

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
Amending the Yamhill County)
Zoning Ordinance, No. 310 as)
amended, to Revise Standards)
for Wineries as Permitted)
Uses in Exclusive Farm Use)
Zones, for Commercial Uses in)
Conjunction with Farm Use and)
for Wineries as Permitted and)
Conditional Uses in Resource)
Industrial Zones; Planning)
Docket G-1-94; Declaring an)
Emergency.)

ORDINANCE 582

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in special session on November 30, 1994, commissioners Dennis L. Goecks, Ted Lopuszynski and Debi Owens being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On February 3, 1994 the Yamhill County Planning Commission held a public hearing on Planning Docket G-1-94 to consider a proposal to amend the Yamhill County Zoning Ordinance, No. 310 as amended ("the YCZO"). The proposal contained several components. First, modifications to section 402.02 of the YCZO to allow certain commercial uses at farm stands located in agricultural zones. Second, modifications to section 402.10 to establish new standards for allowing wineries as permitted uses in exclusive farm use zones. Third, modifications to section 402.10 to amend the definition of "commercial activities in conjunction with farm use" regarding the processing of agricultural products in farm zones. Fourth, modifications to section 701.02 to establish additional standards for allowing wineries in a resource industrial zone. Fifth, modifications to section 701.03 to allow, as conditional uses in a resource industrial zone, limited activities to market products produced or processed on-site. Sixth, modifications to Ordinance 507, the county's mass gathering ordinance.

B. Following the planning commission's February 3, 1994 public hearing, a series of work sessions were held between planning staff, winery association representatives and other interested purposes. The meetings were held to refine the proposal contained in Docket G-1-94 for consideration by the Board.

94-794

C. On August 31, 1994 the Board held a public hearing to consider Docket G-1-94. At the conclusion of the hearing, the Board voted to separate the component regarding modifications of the mass gathering ordinance from the other components regarding amendments to the YCZO. Ordinance 580, which amended Ordinance 507 to enact a new mass gathering ordinance, was adopted November 7, 1994.

D. The Board's consideration of the remainder of Docket G-1-94 was continued to September 14, 1994 when the Board took public testimony on the proposed amendments. On advice of planning department staff, the hearing was continued to October 19, 1994 to make certain that statutory notice requirements for the Department of Land Conservation and Development had been met.

E. On October 19, 1994 the Board heard public testimony on Docket G-1-94 and agreed to consider certain modifications. The Docket was continued to November 2, 1994.

F. On November 2, 1994 the Board voted to modify the YCZO as provided in the operative part of this ordinance. The matter was continued to November 23, 1994 to allow an ordinance to be drafted. On November 23, 1994 the Board session was postponed one week due to lack of quorum.

G. Exhibit "A" to this ordinance contains staff reports from the Department of Planning and Development (November 1, 1994) and the Office of County Counsel (November 2, 1994) intended to assist the reader in understanding the changes made to the YCZO. The exhibit also constitutes the county's finding on this legislative ordinance. Where a conflict exists between Exhibit "A" and the operative part of this ordinance, the operative part of this ordinance shall control. **NOW, THEREFORE**

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Amendments to Section 402.02.

a. Subsection 402.02(B) of Ordinance 310, as amended, is amended to read in its entirety as follows:

"B. Farm stands, subject to Section 1101, Site Design Review, if:

1. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and
2. The farm stand does not include structures designed for occupancy as a residence or for activities

other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings and public entertainment.

3. The activities at a farm stand are limited to promotion and sale of agricultural products and educational activities directly related to agriculture."

b. Subsection 402.02(H) of Ordinance 310, as amended, is amended to read in its entirety as follows:

"H. Winery, as defined in subsection 402.10, subject to Section 1101, Site Design Review."

Section 2. Amendments to Section 402.10.

a. Subsection 402.10(B) of Ordinance 310, as amended, is amended to read in its entirety as follows:

"B. Commercial Activities in Conjunction with Farm Use
- As authorized under subsection 402.04(G), a commercial activity in conjunction with farm use is:

1. The processing, packaging, and wholesale distribution and storage of a product not derived primarily from farm activities on the premises;
2. Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following:
 - Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture
 - Livestock auction or sales yards
 - Farm equipment storage and repair facilities
 - Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements
 - Veterinarian clinics

- Slaughtering of animals, including attendant retail and wholesale sales
- Wineries not listed as a permitted use
- Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.
- Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than 750 visitors daily. An "event" shall not exceed three consecutive days."

b. Subsection 402.10(I) of Ordinance 310, as amended, is amended to read in its entirety as follows:

"I. Winery - As authorized under subsection 402.02(H), a winery is a facility that produces and sells wine and conforms to the following attributes:

1. A winery herein defined has a maximum annual production of:
 - a. Less than 50,000 gallons and:
 - i. Owns an on-site vineyard of at least 15 acres; or
 - ii. Owns a contiguous vineyard of at least 15 acres; or
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of a, b, or c above; or
 - b. At least 50,000 gallons and no more than 100,000 gallons and:

- i. Owns an on-site vineyard of at least 40 acres; or
 - ii. Owns a contiguous vineyard of at least 40 acres; or
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of a, b, or c above; and
 - v. A winery with a capacity of at least 50,000 gallons shall demonstrate the ability obtain a minimum of 50 percent of the grapes used for production of wine from planted vineyard that is owned by or on long-term lease by the winery or the winery operator, or from a planted vineyard or vineyards from which the winery has a long-term contract to purchase grapes, or a combination thereof. A "long-term lease" or "long-term contract" shall have an effective duration of at least three years from the date of winery approval.
2. The winery shall allow only the sale of:
 - a. Wines produced in conjunction with the winery; and
 - b. Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010.
3. Permitted on-site marketing of wine includes up to three events of one to three days in duration during a calendar year intended to draw customers to the site for the tasting and purchase of wine, with an anticipated maximum of 750 daily visitors. The frequency and duration of these events may be limited through site design review approval based on

the adequacy of public facilities. Rent or lease of space within or adjacent to the winery facility for events such parties, receptions, and banquets that are not directly related to promotion of the wine is not included in this definition of a winery.

4. A facility for production and sale of wine that does not conform to the attributes described in subsections 402.10(I)(1) through (4) above may be deemed a commercial activity in conjunction with farm use pursuant to subsection 402.04(G)."

Section 3. Amendments to Section 701.02.

Subsection 701.02(B) of Ordinance 310, as amended, is amended to read in its entirety as follows:

"B. Winery, including production and wholesale and retail sale of wine, subject to the following:

1. A winery shall be permitted to conduct on-site marketing events such as festivals and group tastings that are directly related to promotion and sale of the wine produced on-site with an anticipated maximum of 750 daily visitors. Only three such events may be conducted in one calendar year, and the events shall not exceed a duration of three days. The frequency and duration of these events may be further limited through site design review approval based on the adequacy of public facilities.
2. A winery shall be permitted to rent or lease facilities, with or without a fee, within or adjacent to the winery for events such as parties, receptions, and banquets that are not directly related to winery promotional activities, only at the frequency customary prior to January 1, 1994.
3. The winery shall allow only the sale of:
 - a. Wines produced in conjunction with the winery;
 - b. Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total gross receipts of

the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010, and local agricultural products commonly sold in conjunction with wine; and

- c. Wines not produced in conjunction with the winery, the sales of which are incidental to the sale of wine produced on-site."

Section 4. Amendments to Section 701.03.

Subsection 701.03 of Ordinance 310, as amended, is amended to read in its entirety as follows:

"In the RI District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and subject to Section 1101 for site design review and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Home occupation, subject to the standards and limitations set forth in Section 1004; and
- B. Livestock packing, processing and warehousing.
- C. Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.
- D. Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than daily 750 visitors."

Section 5. Severability Clause.

This ordinance is severable. If any section or subsection contained in this ordinance or any of its exhibits is found to be invalid or unconstitutional by a court of last resort, that section of subsection shall be severed from this ordinance and the remainder of this ordinance shall remain valid.

Section 6. Effective Date.

Sections 1 through 8 are effective upon passage of this ordinance.

Section 7. Emergency Clause.

This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective upon passage.

DONE at McMinnville, Oregon this 30th day of November, 1994.

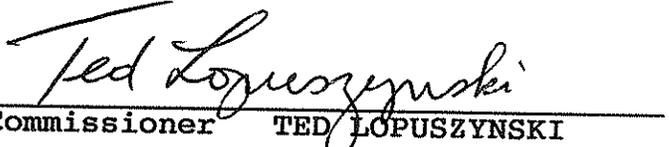
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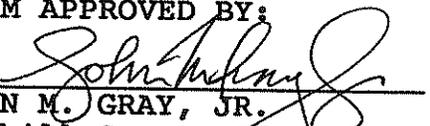
CHARLES STERN
County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS


Chair DENNIS L. GOECKS

By: 
Deputy JAYNIE MITCHELL


Commissioner TED LOPUSZYNSKI

FORM APPROVED BY:

JOHN M. GRAY, JR.
Yamhill County Counsel


Commissioner DEBI OWENS

STAFF REPORT
YAMHILL COUNTY BOARD OF COMMISSIONERS

DATE: November 1, 1994

DOCKET: G-1-94

Following are the amendments to the zoning ordinance the Planning Commission recommended to the Board, with changes to those amendments requested by the Board. Deletions to the Planning Commission recommendation are ~~redlined~~, and additions are double underlined. The amendments to Section 402 still apply to Section 403 for the Agriculture/Forestry zone as well.

DRAFT AMENDMENTS TO THE EXCLUSIVE FARM USE ZONE (SECTION 402)

402.02 Permitted Uses.

In the Exclusive Farm Use District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 402.09 and any other applicable provisions of this ordinance:

- B. Farm stands, subject to Section 1101, Site Design Review, if:
1. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and
 2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings and public entertainment.
 3. The activities at a farm stand are limited to promotion and sale of agricultural products and educational activities directly related to agriculture.

Explanation: The site design review requirement is added in order to make the review of farm stands for issues such as traffic, internal circulation, and landscaping the same as for commercial activities in conjunction with farm use and wineries. Subsection 3 is added at the direction of the Commission to address uses that may not be within a structure.

- ...
- H. Winery, as defined in [~~ORS 215.452, 1991 Replacement Part~~] subsection 402.10, subject to Section 1101, Site Design Review.

Explanation: The definition of winery has been added to the ordinance, and it is not identical to the statutory definition previously employed.

402.10 Definition of Terms Used in this Section

The following terms apply only to Section 402, and have no relevance to the same term used in other sections of this ordinance unless specifically stated.

- ...
- B. Commercial Activities in Conjunction with Farm Use - As authorized under subsection 402.04(G), a commercial activity in conjunction with farm use is:
1. The processing, packaging, [~~treatment,~~] and wholesale distribution and storage of a product not derived primarily [~~, but not entirely,~~] from farm activities on the premises;
 2. [~~Also, retail~~] Retail sales and promotion of agricultural products, supplies and services directly related to the production, [~~and~~] harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following:
 - Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture
 - Livestock auction or sales yards
 - Farm equipment storage and repair facilities
 - Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements
 - Veterinarian clinics

- Slaughtering of animals, including attendant retail and wholesale sales
- Wineries not listed as a permitted use
- : Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.
- : ~~Two~~ Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than ~~500~~ 750 visitors daily. An "event" shall not exceed three consecutive days.

Explanation: The old definition of commercial activity in conjunction with farm use was borrowed from the zoning ordinance of a different county. Subsequent investigation revealed that the definition may be more restrictive than necessary to comply with previous interpretations of the statutory provision.

The revised definition would allow processing (e.g., canning or drying) of an agricultural product on a site in the farm zone without conditional use approval as long half of the product is produced on the farm. In this case, "premises" is intended to mean the owners farm, even if it is not adjacent to the processing activity.

New elements of the definition also specify what promotional activities require a conditional use permit. The Board requested amendment to the Commission recommendation that would allow more and larger events without a conditional use permit.

...
 I. Winery - As authorized under subsection 402.02(H), a winery is a facility that produces and sells wine and conforms to the following attributes:

1. A winery herein defined has a maximum annual production of:

a. Less than 50,000 gallons and:

i. Owns an on-site vineyard of at least 15 acres; or

ii. Owns a contiguous vineyard of at least 15 acres; or

- iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of vineyard contiguous to the winery; or
- iv. Obtains grapes from any combination of a, b, or c above; or
- b. At least 50,000 gallons and no more than 100,000 gallons and:
 - i. Owns an on-site vineyard of at least 40 acres; or
 - ii. Owns a contiguous vineyard of at least 40 acres; or
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of a, b, or c above; and
 - v. A winery with a capacity of at least 50,000 gallons shall demonstrate the ability obtain a minimum of 50 percent of the grapes used for production of wine from ~~land~~ planted vineyard that is owned by or on long-term lease by the winery or the winery operator, or from a planted vineyard or vineyards from which the winery has a long-term contract to purchase grapes, or a combination thereof. A "long-term lease" or "long-term contract" shall have an effective duration of at least ~~10~~ three years from the date of winery approval.

2. The winery shall allow only the sale of:

- a. Wines produced in conjunction with the winery; and
- b. Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total ~~sales~~ gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010.

4. Permitted on-site marketing of wine includes up to three events of one to three days in duration during a calendar year intended to draw customers to the site for the tasting and purchase of wine, with an anticipated maximum of ~~500~~ 750 daily visitors. The frequency and duration of these events may be limited through site design review approval based on the adequacy of public facilities. Rent or lease of space within or adjacent to the winery facility for events such parties, receptions, and banquets that are not directly related to promotion of the wine is not included in this definition of a winery.

5. A facility for production and sale of wine that does not conform to the attributes described in subsections 402.10(I)(1) through (4) above may be deemed a commercial activity in conjunction with farm use pursuant to subsection 402.04(G).

Explanation: Subsection 1 of the winery definition is from statute. Subsection 2 is included at the direction of the Commission, and adds an additional requirement for a facility to be permitted outright. The Board preferred that this new provision apply only to larger wineries and that the lease or contract be only three years, the latter based on testimony at the initial public hearing. Subsection 3 is from statute except the "25 percent" provision, which is also from the Commission. Subsection 4 is adapted from the Yamhill County Wineries Association recommendation but with a limit of three events per year rather than five. Subsection 5 is added so there is no confusion over what to do in other circumstances.

DRAFT AMENDMENTS TO THE RESOURCE INDUSTRIAL ZONE (SECTION 701)

701.02 Permitted Uses.

In the RI District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 701.07, and pursuant to Section 1101 for site design review:

- A. Fruit, nut or vegetable packing, processing, warehousing or cold storage operations;

- B. Winery, including production and wholesale and retail sale of wine, subject to the following:
 1. A winery shall be permitted to conduct on-site marketing ~~activities~~ events such as festivals and group tastings that are directly

related to promotion and sale of the wine produced on-site with an anticipated maximum of ~~500~~ 750 daily visitors. Only three such events may be conducted in one calendar year, and the events shall not exceed a duration of three days. The frequency and duration of these events may be further limited through site design review approval based on the adequacy of public facilities.

2. A winery shall be permitted to rent or lease facilities, with or without a fee, within or adjacent to the winery for events such as parties, receptions, and banquets that are not directly related to winery promotional activities, only at the frequency customary prior to January 1, 1994.
3. The winery shall allow only the sale of:
 - a. Wines produced in conjunction with the winery;
 - b. Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total ~~sales~~ gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010; and
 - c. Wines not produced in conjunction with the winery, the sales of which are incidental to the sale of wine produced on-site;

...

701.03 Conditional Uses.

In the RI District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and subject to Section 1101 for site design review and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Home occupation, subject to the standards and limitations set forth in Section 1004; and
- B. Livestock packing, processing and warehousing.
- C. Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.

- D. ~~Two~~ Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than daily ~~500~~ 750 visitors.

Explanation: The above provisions are added so that new wineries are treated the same in the RI zone as the farm zones, with the exception of the vineyard acreage requirements, the sale of wine produced off-site, and the provision for making existing uses permitted.

F:\G-1-94\BOC_ZO.AMD

Yamhill County

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OFFICE OF COUNTY COUNSEL

November 2, 1994

JOHN M. GRAY, JR.
COUNTY COUNSEL

JOHN C. PINKSTAFF
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Board of Commissioners

FROM: John M. Gray, Jr., County Counsel *JMG*

RE: G-1-94; Commercial Uses in Resource Zones (Winery Uses)

You will recall that on August 31, 1994, the Board held its first public hearing on Planning Docket G-1-94. On that date the Board divided the docket into two distinct issues. The first dealt with amendments to the county's mass gathering ordinance and the second dealt with amendments to modify existing provisions of the zoning ordinance to accommodate commercial uses in agricultural zones. The mass gathering issue has been resolved, and the Board will act today to adopt a new mass gathering ordinance. The commercial use issue had been the subject of substantial work by planning department staff and the Yamhill County Wineries Association. On August 31 the Board continued the hearing on commercial uses to September 14.

On September 14 the Board preliminary accepted a series of changes to the zoning ordinance to resolve the commercial uses issue. Due to possible flaws in our notice to DLCD, the hearing was continued to October 19. Before October 19, the Board received a formal objection to the terminology in the proposed ordinance amendments from a person who marketed garlic and other agricultural products at local wineries. Her objection was that the proposed language would no longer authorize her to market her products. I was requested to evaluate the issue and prepare a recommendation. I requested additional time to do so on October 19, and the hearing was continued to November 2.

I have now researched the issue. My conclusion is that the Board does not have the authority to extend the scope of products allowed to be sold at a winery established as a permitted use in an exclusive farm use zone, but does have the authority to extend the scope of products in a resource industrial zone. The reason is that ORS 215.452 establishes significant constraints on products which can be sold at a winery established as a permitted use in an exclusive farm use zone. On the other hand, the Board has discretion to make its own decisions as to products sold at a winery in a resource industrial zone. I have therefore

provided the following suggestions to modify Section 701.02 regarding permitted uses in a resource industrial zone. (It should be noted that most of the larger wineries were established in a resource industrial zone, including Sokol Blosser Winery.) I have not proposed any modifications to amend the prior language regarding wineries as permitted uses in exclusive farm use zones. The proposed changes are as follows:

DRAFT AMENDMENTS TO THE RESOURCE INDUSTRIAL ZONE (SECTION 701)

701.02 Permitted Uses.

In the RI District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 701.07, and pursuant to Section 1101 for site design review:

- A. Fruit, nut or vegetable packing, processing, warehousing or cold storage operations;
- B. Winery, including production and wholesale and retail sale of wine, subject to the following:
 1. A winery shall be permitted to conduct on-site marketing activities events such as festivals and group tastings that are directly related to promotion and sale of the wine produced on-site with an anticipated maximum of 800 750 daily visitors. Only three such events may be conducted in one calendar year, and the events shall not exceed a duration of three days. The frequency and duration of these events may be further limited through site design review approval based on the adequacy of public facilities.
 2. A winery shall be permitted to rent or lease facilities, with or without a fee, within or adjacent to the winery for events such as parties, receptions, and banquets that are not directly related to winery promotional activities, only at the frequency customary prior to January 1, 1994.
 3. The winery shall allow only the sale of:
 - a. Wines produced in conjunction with the winery;
 - b. Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total sales gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined

in ORS 624.010, and local agricultural products commonly sold in conjunction with wine; and

- c. Wines not produced in conjunction with the winery, the sales of which are incidental to the sale of wine produced on-site;

....

701.03 Conditional Uses.

In the RI District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and subject to Section 1101 for site design review and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Home occupation, subject to the standards and limitations set forth in Section 1004; and
- B. Livestock packing, processing and warehousing.
- C. Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.
- D. Two Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than daily ~~500~~ 750 visitors.

JMG:meg

cc: Michael Brandt, Planning Director