DEPARTMENT: Planning

RECOMMENDED ACTION & JUSTIFICATION:

Adopt a resolution approving General Plan/Zoning Amendment No. 2005-235, an amendment to the Mariposa County Zoning Ordinance, Chapters 17.40 and 17.148, and the Mariposa County General Plan, Section 3.507, the Agriculture Exclusive (AE) Zone and Land Use Designation. Resolution includes findings of exemption, and direction to staff to file a Notice of Exemption pursuant to the California Environmental Quality Act (CEQA). The proposed amendment will modify the list of permitted and conditional uses in the AE zone and land use, to make certain intensive agricultural uses a conditional use instead of a permitted use. The amendment will also add definitions.

Waive first reading and introduce Ordinance approving an amendment to the Zoning Ordinance, Chapters 17.40 and 17.148.

Recommended action is based upon Planning Commission’s recommendation.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors initiated this amendment on November 15, 2005.

The Board of Supervisors adopted the current format of the Agricultural Exclusive Zone in 1988.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Modify the text of the amendment.

Negative action, or denying the amendment, would result in no change to the Agriculture Exclusive Land Use and Zone text.

Financial Impact? ( ) Yes (X) No Current FY Cost: $ 
Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $ 
Additional Funding Needed: $ 
Source:
Internal Transfer
Unanticipated Revenue $ 4/5’s vote
Transfer Between Funds $ 4/5’s vote
Contingency $ 4/5’s vote
( ) General ( ) Other

Attachments:
1. Planning Commission Resolution No. 2006-10
2. Planning Commission Minutes
3. Draft Board of Supervisors Resolution
4. Draft Board of Supervisors Ordinance
5. Notice of Exemption
6. Correspondence (all received prior to Planning Commission action)

The foregoing instrument is a correct copy of the original on file in this office.

Date:
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: Deputy

Requested Action Recommended
No Opinion
Comments:

CAO: Ø5

Revised Dec. 2002
TO: KRS SCHenk, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: PUBLIC HEARING to Consider General Plan/Zoning Amendment No. 2005-235. Action Includes Adoption of a Resolution Approving Project Finding the Project is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Agricultural Exclusive (AE) Land Use and Zoning Designation, to Amend the List of Permitted and Conditional Uses and to Add Definitions. County of Mariposa, Project Proponent.
RESOLUTION 06-159

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA
ADOPTED THIS Order on April 25, 2006

ACTION AND VOTE:
Kris Schenk, Planning Director;
PUBLIC HEARING to Consider General Plan/Zoning Amendment No. 2005-235. Action Includes Adoption of a Resolution Approving Project Finding the Project is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Agricultural Exclusive (AE) Land Use and Zoning Designation, to Amend the List of Permitted and Conditional Uses and to Add Definitions. County of Mariposa, Project Proponent.

BOARD ACTION: Sarah Williams, Deputy Planning Director, presented the staff report; reviewed permitted and conditional uses and agricultural uses; she advised of the Agricultural Advisory Committee’s review of this zoning amendment and their recommendations; and she reviewed the recommended text for the zoning amendment. She advised that there are two items in this text amendment that are not consistent with the draft September 2005 version of the General Plan Update, and those are agri-tourism and mining uses. She advised of correspondence received from Attorney Starchman for Grace Notes Ministries, requesting that churches be addressed; and she advised of a letter received from Attorney Bryant requesting a correction to the staff report and her response. She also advised of a correction to the resolution and the exhibit itself, to reflect exhibit “A.” Staff responded to questions from the Board relative to the SMARA permit processing requirements, and whether the State could change those requirements; consideration of including the heliports and private airstrips in permitted uses since they are covered by State regulations; clarification of changes to the General Plan Update with regards to the change for the mining and rock processing uses; relative to being able to define commercial hog and chicken farms and “intensive” and agri-tourism uses; relative to the 1500 foot setback requirement for slaughter houses; as to what is involved in
processing permitted agri-tourism uses; consideration of the issue relative to allowing church uses as this issue was not considered by the Agricultural Advisory Committee or the Planning Commission; and whether a negative declaration or an environmental impact report would be required for conditional uses.

The public portion of the hearing was opened and input was provided by the following:

Frank Long stated that, last he knew, mining was permitted in all classes of zoning in the County. He stated he feels that mining is important to this County, and people can work on very negligible profits, and it results in materials that people need, like driveway materials. He noted that SMARA controls mining, and he referred to his experience in obtaining the permits and the regulations. He stated he does not feel that we want to lock up ingenuity and initiative in this County. He feels that if someone is willing to come here and make a living, we should not throw up too many road blocks, and SMARA has enough requirements. He also noted that cell phone service is not good in his area; and he feels that cell towers should be included as a conditional use. He suggested that the Board make whatever changes are necessary and process this Ordinance.

Don Starchman, Starchman and Bryant Law Offices, stated he feels that the Ordinance is good—probably as good as we will get at this time. He referred to the previous discussion with Title 17 and consideration of limiting the number of animals; and he noted that it was felt the Nuisance Ordinance would cover those issues. He cited an example of having one hog on the property line with problems versus having twenty away from the line and no problems. Thus, the Title 17 Committee did not address limits. He stated he would like to see church uses addressed with this amendment.

Bob Benson, Catheys Valley, stated he agrees with Frank Long relative to the public utility transmission and distribution lines being included in conditional uses. Supervisor Pickard clarified Mr. Benson's request that they be included as conditional uses.

David Butler stated he feels the utility issue should be in the permitted uses as there are large parcels that do not have power yet.

Cathie Pierce, President of Mariposa County Farm Bureau, presented a letter from the Farm Bureau and she advised that their Board of Directors discussed this at their meeting on April 18th, and this amendment is not what the Agricultural Advisory Committee had in mind. They thought there would be discretionary reviews and not conditional use permits. They feel the list of proposed conditional uses are open-ended, leaving them to the interpretation of an individual department head. She asked who will determine “intensive commercial” use and how it will be determined what is commercial and what is not. She noted that the issue that brought this matter to the forefront was the discussion of a dairy in the outlying area of Catheys Valley and neighbors’ concerns relative to potential impacts of the dairy operation, including traffic, odor, flies, water quality runoff and subsurface water impacts. She noted that there is a Peruvian Paso horse operation next door to the area where the dairy was being inquired about; and she feels that the use of this land is intensive. She stated that she feels that commercial agriculture is what people are raising to provide food and fiber. She also noted that they are not aware of any commercial operation that this amendment would affect. They continue to have concerns about water issues throughout the County. She advised that they oppose this amendment in its current form and request that it be tabled to look at Fresno and Kings Counties discretionary review and approval process; or, that this be sent back to the Agriculture Advisory Committee or the Planning Commission for further review and to attempt to find a compromise. She advised that they have written several letters to the County relative to Williamson Act issues and they have not received any response.

Cliff Gardner, President of the Local Wine Grape Growers’ Association, referred to the letter they wrote, and he stated they feel that this amendment addresses their concerns. They do not have a position on the mining issues.

Wain Johnson referred to the “intensive” agricultural use issue, and he stated he feels that the issue is the intent of the use; i.e., 4-H and FFA projects would not be intensive use. He feels that having a number of animals would be a commercial operation. He stated he feels that the proposed amendment is good, and he does not see any reason to postpone or send the amendment back to the Agricultural Advisory Committee. He encouraged the Board to adopt the amendment.

Theresa Castaldi stated she owns agricultural land with cattle, and she feels that this is a good plan for the County. She feels that it maintains open space and makes it easier for specialty agriculture to work within the regulations.

Linda Dinnel stated she has visited the Peruvian Paso horse operation and there were no flies and it was very clean. She stated the area where the dairy operation was proposed is a wet, slimy swamp.

Norm Miller stated he raises cattle, and he feels that this amendment should be passed.
The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to clarification of being able to determine intensive and agri-tourism uses; and the review process for hunting clubs. Supervisor Bibby stated she feels it would be helpful to have a definition for commercial and intensity; and she expressed concern with there being no limitation on hunting clubs. Discussion was held. Supervisor Pickard stated he would like to further discuss the inclusion of church uses. Supervisor Turpin suggested that private camps be added. Supervisor Bibby asked about getting comments from the Agricultural Advisory Committee and the Planning Commission and on the changes that are being considered; and she asked about goats not being listed along with the other animals. Supervisor Fritz advised that she would be okay with adding churches with a conditional use permit. Further discussion was held relative to defining commercial use. Tom Guarino, County Counsel, noted that the definition that Sarah Williams read defines commercial uses as being for primarily commercial gain, and this would not include 4-H or FFA as their primary purpose is educational. Supervisor Turpin again asked for consideration of moving heliports and private airstrips from conditional uses and placing them in permitted uses, unless they are for commercial use. Staff responded to a question from the Board relative to processing requests for church and camp uses and what is considered. Supervisor Bibby again asked staff if they are comfortable with the language in the amendment, and Kris Schenk advised that it is better than what they have now. (M)Pickard, (S)Turpin, Res. 06-159 was adopted approving General Plan/Zoning Amendment No. 2005-235, finding the project is exempt from environmental review, as recommended by the Planning Commission and with the following changes: 4-H and FFA uses are to be excluded, heliport and airstrips are to be permitted uses for personal uses, churches and camps are to be included, and reference to Exhibit “A” is corrected; and the first reading was waived and the Ordinance introduced approving the amendment to the County Code, Chapters 17.40 and 17.148 to modify the list of permitted and conditional uses in the Agriculture Exclusive zone and land use as recommended. The Clerk of the Board read the title of the Ordinance into the record. Kris Schenk advised that this will result in a change to the General Plan Update, and he suggested that the Board refer this matter to the Planning Commission or find that there is no substantial modification to the Ordinance. The motion was amended, agreeable with the maker and second, to include the finding that there is no substantial modification to the Ordinance; and it was noted that the airstrip issue was included in the draft and that there was discussion at the last workshop on the General Plan Update relative to including church uses in the Agriculture Exclusive zone. Supervisor Bibby noted that this action is to introduce the Ordinance, and that if anyone has concerns, they need to let the Board know prior to adoption of the Ordinance. Ayes: Unanimous. The hearing was closed.

Cc: Dana Hertfelder, Public Works Director  
Tom Guarino, County Counsel  
File
MARIPOSA COUNTY RESOLUTION NO. 2006-159

A RESOLUTION APPROVING GENERAL PLAN/ZONING AMENDMENT
APPLICATION NO. 2005-235

WHEREAS the Mariposa County Board of Supervisors adopted Resolution No. 2005-544
initiating General Plan/Zoning Amendment Application No. 2005-235 on November
15, 2005 based upon the recommendation of the Agricultural Advisory Committee;
and

WHEREAS General Plan/Zoning Amendment Application No. 2005-235 proposes to amend
the Agricultural Exclusive land use and zoning designation, to amend the list of
permitted and conditional uses; and

WHEREAS General Plan/Zoning Amendment Application No. 2005-235 also proposes to
add definitions to the Mariposa County Zoning Ordinance; and

WHEREAS a duly noticed Planning Commission public hearing was scheduled for the 3rd
day of February, 2006; and

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

WHEREAS a Staff Report was prepared pursuant to the California Government Code,
Mariposa County Code, 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,
significant testimony presented by the public concerning the application, and
comments and recommendations from the Agricultural Advisory Committee; and

WHEREAS on the 3rd day of February 2006, the Planning Commission referred the matter
back to the Agricultural Advisory Committee and requested that the Agricultural
Advisory Committee consider the public input and make recommendations for
revisions to the proposal based upon the public input; and

WHEREAS on the 3rd day of February 2006, the Planning Commission continued the public
hearing on General Plan/Zoning Amendment Application No. 2005-235 to the 17th
day of March 2006; and

WHEREAS on the 16th day of February 2006, the Agricultural Advisory Committee
conducted a noticed public meeting and considered information and public input from
the Planning Commission's meeting as well as additional public testimony regarding
General Plan/Zoning Amendment Application No. 2005-235; and

WHEREAS on the 16th day of February 2006, the Agricultural Advisory Committee
approved modified text for the General Plan/Zoning Amendment Application No. 2005-
235; and
WHEREAS the Planning Department prepared revised environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS amended Staff Report documents were prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Planning Commission did hold a continued public hearing on the 17th day of March 2006 and considered all of the information in the public record, including the amended Staff Report documents, testimony presented by the public concerning the application and amended project description, and comments and amended recommendations from the Agricultural Advisory Committee; and

WHEREAS the Planning Commission adopted Resolution No. 2006-10, recommending that the Board of Supervisors find the project is exempt from environmental review and recommending Board of Supervisors approval of the project with findings; and

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 25th day of April, 2006; and

WHEREAS a Staff Report packet for the Board of Supervisors was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

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

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby 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 General Plan/Zoning Amendment No. 2005-235.

BE IT FURTHER RESOLVED THAT the approved amendments to the Mariposa County General Plan and Zoning Ordinance land use and zoning designations are described in Exhibit A and Exhibit B.

BE IT FURTHER RESOLVED THAT the project approval action is based on the following findings supported by substantial evidence in the public record:

Finding No. 1: The amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare. (Section 17.128.050, Zoning Ordinance and Section 2.504, General Plan.)

The amendment is in the general public interest because it allows for greater review of certain intensive agricultural uses in the Agricultural Exclusive land use and zoning designations. The amendment will change the status of certain intensive agricultural
uses from permitted uses to conditional uses. The effect of this amendment will be that those certain intensive agricultural uses will require a conditional use permit prior to development. A conditional use permit is a discretionary review process, which will enable an opportunity for public health, safety, peace and welfare issues to be reviewed and addressed through a public process. The amendment will not have any adverse effect on the general public health, safety, peace and welfare.

Finding No. 2: 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. (Section 17.128.050, Zoning Ordinance and Section 2.504, General Plan.)

The amendment will improve the Mariposa County general plan, as the amendment addresses potential impacts associated with unlimited agricultural development on parcels within the Agricultural Exclusive land use and zoning designations in the county. Although there are areas of the county where unlimited agricultural uses are appropriate, including certain intensive agricultural uses, there are other areas of the county where agricultural properties abut residential properties. This amendment will enable Mariposa County to properly review certain intensive agricultural uses, thus enabling better day-to-day decision making. The amendment will enable decisions to consider the benefits of agricultural development, as well as the importance of minimizing negative impacts of that development on residential properties.

Finding No. 3: The amendment conforms to the requirements of state law and county policy. (Section 17.128.050, Zoning Ordinance and Section 2.504, General Plan.)

The application has been processed in accordance with all applicable requirements of state law and county policy.

Finding No. 4: The amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan. (Section 17.128.050, Zoning Ordinance and Section 2.504, General Plan.)

The amendment will insure that agricultural growth and development will blend with the character of the County, and be balanced with residential growth with economic growth (Section 1.201, General Plan). The amendment will provide an opportunity for broad based citizen participation in the County planning decision process relative to certain intensive agricultural uses (Section 2.201, General Plan). The amendment will result in a balanced and functional mix of land uses consistent with community values (Section 3.300, General Plan). The amendment will enable review of specific intensive commercial agricultural uses, and an opportunity to address suitability of access, terrain conditions, utility availability, and compatibility with adjoining uses (Section 3.300, General Plan).

Finding No. 5: The subject parcels are physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land
uses, and absence of physical constraints) for the requested land use designated and the anticipated land use development. (Section 17.128.050, Zoning Ordinance.)

This finding is not applicable to General Plan/Zoning Amendment No. 2005-235.

Finding No. 6: The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Section 17.128.050, Zoning Ordinance.)

This finding is not applicable to General Plan/Zoning Amendment No. 2005-235.

Finding No. 7: Pursuant to Section 65356, California Government Code, the changes to the amendment text made by the Board of Supervisors at their public hearing are not substantial modifications and it is not necessary to refer the matter back to the Planning Commission.

BE IT FINALLY RESOLVED THAT amendments to the text of the September 2005 General Plan Update documents are necessary based upon the amended text for mining, rock and mineral processing uses and for agritourism uses. The Board of Supervisors directs staff to make the necessary changes in the September 2005 General Plan Update document to reflect these uses as permitted uses.

ON MOTION BY Supervisor Pickard, seconded by Supervisor Turpin; this resolution is duly passed and adopted this 25th day of April, 2006 by the following vote:

AYES:    Stetson, Turpin, Bibby, Fritz, and Pickard

NOES:    None

EXCUSED: None

ABSTAIN: None

[Signature]
Lee Stetson, Chairman
Mariposa County Board of Supervisors

ATTEST:

[Signature]
Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

[Signature]
Thomas P. Guarino
County Counsel
EXHIBIT A – Amendments to Zoning Ordinance Text

Changes to current text of adopted code shown in italicized, underlined type for new text and strike-through type for deleted text

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:

1. Uses:

   a. Permitted uses: Unlimited Ranching and commercial vineyards and orchards, nurseries, greenhouses, wineries, processing plants for products grown on-site (not including dairies), agritourism uses in conjunction with the primary agriculture production use of the property, 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 conditional uses below; low density residential and employee housing in accordance with the density standards of this chapter; accessory buildings and accessory uses, barns, 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.

   b. 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; commercial hunting clubs and dude or guest ranches if not a permitted agritourism use as listed above, riding clubs, stables or animal boarding facilities and similar activities if not a permitted agritourism use as listed above; private schools, except as permitted by Section 17.108.060(I); churches; and recreational camps or religious organization camps. 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.

c. 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.

(all other sections of Zoning Ordinance Agriculture Exclusive Zone Chapter 17.40 to remain unchanged)

Chapter 17.148

DEFINITIONS

Sections:
17.148.010 Definitions of terms and phrases.

The following terms and phrases shall be used in this title and are listed alphabetically:

(Add the following new definitions)

Agritourism use:

"Agritourism" means visitor-oriented destinations and experiences which are centered on agricultural production. The act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation.
Livestock feed lot or feed yard:

"Livestock feed lot or feed yard" means an area where livestock are confined for the purpose of preparing such for market. A "feed lot or feed yard" shall not include the confinement of livestock for the temporary purpose of identification, treatment, weaning or shipping. A "feed lot or feed yard" shall also not include the confinement of livestock for feeding when there are unusual conditions such as fire, drought, flood, etc., which demands removal of the livestock from the range.

(all other sections of Zoning Ordinance Definitions Chapter 17.148 to remain unchanged)
EXHIBIT B – Amendments to General Plan Text

Changes to current text of adopted document shown in italicized, underlined type for new text and strike-through type for deleted text

3.507 "AE" Agricultural Exclusive

A. General Description

The "AE" Classification as designated on the Mariposa County Land Use Map is applied to land considered to be the most desirable land to be maintained for agricultural use for the purpose of preserving the agricultural industry of Mariposa County as a viable economic activity.

B. Development Policy

1. Uses

   a. Permitted Uses

   Permitted uses include unlimited ranching, commercial vineyards and orchards, nurseries, greenhouses, wineries, processing plant for products grown on-site (not including dairies), agritourism uses in conjunction with the primary agriculture production use of the property, 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 conditional uses below; low density residential and employee housing in accordance with applicable density standards including a second single family dwelling; for the use of family members or employees, all agricultural uses, quarters for farm labor or servants employed on the premises, accessory building and accessory uses including barns, stables, farm equipment and other out buildings; home enterprises, rural home industry when operated in conjunction with a bona fide agricultural activity, public schools, public parks and other public facilities including volunteer fire departments, private airstrips and heliports for personal use by the property owner; agricultural activities associated with a 4-H and/or FFA project or projects; mining and mineral processing in accordance with surface mining and reclamation regulations and mineral or construction material
processing site standards contained in Section 3.606 and feedlots and slaughterhouses with a 1500-foot setback from state highways and adjacent higher density land use classifications or property lines, and Public Utility Transmission and distribution lines, towers, poles and substations.

b. 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; commercial hunting clubs and dude or guest ranches if not a permitted agritourism use as listed above; riding clubs, stables or animal boarding facilities and similar activities if not a permitted agritourism use as listed above; and private schools, except as permitted by Section 3.603 (E)(9); churches; and recreational camps or religious organization camps. Agricultural activities associated with a 4-H and/or FFA project or projects shall not be subject to a conditional use permit.

c. Prohibited Uses

Motorcycle, vehicular racing or other similar uses, mobile home parks, recreational vehicle parks or campgrounds, industrial or manufacturing (except home industry or home enterprise) uses, commercial recreation or tourist service facilities except commercial hunting clubs, dude or guest ranches, riding clubs, stables or animal boarding facilities and similar activities when operated in conjunction with a bona fide agricultural activity. All other uses not listed in subsections a and b above are prohibited, except similar uses in compliance with proper findings and review procedures.
(all other sections of General Plan Agriculture Exclusive Land Use to remain unchanged)
DEPARTMENT: Planning

RECOMMENDED ACTION & JUSTIFICATION:

Adopt a resolution approving General Plan/Zoning Amendment No. 2005-235, an amendment to the Mariposa County Zoning Ordinance, Chapters 17.40 and 17.148, and the Mariposa County General Plan, Section 3.507, the Agriculture Exclusive (AE) Zone and Land Use Designation. Resolution includes findings of exemption, and direction to staff to file a Notice of Exemption pursuant to the California Environmental Quality Act (CEQA). The proposed amendment will modify the list of permitted and conditional uses in the AE zone and land use, to make certain intensive agricultural uses a conditional use instead of a permitted use. The amendment will also add definitions.

Waive first reading and introduce Ordinance approving an amendment to the Zoning Ordinance, Chapters 17.40 and 17.148.

Recommended action is based upon Planning Commission’s recommendation.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors initiated this amendment on November 15, 2005.

The Board of Supervisors adopted the current format of the Agricultural Exclusive Zone in 1988.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Modify the text of the amendment.

Negative action, or denying the amendment, would result in no change to the Agriculture Exclusive Land Use and Zone text.

Financial Impact? ( ) Yes (X) No  Current FY Cost: $  Annual Recurring Cost: $

Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded

Amount in Budget: $  Source:  

Additional Funding Needed: $  

Internal Transfer  

Unanticipated Revenue  4/5’s vote  

Transfer Between Funds  4/5’s vote  

Contingency  4/5’s vote  

( ) General  ( ) Other

Attachments:

1. Planning Commission Resolution No. 2006-10
2. Planning Commission Minutes
3. Draft Board of Supervisors Resolution
4. Draft Board of Supervisors Ordinance
5. Notice of Exemption
6. Correspondence (all received prior to Planning Commission action)

The foregoing instrument is a correct copy of the original on file in this office.

Date:  

Attest:  MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By:  Deputy

Requested Action Recommended  No Opinion
Comments:

CAO:  

Revised Dec. 2002
TO: KRS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: PUBLIC HEARING to Consider General Plan/Zoning Amendment No. 2005-235. Action Includes Adoption of a Resolution Approving Project Finding the Project is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Agricultural Exclusive (AE) Land Use and Zoning Designation, to Amend the List of Permitted and Conditional Uses and to Add Definitions. County of Mariposa, Project Proponent.

RESOLUTION 06-159

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on April 25, 2006

ACTION AND VOTE:

Kris Schenk, Planning Director;
PUBLIC HEARING to Consider General Plan/Zoning Amendment No. 2005-235. Action Includes Adoption of a Resolution Approving Project Finding the Project is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Agricultural Exclusive (AE) Land Use and Zoning Designation, to Amend the List of Permitted and Conditional Uses and to Add Definitions. County of Mariposa, Project Proponent.

BOARD ACTION: Sarah Williams, Deputy Planning Director, presented the staff report; reviewed permitted and conditional uses and agricultural uses; she advised of the Agricultural Advisory Committee’s review of this zoning amendment and their recommendations; and she reviewed the recommended text for the zoning amendment. She advised that the there are two items in this text amendment that are not consistent with the draft September 2005 version of the General Plan Update, and those are agri-tourism and mining uses. She advised of correspondence received from Attorney Starchman for Grace Notes Ministries, requesting that churches be addressed; and she advised of a letter received from Attorney Bryant requesting a correction to the staff report and her response. She also advised of a correction to the resolution and the exhibit itself, to reflect exhibit “A.” Staff responded to questions from the Board relative to the SMARA permit processing requirements, and whether the State could change those requirements; consideration of including the heliports and private airstrips in permitted uses since they are covered by State regulations; clarification of changes to the General Plan Update with regards to the change for the mining and rock processing uses; relative to being able to define commercial hog and chicken farms and “intensive” and agri-tourism uses; relative to the 1500 foot setback requirement for slaughter houses; as to what is involved in
processing permitted agri-tourism uses; consideration of the issue relative to allowing church uses as this issue was not considered by the Agricultural Advisory Committee or the Planning Commission; and whether a negative declaration or an environmental impact report would be required for conditional uses.

The public portion of the hearing was opened and input was provided by the following:

Frank Long stated that, last he knew, mining was permitted in all classes of zoning in the County. He stated he feels that mining is important to this County, and people can work on very negligible profits, and it results in materials that people need, like driveway materials. He noted that SMARA controls mining, and he referred to his experience in obtaining the permits and the regulations. He stated he does not feel that we want to lock up ingenuity and initiative in this County. He feels that if someone is willing to come here and make a living, we should not throw up too many road blocks, and SMARA has enough requirements. He also noted that cell phone service is not good in his area; and he feels that cell towers should be included as a conditional use. He suggested that the Board make whatever changes are necessary and process this Ordinance.

Don Starchman, Starchman and Bryant Law Offices, stated he feels that the Ordinance is good—probably as good as we will get at this time. He referred to the previous discussion with Title 17 and consideration of limiting the number of animals; and he noted that it was felt the Nuisance Ordinance would cover those issues. He cited an example of having one hog on the property line with problems versus having twenty away from the line and no problems. Thus, the Title 17 Committee did not address limits. He stated he would like to see church uses addressed with this amendment.

Bob Benson, Cathys Valley, stated he agrees with Frank Long relative to the public utility transmission and distribution lines being included in conditional uses. Supervisor Pickard clarified Mr. Benson’s request that they be included as conditional uses.

David Butler stated he feels the utility issue should be in the permitted uses as there are large parcels that do not have power yet.

Cathie Pierce, President of Mariposa County Farm Bureau, presented a letter from the Farm Bureau and she advised that their Board of Directors discussed this at their meeting on April 18th; and this amendment is not what the Agricultural Advisory Committee had in mind. They thought there would be discretionary reviews and not conditional use permits. They feel the list of proposed conditional uses are open-ended, leaving them to the interpretation of an individual department head. She asked who will determine “intensive commercial” use and how it will be determined what is commercial and what is not. She noted that the issue that brought this matter to the forefront was the discussion of a dairy in the out lying area of Catheys Valley and neighbors’ concerns relative to potential impacts of the dairy operation, including traffic, odor, flies, water quality runoff and subsurface water impacts. She noted that there is a Peruvian Paso horse operation next door to the area where the dairy was being inquired about; and she feels that the use of this land is intensive. She stated that she feels that commercial agriculture is what people are raising to provide food and fiber. She also noted that they are not aware of any commercial operation that this amendment would affect. They continue to have concerns about water issues throughout the County. She advised that they oppose this amendment in its current form and request that it be tabled to look at Fresno and Kings Counties discretionary review and approval process; or, that this be sent back to the Agriculture Advisory Committee or the Planning Commission for further review and to attempt to find a compromise. She advised that they have written several letters to the County relative to Williamson Act issues and they have not received any response.

Cliff Gardner, President of the Local Wine Grape Growers’ Association, referred to the letter they wrote, and he stated they feel that this amendment addresses their concerns. They do not have a position on the mining issues.

Wain Johnson referred to the “intensive” agricultural use issue, and he stated he feels that the issue is the intent of the use; i.e., 4-H and FFA projects would not be intensive use. He feels that having a number of animals would be a commercial operation. He stated he feels that the proposed amendment is good, and he does not see any reason to postpone or send the amendment back to the Agricultural Advisory Committee. He encouraged the Board to adopt the amendment.

Theresa Castaldi stated she owns agricultural land with cattle, and she feels that this is a good plan for the County. She feels that it maintains open space and makes it easier for specialty agriculture to work within the regulations.

Linda Dinnel stated she has visited the Peruvian Paso horse operation and there were no flies and it was very clean. She stated the area where the dairy operation was proposed is a wet, slimy swamp.

Norm Miller stated he raises cattle, and he feels that this amendment should be passed.
The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to clarification of being able to determine intensive and agriculture uses; and the review process for hunting clubs. Supervisor Bibby stated she feels it would be helpful to have a definition for commercial and intensity; and she expressed concern with there being no limitation on hunting clubs. Discussion was held. Supervisor Pickard stated he would like to further discuss the inclusion of church uses. Supervisor Turpin suggested that private camps be added. Supervisor Bibby asked about getting comments from the Agricultural Advisory Committee and the Planning Commission and on the changes that are being considered; and she asked about goats not being listed along with the other animals. Supervisor Fritz advised that she would be okay with adding churches with a conditional use permit. Further discussion was held relative to defining commercial use. Tom Guarino, County Counsel, noted that the definition that Sarah Williams read defines commercial uses as being for primarily commercial gain, and this would not include 4-H or FFA as their primary purpose is educational. Supervisor Turpin again asked for consideration of moving heliports and private airstrips from conditional uses and placing them in permitted uses, unless they are for commercial use. Staff responded to a question from the Board relative to processing requests for church and camp uses and what is considered. Supervisor Bibby again asked staff if they are comfortable with the language in the amendment, and Kris Schenk advised that it is better than what they have now. (M)Pickard, (S)Turpin, Res. 06-159 was adopted approving General Plan/Zoning Amendment No. 2005-235, finding the project is exempt from environmental review, as recommended by the Planning Commission and with the following changes: 4-H and FFA uses are to be excluded, heliport and airstrips are to be permitted uses for personal uses, churches and camps are to be included, and reference to Exhibit “A” is corrected; and the first reading was waived and the Ordinance introduced approving the amendment to the County Code, Chapters 17.40 and 17.148 to modify the list of permitted and conditional uses in the Agriculture Exclusive zone and land use as recommended. The Clerk of the Board read the title of the Ordinance into the record. Kris Schenk advised that this will result in a change to the General Plan Update, and he suggested that the Board refer this matter to the Planning Commission or find that there is no substantial modification to the Ordinance. The motion was amended, agreeable with the maker and second, to include the finding that there is no substantial modification to the Ordinance; and it was noted that the airstrip issue was included in the draft and that there was discussion at the last workshop on the General Plan Update relative to including church uses in the Agriculture Exclusive zone. Supervisor Bibby noted that this action is to introduce the Ordinance, and that if anyone has concerns, they need to let the Board know prior to adoption of the Ordinance. Ayes: Unanimous. The hearing was closed.

Cc: Dana Hertfelder, Public Works Director
    Tom Guarino, County Counsel
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