

STAFF REPORT to the PLANNING COMMISSION

For the June 5, 2017 Public Hearing (Continued from May 1, 2017)

**ADDING AGRI-TOURISM PROVISIONS TO THE EFU ZONE IN THE
EAST OF SANDY RIVER AND WEST OF SANDY RIVER RURAL
PLANNING AREAS**

(CASE FILE: PC -2016-4864)

Staff contact: Rich Faith

1.0 STAFF RESPONSE TO MAY 1, 2017 PUBLIC TESTIMONY

The Planning Commission continued the May 1, 2017 public hearing on proposed agri-tourism provisions because of testimony asking them to allow agri-tourism in the MUA-20 zone as well as the EFU zone. A major issue with allowing agri-tourism in MUA-20 is how many farms would actually be eligible to have agri-tourism events under the proposed ten-acre minimum tract size standard. Parcel sizes are generally much smaller throughout the MUA-20 zone than occur in EFU, so many of the MUA-20 farms would not qualify for agri-tourism unless the minimum tract size threshold is reduced.

Based on the public testimony received, the following three points require additional information for the Planning Commission's consideration:

1. How does the urban/rural reserves rule affect MUA-20 zoned property that is designated as either an urban or rural reserve? Does it prohibit adding agri-tourism as a new use?
2. How many ten-acre tracts are there in the MUA-20 zone? Give a breakdown of MUA-20 zoned parcels by size range to help determine an appropriate minimum threshold for agri-tourism, if it is permitted in MUA-20.
3. The proposed definition of "agri-tourism event" mentions "tasting farm products". Clarify whether this would include farm-to-plate dinners.

The following is staff's response to each of these points.

1. Urban/Rural Reserves Rule

In 2010, urban and rural reserves were designated around the Portland Metropolitan area in accordance with statutory requirements and administrative rules. These are commonly referred to as the Reserves Rule. Urban and rural reserves are subject to the Reserves Rule, which

prohibits the County from amending land use regulations to allow uses that were not allowed at the time of the reserve designation. There are some exceptions to this prohibition; most notably in the EFU zone, the County can amend its land use regulations to allow uses that statute authorized us to have prior to the designation of urban and rural reserves. Agri-tourism is a use that was allowed in the EFU zone under the EFU statute prior to the designation of reserves in 2010. Therefore, the County is not prohibited from now adding agri-tourism in the EFU zone.

An important question about adding agri-tourism as a use in MUA-20 is whether it is prohibited under the Reserves Rule for properties that are designated as urban or rural reserves. Staff consulted with the Oregon Department of Land Conservation and Development on this question. The answer is that the Reserves Rule does apply and, thus, the County is now prohibited from adding agri-tourism as an allowed use on non-EFU zoned properties within urban and rural reserve areas.

Attachment A shows urban and rural reserves in East Multnomah County. The map shows that most MUA-20 zoned lands are designated as either urban or rural reserves. Undesignated lands south of Troutdale and east of Gresham in the West of Sandy River Planning Area are zoned either EFU or Rural Residential. There are about 648 acres of undesignated MUA zoned land in the East of Sandy River Rural Planning Area. These are the only MUA properties eligible for allowing agri-tourism.

2. MUA-20 Parcel Sizes

Because the Reserves Rule prohibits the County from amending land use regulations to allow new uses within urban and rural reserves, information on parcel sizes in the Eastside MUA-20 zone does not include any MUA-20 zoned properties designated as urban or rural reserves. The following table provides MUA-20 parcel data.

MUA-20 Properties Outside of Urban and Rural Reserves – East Multnomah County

Zone	Total # Parcels	Total acres	Average Parcel Size (acres)	Largest parcel (acres)
MUA-20	176	648.05	3.68	36.16

Parcel Size Range	0-4.99 Acres	5-9.99 Acres	10+ Acres	Total
Number of Parcels	130	44	2	176

Parcel Size Range	5.0- 5.99	6.0- 6.99	7.0- 7.99	8.0- 8.99	9.0- 9.99	10+	Total
Number of Parcels	21	7	5	5	6	2	46

For comparison, the average parcel size of East County EFU-zoned property is 12.07 acres and the largest parcel is 77 acres in size.

3. Clarification of Farm-to-Plate Dinners as Agri-tourism

Staff concurs with the testimony claiming that it is unclear from the proposed definition of agri-tourism whether providing farm-to-plate meals would be considered agri-tourism. The mention of “tasting farm products” in the definition would seem to include farm-to-plate meals, but this should be clarified so that there is no confusion on this point.

Staff proposes adding language to the definition of “agri-tourism event” to specifically include farm-to-plate meals. The text would be similar to that used for farm-to-plate meals in the definition of “promotional activity” in the proposed farm stand provisions. This additional text is shown in red in the proposed amendments in Section 2 below.

The Planning Commission did not close the hearing to further public testimony so there may be additional public comment to evaluate in staff’s response to the above points.

2.0 PROPOSED CODE AMENDMENTS

Proposed Zoning Code Amendments

Staff Note: All of the following text is new. Per Comprehensive Plan policies 3.22, 3.24 3.26 and 3.28, these amendments would only apply to MCC Chapter 35, East of Sandy River Rural Planning Area and MCC Chapter 36, West of Sandy River Rural Planning Area.

Changes from the May 1, 2017 version are shown in red.

§35.0005/§36.0005 DEFINITION

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 for such an event or activity 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, or tasting farm products; learning about farm or ranch operations; or other similar events and activities relating to the farm uses on that farm. **Farm-to-plate meals are agri-tourism events if more than 50 percent of the food making up the meal comes from farm crops or livestock grown on the farm or on other farms within the immediate surrounding area.** Agri-tourism does not include commercial events or activities that are not incidental and subordinate to the existing farm use and do not directly relate to and support that use, including but not limited to celebratory gatherings, weddings, concerts, corporate retreats, sporting events, amusement park rides, or similar activities where the primary focus is the underlying cause for the event or activity rather than the farm operation.

EXCLUSIVE FARM USE (EFU) ZONING DISTRICT

§35.2620 ALLOWED USES

(BB) A single, one-day agri-tourism event subject to MCC 35.6805.

§35.2625 REVIEW USES

(S) Agri-tourism events subject to MCC 35.6810.

§36.2620 ALLOWED USES

(BB) A single, one-day agri-tourism event subject to MCC 36.6805.

§36.2625 REVIEW USES

(T) Agri-tourism events subject to MCC 36.6810.

AGRI-TOURISM

§35.6805/§36.6805 STANDARDS FOR A SINGLE, ONE-DAY EVENT

Satisfaction of the following standards of approval for a single, one-day agri-tourism event on a tract per calendar year shall be determined through the Type I permit review process.

(A) Minimum Tract Size: The agri-tourism event is held on a tract that is ten acres or larger in size and there is existing farm use on the tract.

(B) Maximum Attendance: Attendance shall not exceed 20 total attendees and 20 total vehicles.

(C) Parking and Traffic Control:

(1) The agri-tourism event will be conducted in compliance with a parking plan approved by the Planning Director. All event parking shall be accommodated on the tract; off-tract parking is prohibited.

(2) The agri-tourism event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.

(D) Temporary Structures: Temporary structures, if any, are set up no earlier than 7:00 AM of the day of the event and taken down no later than 10:00 PM of the day of the event. A temporary structure shall be placed no closer than 100 feet from a property line.

(E) 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.

(F) Noise: No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall the event generate noise above 60 decibels (dBA) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(G) Lighting: Any outdoor lighting for the event shall comply with MCC 35.4185 [MCC 36.4185] and MCC 35.0570 [MCC 36.0570].

(H) Sanitation Facilities: A restroom located in an existing permanent structure or a portable restroom facility with a hand washing station shall be provided on the tract for use by attendees of the event.

(I) Solid Waste: The agri-tourism event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

(J) Signage: One temporary non-illuminated sign not to exceed 16 square feet per sign face shall be permitted and shall only be placed on the tract. The sign may be a double faced sign. Off-tract signs are prohibited, whether placed in the public right-of-way, adjacent properties or elsewhere. The sign may be displayed only on the day of the event.

(K) Camping is prohibited.

(L) Inspection of Event: The agri-tourism event shall be open to inspection by any authority having jurisdiction over the event or any part thereof, including but not limited to, law enforcement, public health, fire control, and code compliance personnel.

(M) Notwithstanding the transfer of approval rights in MCC 37.0770, approval of the agri-tourism event does not run with the property and is not transferred with ownership of the tract. Approval of the agri-tourism event permit is personal to the applicant and specific to the authorized tract. The permit terminates automatically, immediately and without notification if farm use ceases to occur on the tract or the applicant no longer has control of the tract as its owner or lessee.

(N) Violation by the permit holder of any standard or condition of approval issued with the permit may be considered in any subsequent agri-tourism permit application and may be grounds for denial of any subsequent permit.

(O) A permit for up to six one-day agri-tourism events has not been issued for the same tract in the same calendar year nor has a permit been issued for a farm stand promotional activity or a winery agri-tourism event for the same tract.

(P) Agri-tourism events are not permitted in conjunction with a farm operation involving any form of marijuana business.

§35.6810/§36.6810 STANDARDS FOR OTHER AGRITOURISM EVENTS

Satisfaction of the following standards of approval for up to six one-day agri-tourism events on a tract per calendar year shall be determined through the Type II permit review process.

(A) Minimum Tract Size: The agri-tourism event is held on a tract that is ten acres or larger in size and there is existing farm use on the tract.

(B) Maximum Attendance: Attendance shall not exceed 50 total attendees and 35 total vehicles per event.

(C) Parking and Traffic Control:

(1) The agri-tourism event will be conducted in compliance with a parking plan approved by the Planning Director. All event parking shall be accommodated on the tract; off-tract parking is prohibited.

(2) The agri-tourism event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.

(D) Temporary Structures: Temporary structures, if any, are set up no earlier than 7:00 AM of the day of the event and taken down no later than 10:00 PM of the day of the event. A temporary structure shall be placed no closer than 100 feet from a property line.

(E) Hours of Operation: Each 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.

(F) Noise: No artificial amplification of sounds shall occur before 9:00 AM or after 8:00 PM. At no time shall an event generate noise above 60 decibels (dBA) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(G) Lighting: Any outdoor lighting for the agri-tourism event shall comply with MCC 35.4185 [36.4185] and MCC 35.0570 [36.0570].

(H) Sanitation Facilities: A restroom located in an existing permanent structure or a portable restroom facility with a hand washing station shall be provided on the tract for use by attendees of the event.

(I) Solid Waste: The agri-tourism event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

(J) Signage: One temporary non-illuminated sign not to exceed 16 square feet per sign face shall be permitted and shall only be placed on the tract. The sign may be a double faced sign. Off-tract signs are prohibited, whether placed in the public right-of-way, adjacent properties or elsewhere. The sign may be displayed only on the day of the event.

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

(1) Has as its primary focus the farm use rather than the underlying cause of the activity or event; and

(2) Significantly and directly relates to and supports the farm use; and

(3) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(4) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(5) Will not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area.

(L) Camping is prohibited.

(M) Inspection of Event: The agri-tourism event shall be open to inspection by any authority having jurisdiction over the event or any part thereof, including but not limited to, law enforcement, public health, fire control, and code compliance personnel.

(N) Notwithstanding the transfer of approval rights in MCC 37.0770, approval of the agri-tourism event does not run with the property and is not transferred with ownership of the tract. Approval of the agri-tourism event permit is personal to the applicant and specific to the authorized tract. The permit terminates automatically, immediately and without notification if farm use ceases to occur on the tract or the applicant no longer has control of the tract as its owner or lessee.

(O) Permit Duration and Application Period: The first agri-tourism permit issued to an applicant under this section is limited to one calendar-year. After an applicant conducts the first calendar-year of agri-tourism events approved under this section in compliance with the permit for such events, subsequent agri-tourism event permits may be approved for two consecutive calendar-year periods for up to six events in each calendar year of the permit. Each subsequent permit after the initial calendar year permit shall be processed as a new Type II permit application and shall be subject to the current approval criteria and standards at the time of the application.

(P) Violation by the permit holder of any standard or condition of approval issued with the permit may be considered in any subsequent agri-tourism permit application and may be grounds for denial of any subsequent permit.

(Q) Modifications: The Planning Director may approve minor modifications to the approved permit and the conditions of approval without the need for a new permit application. A minor modification is one that:

(1) Does not modify the requirements of A, B and E of this section;

(2) Is consistent with the current permit; and

(3) Does not increase the impact to surrounding properties.

(R) A permit for a single, one-day agri-tourism event has not been issued for the same tract in the same calendar year nor has a permit been issued for a farm stand promotional activity or a winery agri-tourism event for the same tract.

(S) Agri-tourism events are not permitted in conjunction with a farm operation involving any form of marijuana business.

3.0 ATTACHMENTS

Attachment A – Map of East County MUA-20 Zoning.