



## Planning Commission Staff Report

February 13, 2013 ~~January 23, 2013~~  
Item 6.b. ~~Item 6.c.~~

**SUBJECT:** P12-1785

**APPLICANT:** City of Pleasanton

**PURPOSE:** Application to amend various chapters of Title 18 of the Pleasanton Municipal Code to comply with California Health and Safety Code Sections 17021.5 and 17021.6 with respect to housing for agricultural employees

**GENERAL PLAN:** Housing Element Policy 41, Program 41.9

**ZONING:** Various

**LOCATION:** Citywide

**EXHIBITS:**

- A. Proposed Code Amendments, (redline)
- B. California Statutory References:
  - 1. Health and Safety Code Section 17021.5
  - 2. Health and Safety Code Section 17021.6
  - 3. Health and Safety Code Section 17008, Definition of Employee Housing
- C. 2012 California Building Code, Definitions

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### BACKGROUND

The subject application is a City-initiated amendment to the Pleasanton Municipal Code to bring the zoning regulations into compliance with the California Health and Safety Code Sections 17021.5 and 17021.6 with respect to housing for agricultural employees. This amendment is prescribed by the *Pleasanton Housing Element*, adopted February 13, 2012, through Program 41.9 of Policy 41, as follows:

*Policy 41: Provide for the special housing needs of large households, the elderly, persons with disabilities, extremely low income households, the homeless, farm-workers, and families with single-parent heads of households.*

*Program 41.9: To ensure that there are adequate sites to accommodate the need for farm-worker housing, modify the zoning ordinance as necessary to comply*

*with the requirements of the Health and Safety Code Sections 17021.5 and 17021.6 related to farm-worker employee housing.*

The amendment to the zoning regulations would result in the following:

- Housing of six or fewer agricultural employees in one dwelling would be considered a residential use and treated the same as a dwelling unit.
- Housing of up to 36 agricultural employees in group quarters and up to 12 dwelling units would be considered the same use as commercial agriculture and permitted in the same way.

Farm-workers are identified in the housing element as a population with special housing needs. In its evaluation of special needs housing, the housing element background report published in February, 2012, broadly describes housing issues for agricultural workers. It indicates that as a group they tend to have lower incomes, poorer health and live in substandard conditions. Because of the transient and seasonal nature of the work it is difficult to estimate their numbers. The Association of Bay Area Governments' *Projections 2007* estimated 300 persons employed in agriculture and natural resources within Pleasanton's sphere of influence in 2005, and forecasted an estimated 310 persons in 2035. Although this is a relatively small population, in Alameda County there were about 6,631 harvested acres in 2007. Agricultural enterprises within Pleasanton are limited, as are the lands designated for agricultural use. However, there is an active grape-growing region to the southeast of the city.

Sections 17021.5 and 17021.6 of the State Health and Safety Code (attached as Exhibit B.1 and B.2) are within the part of the code known as the Employee Housing Act. The act sets standards for the construction, maintenance, use, and occupancy of living quarters called "employee housing" as defined in Section 17008 of the Health and Safety Code (attached as Exhibit B.3). Employee housing includes but is not limited to farm-worker housing. The intent of these two sections is to broaden opportunities for employee housing, as follows:

Section 17021.5 requires that any employee housing occupied by six or fewer employees shall be deemed a single family structure with a residential land use, and shall be treated the same as a single family dwelling of the same type in the same zone. Occupation of a single family dwelling by six or fewer employees shall not be considered a change of occupancy for the purpose of building codes.

Section 17021.6 requires that employee housing consisting of no more than 36 beds in a group quarters, or 12 units or separate rooms or spaces (e.g. cabins without kitchens) designed for use by a single family or household, be deemed an agricultural land use, and that it be treated the same as any other agricultural activity in the same zone. This means that if an agricultural use, such as the raising of crops, is permitted by-right in a particular zone, then employee housing of no more than 36 beds in a group quarters, or 12 units, shall also be permitted by-right in that zone. Section 17021.6 also stipulates that the occupancy of such housing may include employees who do not work on the property where the employee housing is located.

## PROPOSED CODE AMENDMENT

In order to comply with Sections 17021.5, 17021.6 and 17008, text amendments are needed in several sections of the zoning regulations. A redline version showing changes to the current code text is included as Exhibit A. The proposed amendments are discussed below.

### Definitions

The zoning regulations do not currently define "agriculture". Since Section 17021.6 requires that employee housing of no more than 36 beds in a group quarters, or 12 units or spaces designed for use by a single family or household, be deemed an *agricultural land use*, a definition of agriculture is needed to clarify what is considered an agricultural use. The following definition is recommended:

*18.08.017. "Agriculture" means the cultivation of land and raising of plants or animals for commercial use and includes agricultural processing, crop storage and related facilities and structures, and housing of agricultural employees. Retail sales of products is limited to the sale of wine at wineries and products grown on the premises from roadside stands.*

As previously stated, Section 17021.5 provides that any employee housing occupied by six or fewer employees shall be deemed a single family structure with a residential land use. This provision relates to how the zoning regulations define "dwelling unit" and affects the definition of "family". "Dwelling unit" is now defined in the Pleasanton zoning regulations as *"one or more rooms with a single kitchen, designed for occupancy by one family for living and sleeping purposes"*. The zoning regulations currently define "family" as *"an individual or two or more persons related by blood, marriage or adoption, or a group of not more than five persons, not including servants, who need not be related, living as a single housekeeping unit"*. This definition limits non-related households to five or fewer persons and therefore is not compliant with the requirement of Section 17021.5 that employee housing of six or fewer be deemed a single family structure. It is recommended that the definition of family be made consistent with the California Building Code which includes no numeric limits (see Exhibit C), as follows:

*"Family" means an individual or two or more persons who are related by blood or marriage; or otherwise live together in a dwelling unit. (See Title 24 C.C.R. Part 2 §202, as amended.)*

Furthermore, the zoning regulations currently do not define "employee housing". It is recommended that a definition be added that is consistent with the state health and safety code, as follows:

*"Employee housing (agricultural)" means housing as described in California Health and Safety Code Sections 17021.5 and 17021.6, and employee housing as defined in California Health and Safety Code Section 17008.*

These code sections are included in Exhibit B.

## **Permitted And Conditionally Permitted Uses**

Section 17021.5 requires that *any employee housing occupied by six or fewer employees* be deemed a single family structure with a residential land use, and shall be treated the same as a single family dwelling of the same type in the same zone. To comply with this section it is recommended that all zones that permit one-family dwellings be modified to clarify that housing for agricultural employees, as defined by Sections 17021.5 and 17008, also be permitted. The zoning districts that permit one-family dwellings are the A Agricultural District, R-1 One-Family Residential Districts, RM Multi-Family Residential Districts, and H-P-D Hillside Planned Development District.

As indicated above, Section 17021.6 requires *employee housing consisting of no more than 36 beds in a group quarters, or 12 units or spaces designed for use by a single family or household* to be deemed an agricultural land use requiring that it be treated the same as any other agricultural activity in the same zone. It shall not be considered an activity that differs from agricultural use.

Currently the Pleasanton zoning regulations both permit and conditionally permit a variety of agricultural-type uses in the A Agricultural District. For example, *orchards and vineyards* are permitted and higher impact uses such as *poultry raising, egg processing, and hatcheries* are conditionally permitted. In the R-1 One-Family Residential District the *raising of fruit and nut trees, vegetables and horticultural specialties* is a permitted use, and the *raising of rabbits or fowl* is conditionally permitted. Since both the A and R-1 districts permit some agricultural use by right, Section 17021.6 mandates that employee housing consisting of up to 36 beds, or 12 units or spaces, be deemed an agricultural use and therefore be permitted without discretionary approval in both zones.

There is concern that higher impact agricultural activities and the associated employee housing described under section 17021.6 would not be compatible with residential neighborhoods in the R-1 zoning district. To prevent potential negative impacts without prohibiting all agricultural activities, it is recommended that the code distinguish between the growing of plants and animals for private, noncommercial use (such as a vegetable garden) and commercial-scale agricultural activities which could implicate the need for employee housing. Under this proposal, private and noncommercial raising of plants and animals would be permitted by-right in both the R-1 and A districts. Limited commercial-scale agricultural uses would be conditionally permitted in R-1 and permitted in A. Higher impact agriculture activities would continue to require a conditional use permit in the A district. Employee housing involving more than six employees, as provided in Section 17021.6, would then require a use permit in the R-1 district. The proposed distribution of noncommercial growing, commercial-scale agriculture and employee housing, as permitted or conditionally permitted uses in the A and R-1 districts, is shown in the table below. The full redlined text amendment is included as Exhibit A.

**Proposal for Uses Relating to Noncommercial Raising of Plants and Animals and Commercial Agriculture in A and R-1 Districts** *(Proposed insertions and deletions are shown in red text.)*

Zoning District	Permitted	Conditionally Permitted
<p><b>A Agriculture</b></p>	<ul style="list-style-type: none"> <li>● <u>Agriculture for commercial purposes, limited to the growing of field and truck crops and horticultural specialties; nurseries, greenhouses and botanical conservatories; orchards and vineyards; farming and ranching facilities and structures.</u></li> <li>● Livestock and poultry raising limited to private, noncommercial use, and private kennels and stables, provided that any building or enclosure in which animals or fowl, except household pets, are contained shall be at least 100 feet from any R, O, C, I-P or P district.</li> <li>● <u>Raising of fruits, nuts, vegetables and horticultural specialties for private, noncommercial consumption.</u></li> <li>● <del>Nurseries, greenhouses and botanical conservatories.</del></li> <li>● <del>Orchards and vineyards.</del></li> <li>● <u>Employee housing (agricultural) that complies with California Health and Safety Code sections 17008, 17021.5 or 17021.6 (depending on the number of employees accommodated) and the other applicable provisions of the Employees Housing Act at California Health and Safety Code Sections 17000 et. seq.</u></li> </ul>	<ul style="list-style-type: none"> <li>● Agricultural processing plants</li> <li>● Animal sales yards.</li> <li>● Apiaries.</li> <li>● Dairies and processing of dairy products.</li> <li>● Fertilizer plants and yards.</li> <li>● Hog and livestock raising.</li> <li>● <del>Labor camps.</del></li> <li>● Poultry raising, egg processing and hatcheries.</li> <li>● Rabbit raising.</li> <li>● Roadside stands for the sale of agricultural produce grown on the site.</li> <li>● Wineries, <u>winery sales and tasting rooms.</u></li> </ul>
<p><b>R-1 One-Family Residential</b></p>	<ul style="list-style-type: none"> <li>● Raising of fruits, nuts, vegetables and horticultural specialties <u>for private, noncommercial consumption.</u></li> <li>● Household pets including up to six female chickens.</li> <li>● <u>Employee housing (agricultural) that complies with California Health and Safety Code sections 17008, 17021.5 and the other applicable provisions of the Employee Housing Act at California Health and Safety Code Sections 17000 et. seq.</u> (Note: Limited to employee housing of six or fewer in a dwelling.)</li> </ul>	<ul style="list-style-type: none"> <li>● <u>Agriculture for commercial purposes limited to the raising of fruits, nuts, vegetables, horticultural specialties, and related facilities and structures.</u></li> <li>● Rabbit or fowl raising</li> <li>● Employee housing (agricultural) that complies with California Health and Safety Code sections 17008, 17021.6 and the other applicable provisions of the Employee Housing Act at California Health and Safety Code Sections 17000 et. seq.</li> </ul>

It is also recommended that the term "labor camp" be deleted from the zoning regulations because it is included within the definition of employee housing.

## DISCUSSION

The purpose of the proposed code amendment is to implement Program 41.9 of the Pleasanton Housing Element by bringing the zoning ordinance into compliance with Sections 17021.5 and 17021.6 of the Health and Safety Code.

Section 17021.5 establishes a basis for broader housing opportunities for farm-workers by enabling groups of six or fewer to occupy one-family dwellings in any zoning district where they are permitted without incurring any permits, fees or taxes not required of other one-family uses. The proposed modification of the definition of "family" and the addition of "agricultural employee housing" to the list of permitted uses in zoning districts that permit one-family dwellings will result in compliance with section 17021.5. These modifications will have no real impact on occupancy of dwellings by employee groups because the city does not normally regulate occupancy of dwellings.

Text amendments proposed for compliance with Section 17021.6 affect the use of property designated for agricultural use, which is limited in Pleasanton as are agricultural activities. The Pleasanton General Plan land use map designates "Agriculture and Grazing" in very few areas within the city limits, primarily in the Vineyard Avenue Corridor. The A Agricultural zoning district is also very geographically limited and exists primarily on properties publicly owned and devoted to other uses, such as schools and parks. However, limited agricultural activities are also allowed in the R-1 district which is broadly mapped throughout the city.

Four of the city's specific plans provide for agricultural uses. They are: Vineyard Avenue Corridor, Happy Valley, North Sycamore and Bernal Property Phase II. Properties zoned for agricultural use within these specific plan areas are also within PUDs that either specify the agricultural uses or refer to the agricultural uses specified by the specific plan. In these areas it is the PUDs and specific plans that set the parameters for agricultural activity and not the A and R-1 district regulations. The proposed amendments to permitted and conditionally permitted uses in the A and R-1 districts then would not impact these properties.

A search of city business licenses related to agricultural activity found only two businesses with Pleasanton addresses, neither of which are associated with farm-workers. One is the retail sales of plants at Western Garden Nursery on Vineyard Avenue, and the other is the Golden West Farming Corporation, a management service agency with an office on Sunol Boulevard. A second search of business licenses under wine and distilled alcoholic beverages revealed three wineries in the Vineyard Avenue Corridor. All three wineries are located within PUDs that govern the agricultural uses, and therefore the proposed amendments would not affect these properties.

The properties that would be affected by the proposed amendments are those that are straight zoned A or R-1, or are in PUDs that refer to the A and R-1 zoning districts for permitted and conditionally permitted uses. The primary impact on these properties would be that any commercial raising of plants and animals in the R-1 district would require a conditional use permit, whereas now some types of agricultural activity is

permitted by right. The proposed text amendments to the A and R-1 districts are intended to clarify the permitting of different kinds of agricultural uses for conformance with Section 17021.6 and also to protect residential neighborhoods from potential negative impacts caused by commercial-scale agriculture and associated employee housing on near-by property.

## **PUBLIC NOTICE**

Notices regarding the proposed code amendment and related public hearing were published in The Valley Times on January 13, 2013.

## **ENVIRONMENTAL ASSESSMENT**

The adoption of the 2012 Housing Element was part of the project which was described in the Supplemental Environmental Impact Report (SEIR) certified by the City Council on January 4, 2012. The proposed changes to the Pleasanton Municipal Code shown in Exhibit A constitute implementation of Program 41.9 of the Housing Element and are therefore consistent with the Housing Element project as described and analyzed in the certified SEIR. Therefore, no further environmental assessment need be conducted to adopt this code amendment.

## **CONCLUSION**

The proposed changes to the Pleasanton Municipal Code are intended to implement Program 41.9 of the Pleasanton Housing Element by bringing the zoning regulations into compliance with California Health and Safety Code Sections 17021.5 and 17021.6.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission adopt a resolution recommending approval of P12-1785 to the City Council.

Consulting Planner: Deborah Diamond  
Planning Manger: Janice Stern, (925) 931-5606, [jstern@ci.pleasanton.ca.us](mailto:jstern@ci.pleasanton.ca.us)