum gross farm income per acre to contribute in a very small way to the area’s agricultural enterprise. While farming

these properties should be encouraged, these farms should not be rewarded with opportunities to hold “events.” For these farms, the tax deferral is benefit enough, especially given that events held on such small properties can and do impact surrounding property owners.

I recognize that the proposed language requires sign-off by all surrounding property owners. However, this can put surrounding property owners in an awkward position because it is difficult to say no to an applicant who is also your friend, even when you know that the event may adversely impact you in any number of ways. For instance, just this summer, one of our neighbors held an event (not agri-tourism related) where two young boys wandered off their property and onto our property. They were standing at the gate to our sheep pasture when I happened to drive by and see them. Had they unlatched the gate, the sheep could have escaped. Worse still, our ram, who can be mean, could have and likely would have injured them, perhaps seriously. In short, less than 10 acres is too small. I recommend you set 10 acres as a minimum for such events in EFU zones.

Subsection (E). Unless you intend that the conclusion of an agri-tourism event occurs when everyone has left the premises (and if so, you should clarify this), I recommend that you change to read as follows:

“Hours of Operation. The agri-tourism event shall begin no earlier than **9:00 AM** and shall conclude no later than 9:00 PM. No guest vehicle may arrive prior to **8:30 AM** or depart later than **9:30 PM** on the day of the event to have satisfied this requirement.”

Comment: 7 AM is too early to begin an activity like this. And for activities limited to 20 attendees, there is no reason why they need to arrive more than ½ hour before the event starts. As to departure time, if the event ends at 9 PM, attendees should be given some time to get in their cars to leave. If you want everyone gone by 9 PM, then change the concluding time to 8:30.

Subsection (F). I recommend that you change the morning start time for artificial amplication from 8 AM to 9 AM. Otherwise, I very much support and appreciate this policy.

Subsections (A)-(D), (G) – (P). I strongly support these regulations. They are important.

3. 35.6810 (Standards for other agri-tourism events).

Subsection (A) (minimum tract size): For reasons stated above, agri-tourism should not be permitted on parcels as small as five acres. And six events on small parcels is far too much. Further, for those same reasons, agri-tourism should not be permitted in the MUA zone, where many properties are only an acre or two in size. For all MUA-zoned properties, the tax deferral is sufficient reward for “hobby farmers.”

Agri-tourism events in areas zoned MUA have too much potential to be disruptive to neighbors. Even with limits on the number of attendees, the lot sizes are too small to avoid impacts. More importantly, agri-tourism events in MUA zones are unrelated to the underlying

purpose of the agri-tourism statute, which is to help people who farm *for a living* rather than as a hobby. On Sauvie Island, the vast majority of landowners in MUA zones are not commercial farmers. Instead, they tend to be professionals who could afford to purchase small acreage in rural areas. Many have only small farm operations (enough to qualify for the tax deferral); some do not farm beyond cutting their hay and selling it. They should not be rewarded with the opportunity to hold up to six events a year when the underlying purpose for holding such events is to support “real” farmers (who know or should know that they cannot make a living through farming on small lots).

I recognize that there are some who do try to farm full time on small acreages, although typically those that do rely on their spouse’s nonfarm work to pay the bills. The idea of allowing these folks to hold some events is nice, but how does the County distinguish between these folks and others who are not serious farmers and simply see this as an opportunity to make extra bucks, regardless of impacts to neighbors properties. Simply put, agri-tourism activities should be limited to the EFU zone to avoid this problem. If the Planning Commission determines otherwise, it needs to find a way to ensure that only legitimate full time small farming operations benefit from a policy like this in MUA zones. Opening it up to all MUA property owners is a very bad idea when nearly all of them do not seriously farm.

Additionally, there are many small properties in MUA zones, often just an acre or two in size. If all property owners held up to six events a year, the level of potential disruptions would be huge. The idea may be nice in theory, but it is bad in practice.

To qualify to hold up to six events per year, I would urge the County to limit opportunity to EFU zones and to establish a larger minimum tract size. I realize that the maximum attendance provisions, the noise standards and other standards staff is proposing help to reduce potential adverse impacts, but even so, the minimum tract size that qualifies for such activity should be substantially larger than five acres if the intent is to reward folks who are or are clearly trying to become commercial (not hobby) farmers

Subsection (E). Same suggested changes as noted above for 34.6805(E).

Subsection (F). Change the starting time for artificial amplification from 8 AM to 9 AM. The remainder of this provision is fine.

Subsection (H). A single restroom or porta-potty is too little for 50 people. I recommend rewriting this subsection to change “A restroom” to “A minimum of two restrooms” and change “a portable restroom facility” to “two portable restroom facilities”.

Subsection (K). To demonstrate that an application for one or more agri-tourism events is consistent with the definition of “agri-tourism event”, additional standards are necessary. Please revise subsection K to read as follows:

“In order to approve the permit application, findings must be made that the agri-tourism event:

- (1) **Has as its primary focus the farm operation rather than the underlying cause of the activity or gathering;**
- (2) **Significantly and directly relates to and supports the farm operation; and**
- (3) Does not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.”

Comment: The definition of agri-tourism event is clear in its purpose and direction, yet there is no current proposed standard requiring an applicant to demonstrate that proposed events *meet* that definition. This change would correct that omission.

B. Draft Farm Stand Regulations.

1. 35.2830, 35.3130, 35.3330 – East of Sandy, Conditional Uses in MUA, RR, SRC zones.

I understand that these provisions are included only because farm stands are already authorized in these zones east of Sandy. I further understand that it is not the planning staff’s intent to allow farm stands in similar zones elsewhere in the county, such as on Sauvie Island or the West Hills or East County west of Sandy. My comments are based with this understanding in mind.

Because farm stands are permitted in these zones in the east of Sandy area, I believe additional regulations are necessary. Among those:

1. Only Type 1 farm stands should be allowed. Given the small size of lots in these areas, the fact that most farms are hobby farms (if that), and the potential to disrupt neighbors through events, promotional activities or events are not appropriate in these zones.
2. The sizes of structures and parking areas should be strictly limited. On these small lots, farm stand structures need not exceed 500 square feet, if that. Nor is there good justification for allowing more than a few parking spaces. Commercial uses are not supposed to be authorized in MUA zones. While allowed here, the degree of allowance should be limited.

2. 33 (34, 35, 36).6755: Definitions.

- a. Under the definition of “**Farm crops or livestock**”, second sentence, revise to read:

“‘Processed farm crops and livestock’ includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items **or beer or wine sold for other than immediate consumption.**”

Comment: Except for consumption on-site, wine should be sold at grocery stores and at wineries, not farm stands, and beer should be sold in grocery stores or at breweries, not at farm stands. Farm stands are not grocery stores, nor are they wineries or breweries. Hence, sale of these products at farm stands should not be permitted. It is not consistent with the types of “processed farm crops or livestock” identified. I believe Washington County does not include beer or wine bottles or cans within its definition of processed farm crops, and neither should Multnomah County. Further, the sale of beer or wine for immediate consumption should be considered a prepared food item and subject to the 25% requirement.

b. Under the definition of “**Promotional events**”, after “amusement park rides”, insert “motocross events and similar non-motorized activities.”

3. 33 (34, 35, 36).6765 (Standards for farm stands)

Subsection (B). This subsection, addressing structures, I found confusing. It might be easier to understand if broken down into additional sentences. If the structure is part of the farm *stand*, then prohibiting its use for the sale of farm products does not make sense. If the structure is considered part of the farm but not part of the farm stand (e.g., a barn where children might observe livestock or chickens), then the regulation should be clearer about what is or is not permitted in that structure.

Subsection (E). I found this subsection, addressing total annual revenue, to be confusing as well. I recommend that the first sentence be deleted and the remainder be rewritten to read as follows:

“All income derived from third-party sales of retail incidental items and from fees for promotional events shall constitute revenue that is subject to the 25 percent limit on total annual retail revenue of the farm stand.”

Subsection (F). The written report needs to be submitted by a time or date certain. I recommend you change the beginning of this section to read:

“On a yearly basis, not to exceed six months following the end of the previous tax year, * * *.”

Subsection (H). East of Sandy, 1000 square feet is too large for farm stand structures. In EFU zones, it may be too small, although I like the idea of keeping these structures small.

C. Wineries

I have no objections to this proposal. Under state law, wineries are defined as farms that produce wine from *grapes*, not berries or other fruits. This is important in restricting where wine-related agri-tourism activities can occur.

Thank you for this opportunity to comment. I will be attending the work session tonight and would be happy to expand on my comments.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mark J. Greenfield". The signature is written in a cursive style. There is a small red mark to the left of the signature.

Mark J. Greenfield