

DEPARTMENT: Planning BY: Duane Hall PHONE: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes X No ;
NOTE: Item is for discussion only; no policy decisions will be made.)

(1) Adopt a resolution initiating an amendment to the home enterprise/rural home industry standards to require the property owner to operate the home enterprise/rural home industry business and to reside on the property; (2) direct staff to begin the process for the Board to formally review and discuss the General Plan and Zoning Ordinance provisions for home enterprises and rural home industries.

Justification for this action is provided in the attached memorandum.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

In your discussion of the industrial sites open window period on June 14th, the Board directed the Planning Department to return to the Board with a discussion on home enterprises/rural home industries.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

(1) Take no action; (2) Do not initiate amendment; (3) Initiate other amendments to standards.

NEGATIVE ACTION would result in amendment not being initiated and the Board reviewing and discussing home enterprises/rural home industries after the industrial sites open window period process has been completed.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve for Contingencies, if approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

- 1. Memo to Board with Exhibits

CLERK'S USE ONLY:

Res. No.: 94-325 Ord. No. _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

() Approved () Denied

(X) Minute Order Attached () No Action Necessary

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

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

- Recommended
- Not Recommended
- For Policy Determination
- Submitted with Comment
- Returned for Further Action

Comment: _____

A.O. Initials: 

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ED JOHNSON, PLANNING AND BUILDING DIRECTOR
FROM: MARGIE WILLIAMS, CLERK OF THE BOARD *MW*
SUBJECT: HOME ENTERPRISES/RURAL HOME INDUSTRIES

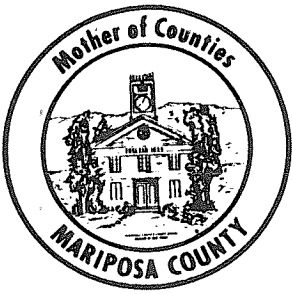
THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on August 2, 1994

ACTION AND VOTE:

10:35 a.m. Ed Johnson, Planning & Building Director;
B) Discussion on General Plan and Zoning Ordinance
Provisions for Home Enterprises and Rural Home Industries
(Continued From 7/26/94)

BOARD ACTION: Discussion was held. Kathleen Bagwell provided input relative to the Title 17 subcommittee's work on this issue, and suggested that something be in place for industrial zoning prior to pursuing this matter. (M)Parker, (S)Balmain, Res. 94-325 adopted initiating an amendment to the home enterprise/rural home industry standards relative to homeowner requirements, and direction given for staff to bring back a definition of "on-site"/Ayes: Baggett, Balmain, Erickson, Parker; Abstained: Taber. Overall review of the provisions for home enterprises/rural home industries to be reviewed after the M-1 zoning process.

cc: Jim Evans, HCD Director
File



Mariposa County Planning and Building Department

EDWARD J. JOHNSON
Director

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MEMORANDUM

July 19, 1994

TO: Mariposa County Board of Supervisors

FROM: Duane Hall, Planning Manager *DH*

SUBJECT: Discussion on General Plan and Zoning Ordinance Provisions for Home Enterprises and Rural Home Industries

Background

In your discussion of the industrial sites open window period on June 14th, the Board of Supervisors directed the Planning Department to return to the Board with a discussion on home enterprises/rural home industries. The following information is provided for the Board's review and discussion. Staff is requesting direction from the Board on how to proceed with this matter.

Recommendation

Staff recommends that the Board (1) adopt a resolution initiating an amendment as recommended in this memo to require the property owner to operate the home enterprise/rural home industry business and to reside on the property; and (2) direct staff to begin the process for the Board to formally review and discuss the General Plan and Zoning Ordinance provisions for home enterprises and rural home industries.

Discussion

The Board of Supervisors has made provisions for home enterprises and rural home industries since at least 1982. The 1982 General Plan permitted home enterprises and rural home industries on most properties subject to development standards which were very similar to today's standards (Exhibits A and B). However, the 1982 General Plan provisions for home enterprises/rural home industries were not extensively utilized by property owners since most private property in the County was located in the Unclassified Zone until 1988. All

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commercial uses which were permitted as a home enterprise or rural home industry were also permitted in the Unclassified Zone subject to approval of a use permit determination by the Planning Commission. Since permanent residential occupancy of the site was not required for a commercial use in the Unclassified Zone and retail sales were permitted, most commercial businesses up to 1988 were established through the use permit determination process.

The comprehensive Zoning Ordinance which was adopted in April 1988 substantially changed the manner in which commercial and industrial businesses were regulated in Mariposa County. After April 1988 new commercial and industrial development projects were generally required to be located in zoning districts which permitted commercial and industrial businesses (e.g. town planning areas, neighborhood commercial) and were generally no longer permitted in residential zones (e.g. Mountain Home). Although the Zoning Ordinance established text and development standards for commercial and industrial zones, the Board of Supervisors still permitted home enterprises and rural home industries, and in fact, relaxed many of the development standards from those originally adopted in 1982. Exhibits - and - show how the home enterprise/rural home industry standards as adopted in 1982 and 1988 differ.

Despite the fact that commercial and industrial zones were established in the Zoning Ordinance, a property owner could still establish a commercial or industrial business in a residential zone if the business complied with the Zoning Ordinance standards for a home enterprise or rural home industry and the operator of the business lived on the property. Because no property was zoned for commercial or industrial purposes as part of the comprehensive Zoning Ordinance adoption, the amount of land available for commercial or industrial development in the County was dramatically reduced. Consequently, the home enterprise/rural home industry provisions of the General Plan and Zoning Ordinance quickly became a viable and, in most cases, preferable alternative for developing a commercial or industrial business in Mariposa County. The reasons for this include:

- Most commercial and industrial businesses may be established as a home enterprise or rural home industry.
- Home enterprises and rural home industries are permitted uses, and there are no public hearings or discretionary review and approval by the Planning Commission or Board of Supervisors.
- More property is available for home enterprises/rural home industries providing greater flexibility to the business owner.

Although the home enterprise/rural home industry standards allow for a commercial or industrial business to be established quickly, these same standards provide little assurance to the business owner that the business will be allowed to continue to operate. Rural home industries are permitted to operate only if they are not detrimental or objectionable to the surrounding area for reasons of appearance, noise, dust, smoke, or odor. If a rural home industry is found to be detrimental or objectionable for one or more of those reasons, the

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business may be required to modify its operation or in the worst case to cease operation. The Board of Supervisors has only required one (1) rural home industry, the Bissmeyer sawmill operation, to cease operation. Since the Zoning Ordinance does not require notification of surrounding property owners and there is only limited review by the Planning Department at the building permit stage, a determination of a rural home industry being detrimental or objectionable can usually only be made after the business begins operation and after the initial financial investment in the property and business has been made. In addition, a business which may not be detrimental or objectionable today may be found to be detrimental or objectionable several years later if the circumstances or characteristics of the surrounding area have changed or new information becomes available.

On the other hand, many residential property owners assume incorrectly that a residential zone such as the Mountain Home Zone does not permit commercial and industrial uses. Since the Zoning Ordinance does not require notification of surrounding property owners for home enterprises/rural home industries, property owners and residents first become aware of a proposed home enterprise/rural home industry at the grading and construction stage. Consequently, a property owner or resident can provide input on the home enterprise/rural home industry and its impacts usually only after it begins operation and through the violation enforcement and appeal process. The home enterprise/rural home industry standards provide little assurance to property owners and residents that the impacts of a home enterprise/rural home industry will be mitigated before it is constructed and begins operation.

The standards of the Zoning Ordinance which regulate home enterprises/rural home industries with a discussion on how they are applied and the problems that have arisen are provided in Exhibit C.

As one of its tasks, the Countywide Community/Economic Development Committee discussed home enterprises and rural home industries in Mariposa County and made several recommendations regarding how they should be regulated. Their discussion and recommendations are provided in Exhibit D. The Board of Supervisors initially stated that the home enterprise/rural home industry standards would be reviewed and discussed by the Board once additional property in the County is zoned for industrial uses which probably would not occur until mid-1995 at the earliest. Subsequent discussions by the Board indicate that the Board may consider initiating the review and discussion of these standards while the industrial sites open window period is proceeding. This would allow the Board to take action on the home enterprise/rural home industry standards, if desired, shortly after the industrial rezonings are approved. The Board also discussed the possibility of addressing potential problems of home enterprises/rural home industries which need to be addressed immediately by initiating the public review and hearing process for an amendment to the standards. This may include an amendment to require the owner of the property to reside on the property and to operate the business.

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The Planning Department is requesting direction from the Board on how you wish to proceed on this matter. The following options available to you are:

1. Take no action at this time; Board review and discussion of the standards would begin after the industrial open window period has ended.
2. Direct staff to begin the process for the Board to formally review and discuss home enterprises/rural home industries.
3. Initiate the public review and hearing process for an amendment to the standards to address immediate problems.

Since the industrial sites open window period will take at least one (1) year to complete, it would be advantageous for the Board of Supervisors to begin review and discussion of home enterprises/rural home industries at this time. This would give the public and the Board ample time to review and discuss home enterprises/rural home industries and allow the Board to take action, if so desired, shortly after the Board establishes industrial zoning sites in the County. In addition, based on public input and discussion from the Board, staff recommends the Board initiate the public review and hearing process for an amendment to the home enterprise/rural home industry standards to require the property owner to operate the business and to reside on the property. The proposed amendment is as follows:

Section 17.108.070(B) to read:

The on-site use has no more than one (1) employee per acre up to twenty (20) employess. ~~and is operated by permanent residents.~~ *The use shall be operated by an interest owner in the property who shall reside on the property on a permanent basis.*

EXHIBIT "A"

Home Enterprise prior to 1988

On-site sales limited to products fabricated or produced on site

Does not involve manufacturing or bulk storage of hazardous, flammable, or explosive materials

Does not generate excessive or unusual amounts of traffic

Operated exclusively by permanent residents

No employees

Use and principal activities conducted entirely within structure or dwelling

No setback standard

Limitations on number and size of signs

Will not result in production or emission of objectionable levels of noise, dust, odor, pests, or smoke

Service uses (e.g. beauty shop, tax consultant, attorney's office) require review by Planning Commission

Home Enterprise after April 1988

On-site sales limited to products fabricated or produced on site or merchandise that is sold as a secondary enterprise and is related to the primary enterprise

No standard

No standard

Operated by permanent residents

No more than one (1) employee per acre up to 20 employees

Use and principal activities conducted primarily within structures or dwellings

No outdoor storage and no more than 10% of business activity conducted outside

Exterior use and supporting activities and facilities located at least 50 feet from property lines and streets

Subject to Countywide sign standards

No standard

No special standard for Commission review

EXHIBIT "B"

Rural Home Industry prior to 1988

On-site sales limited to products fabricated or produced on site

Does not involve manufacturing or bulk storage of hazardous, flammable, or explosive materials

Does not generate excessive or unusual amounts of traffic

Operated exclusively by permanent residents

Up to 5 employees on site at any time

Use and principal activities conducted entirely within structure or dwelling

Storage of supplies or materials may take place outside of structure or dwelling if storage is not visible from external property lines, streets, roads, or other public right of way fronting the site

Use and all supporting activities and facilities located at least 200 feet from property lines and streets

Limitations on number and size of signs

Will not result in production or emission of objectionable levels of noise, dust, odor, pests, or smoke

Rural Home Industry after 4/1988

On-site sales limited to products fabricated or produced on site or merchandise that is sold as a secondary enterprise and is related to the primary enterprise

Materials cannot be detrimental by reason of or cause objectionable noise, odor, dust or smoke

Traffic cannot be detrimental by reason of or cause objectionable noise, odor, dust or smoke

Operated by permanent residents

No more than one (1) employee per acre up to 20 employees

Use and principal activities conducted primarily within structures or dwellings

No more than 10% of business activity conducted outside

Storage of supplies or materials may take place outside of structure or dwelling if storage is not visible from external property lines, streets, roads, or other public right of way fronting the site

Use and all supporting activities and facilities located at least 50 feet from property lines and streets

Subject to Countywide sign standards

Cannot be detrimental to the district or adjoining residential areas by reason of appearance, noise, dust, smoke or odor and cannot cause objectionable noise, odor, dust, or smoke to be emitted, radiated, or carried beyond the property boundaries

EXHIBIT "C"

Home Enterprise/Rural Home Industry Standards

DEFINITION

Home Enterprise: No definition.

DISCUSSION: See discussion for rural home industry.

Rural Home Industry: "These are trades or industries of a limited character ..."

DISCUSSION: The Zoning Ordinance does not contain definitions for home enterprise or rural home industry. Except for the language that rural home industries are "trades or industries of a limited character", the Zoning Ordinance does not differentiate between home enterprises and rural home industries. The Planning Department has determined that the following types of uses are home enterprises/rural home industries:

- Professional offices
- Beauty shop
- Restaurant
- Auto repair
- Computer repair
- Saddle and leather repair with secondary sale of hay
- Assembly of commercial airliner seats
- Manufacturing of roof trusses
- Sawmill
- Repair of heavy commercial equipment
- Custom woodworking and furniture

The only formal determinations which have been made identifying rural home industries apart from home enterprises relate to commercial mini-storage units and sawmill operations— these types of uses have been determined to be rural home industries and not home enterprises. Since the Zoning Ordinance has different and separate standards for home enterprises and rural home industries, it was probably envisioned that home enterprises and rural home industries would be comprised of different types and intensities of uses. Generally, home enterprises would consist of less intensive uses that are more compatible with a residential neighborhood and be conducted in a residential structure (e.g. residence, garage). Rural home industries would consist of more intensive uses that are more similar to regular commercial operations and could be conducted in commercial structures.

ON-SITE SALES

Home Enterprise: "Limited to the sale of products fabricated or produced on site or merchandise that is sold as a secondary enterprise and is related to the primary enterprise."

DISCUSSION: Retail sales are permitted as part of a home enterprise. Major retail sales must be for products produced, fabricated, or assembled on the site. Minor retail sales of products not produced on the site are allowed if the product is related and secondary to the home enterprise. There are no definitions or standards in the Zoning Ordinance which provide guidance or assistance in determining whether a product is related and secondary to the home enterprise.

Rural Home Industry: Same as home enterprise.

OPERATOR OF BUSINESS AND EMPLOYEES

Home Enterprise: "No more than one (1) employee per acre up to twenty (20) employees and is operated by permanent residents."

DISCUSSION: The business must be operated by someone who resides on the property. This person does not have to be the owner of the property or business; the operator may be the manager or foreman of the business. Nonetheless, most home enterprises/rural home industries are operated by the property owners. The number of employees permitted for the business is in addition to the persons who reside on the property.

Rural Home Industry: Same as home enterprise.

BUSINESS STRUCTURES AND ACTIVITY

Home Enterprise: "Use and principal activities are conducted primarily within structures or dwellings; no more than ten percent (10%) of the total business activity is conducted outside."

DISCUSSION: The business must be conducted within a structure(s) except for 10% of the business (as determined by total area occupied by the business) which may be conducted outside. The business does not have to be conducted in a residential dwelling or residential accessory structure. A commercial structure may be constructed and operated for the business, and there are no set limitations on the size of the structure. Commercial structures in excess of 5,000 square feet have been constructed for a home enterprise/rural home industry.

Rural Home Industry: Same as home enterprise.

OUTDOOR STORAGE

Home Enterprise: No outdoor storage.

DISCUSSION: Outdoor storage for the home enterprise is not permitted. However, outdoor storage for the residential use is permitted, and difficulties arise in trying to determine if outdoor storage is associated with the home enterprise or the residence.

Rural Home Industry: "Storage of supplies or materials may take place outside of a structure or dwelling provided such storage is not visible from external property lines, streets, roads or other public right of way fronting on the property or site."

DISCUSSION: Outdoor storage for rural home industries is permitted provided the materials are not visible from other properties or streets. Regulations for outdoor storage are more restrictive for home enterprises than rural home industries.

SETBACKS

Home Enterprise: "The exterior use and any supporting activities or facilities are located at least fifty (50) feet from all external property lines, streets, roads, or other public right-of-ways."

DISCUSSION: The standard specifically states "exterior use", and consequently the 50 foot setback is applied only to outside activities and activities conducted in non-residential structures. Home enterprises conducted within a residence or residential accessory structure (e.g. garage) may be located closer than 50' to a property line.

Rural Home Industry: "The use and all supporting activities or facilities are located at least fifty (50) feet from all external property lines, streets, roads, or other public right-of-ways."

DISCUSSION: This standard does not refer to "exterior use", and all activities, structures, and facilities for a rural home industry, including existing structures, must be located at least 50' from property lines.

"OBJECTIONABLE" STANDARDS

Home Enterprise: None.

DISCUSSION: There are no performance standards for the operation of a home enterprise. If the home enterprise complies with the established standards, it is a permitted use by the Zoning Ordinance and would be allowed to operate even if it's operation was objectionable to residents in the area. However, since there is no

definition for a home enterprise, an operation may be classified as a rural home industry and be subject to the performance standards for a rural home industry.

Rural Home Industry: Cannot be "detrimental to the district or to the adjoining residential areas, by reason of appearance, noise, dust, smoke, or odor". "Excludes any use the normal operation of which causes objectionable noise, odor, dust, or smoke to be emitted, radiated, or carried beyond the boundaries of the property on which the operation is located."

DISCUSSION: This standard ensures that any rural home industry will not have a substantially adverse impact on the surrounding area. It applies to the operation of the industry and all activities associated with the industry (e.g. traffic) and acknowledges that operations will have varied impacts depending on the characteristics of the operation and surrounding area. However, without any set criteria for determining if an operation is detrimental or objectionable, the Zoning Ordinance does not provide any guidance or assistance in determining whether an operation is detrimental or objectionable, and the standard becomes subjective. Ultimately, the Board of Supervisors must make this subjective determination whether an operation is detrimental or objectionable by taking into consideration all relevant information including input from the operator and surrounding property owners.

EXHIBIT "D"

Countywide Community/Economic Development Committee

Discussion and Recommendations on Home Enterprise and Rural Home Industry

In summary, the Committee has found that the County residents adamantly wish to retain their right to have Home Enterprise, and that regulation is seen as an infringement on their liberty and lifestyle. Sometimes some of their neighbors see it a little differently. The Committee believes that Home Enterprise is a valuable asset to the community but that it must be conducted without impact on neighbors or as unfair competition to established businesses that are serving the public.

Maintaining the ability to establish home enterprises is an important element of this economic program. Home enterprises should be secondary to the residential use of the property. Agricultural uses should remain permitted through the County and are not addressed in this section.

Home Enterprise and Rural Home Industry should be re-defined to insure that the concept remains viable and other basic principles are not violated. The following policies are recommended.

1. The terms home enterprise and rural home industry should be combined and called home enterprise. A definition of home enterprise should be established which includes the following principles.
 - a. Home enterprises are business activities conducted within a residence or residential outbuilding by the resident of the property. The business activity should produce a product or service that relies on a specific skill and/or aptitude of the resident business owner or be based upon an agricultural or resource commodity produced or contained on the property. Home enterprises should not compete with uses contained in industrial zones. Retail sales should not be allowed unless the items sold are produced and/or manufactured on the property.
 - b. Home enterprises are secondary to the residential use of the property.
 - c. The operation of a home enterprise should not produce traffic volumes significantly greater than the residential use of the property. Additionally, the type of vehicular traffic should not be significantly different than traffic typically found in a residential area.

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- d. Structures housing home enterprises should be visually compatible with the surrounding residential area.
- e. Registration - It is recommended that a procedure be established to register all existing home enterprises and to annually update the register to maintain home enterprise as a safe, viable economic program.

The Committee has developed the following specific text to implement the recommendations regarding home enterprise.

- 1. **Home Enterprise Standards** - The following are recommended to apply to newly established home enterprises:
 - a. Home enterprises are business activities conducted within a residence or residential outbuilding by the resident of the property. In addition to the immediate family, a home enterprise may include employees. One employee shall be allowed for each 2 acres of land up to a maximum of 5 employees. The business activity shall produce a product or service that relies on a specific skill and/or aptitude of the resident business owner or be based upon an agricultural or resource commodity produced or contained on the property. Home enterprises shall not compete with uses contained in industrial zones. Retail sales are not allowed unless the items sold are produced and/or manufactured on the property.
 - b. Home enterprises are secondary to the residential use of the property. As such, home enterprises must be conducted within a residence or an outbuilding(s). The area devoted to the home enterprise use shall not exceed 3000 sq. ft. in aggregate. All activities associated with the home enterprise must take place within a structure except for loading and unloading. Outside storage (excluding junk) is allowed provided the storage is not visible from outside the property containing the home enterprise.
 - c. Prior to the establishment of a home enterprise, a notice of intent to establish such an activity shall be filed with the Mariposa County Planning Department. Thereafter, the Planning Department shall post a notice of proposed activity on the subject property in a conspicuous manner for a period of not less than fifteen (15) days and a copy of such notice shall be mailed to all

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property owners within 300 feet of the exterior property lines of the parcel containing the proposed activity and all property owners provided access by a privately maintained road that provides access to the proposed home enterprise.

The filing of a petition with the Planning Department on a County approved form signed by fifty percent (50%) of the property owners that receive the notice as specified by this section protesting the application within twenty days after such notice has been mailed shall require the proposed activity to obtain a conditional use permit.

In the absence of such a petition (as described above), the Planning Department shall issue a notice of approval to the applicant providing that all requirements, as set forth herein, have been satisfied. This permit process shall not be revenue generating.

- d. The permit will be approved for an initial period of one year at which time it will be renewed indefinitely if determined to be in compliance with all standards and conditions of the original permit.
- e. The aggregate vehicular traffic produced by a parcel containing a home enterprise shall not exceed an average of 12 vehicle trips per day. Within the allotted daily traffic, trips produced by trucks or other vehicles larger than a 1 ton pickup truck shall not exceed four trips per week.
- f. Noise generated by the operation of a home enterprise shall not exceed 55 dB on the CnEL scale (weighted night time noise) or 65 dB single occurrence at any property line of the parcel containing the home enterprise.
- g. All accessory buildings of 1000 sq. ft. or more used in the operation of a home enterprise shall be located a minimum of 50 feet from any property line or public road easement boundary. Such buildings shall not contain reflective exterior finishes including the siding and roofing. Such buildings located within view of identified scenic corridors shall be subject to more stringent appearance standards.
- h. Home enterprises shall comply with all adopted environmental standards including but not limited to air emissions, hazardous material handling and

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disposal, water quality and other applicable standards that may be created in the future. Violation of applicable standards shall be grounds for revocation of a home enterprise approval.

- i. Registration - It is recommended that a procedure be established for a one time registration of all existing home enterprises and to annually update the register to maintain home enterprise as a safe, viable economic program.