

## Arnold, Jacqueline

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**From:** Penn, Joshua <joshua.penn@montgomeryplanning.org>  
**Sent:** Friday, December 08, 2017 10:57 AM  
**To:** Criss, Jeremy; caroline@mocoalliance.org; clifford@debelius.com; tgh@umd.edu; Beall, Mark; Miller, Keith; seigler.jane@gmail.com; BCISSEL@aol.com; croppcattle@yahoo.com; SenecaAyrFarms@aol.com; sjoybutler@aol.com; butlerbery@msn.com; jessica@waredaca.com; jphilpmuth@gmail.com; janisglenn@mac.com; Robert.Tworkowski@Kiewit.com; ellen@gordanballard.com; John Fendrick; Motazedi, Ehsan  
**Cc:** Casey, Jonathan  
**Subject:** Agritourism Study Advisory Committee (ASAC) Update  
**Attachments:** 11292017 Packet.pdf; Scope of Work.pdf

Dear Agritourism Study Advisory Committee (ASAC):

Attached are the notes from the November 29<sup>th</sup> "kick-off" meeting. The attached documents include the agenda, an attendee list, three sets of notes--MNCPPC Staff, Jeremy Criss, and Jim Clifford, and the Initial Scope of Work for the Study.

As discussed, I wanted to provide you with some possible topics that might warrant a longer discussion. This list is not comprehensive but seem to be points of interest in our first meeting.

- Level of Service (LOS) and creation of an Ombudsman for agricultural affairs;
- The ZTA 16-12 and Bill 35-16 issue of causing agricultural building to get permits;
- Well and septic in the Ag Reserve;
- DPS Process of determining agritourism land use;
- Transportation Infrastructure;
- Promotion, Advertising, Branding Efforts (Visit Montgomery);
- Events.

I suggest that we choose one to three of these for an in-depth discussion. Once a selection has been made, I can prepare the agenda and any background information we may need and distribute it electronically before the meeting.

I am currently considering January 17<sup>th</sup> from 6 pm to 8 pm for our next meeting. While there was some concern about the day and time, my sense is that, on balance, it worked for committee members. Please feel free to contact me via phone or email if further discussion is needed. If there are no major objections I will work on securing a location for the meeting.

I have received several emails about committee organization, including electing a chairman/facilitator, as well as some basic rules of procedure. The committee discussed this issue briefly on November 29. I am hoping to start this discussion now with the idea of reaching a resolution prior to the next ASAC meeting.

### Joshua Penn

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## **Agritourism Study**

### **Background**

Increased interest in agricultural education, tourism and entertainment has prompted discussion about ways to enhance the economic impact of the county's award-winning Agricultural Reserve. While the Functional Master Plan for the Preservation of Agriculture and Rural Open Space enabled preservation of farming in Montgomery County, it did not anticipate the growing importance of agricultural economic development to the ongoing preservation effort.

Important emerging issues in agricultural economic development—agritourism, farm-to-table activities, increased interest in small-scale wineries and breweries, and culinary tourism—have been addressed individually as initiatives were proposed. This approach risks inadvertent creation of conflicts and precludes a comprehensive approach to agricultural economic development issues.

The Agritourism Study included in the Planning Department's fy 18 work program represents an effort to develop, with Executive Branch agencies, farmers, entrepreneurs and other interested stakeholders, a comprehensive, countywide approach to land use and zoning strategies for agricultural economic and cultural development.

Using extensive outreach, the study will articulate issues raised by farmers, entrepreneurs, planners and regulators. It will draw and expand on work done some years ago in the county's Heritage Management Plan, which would could be shared with the Office of Agriculture and would benefit agricultural entrepreneurs, decisionmakers and other interested parties. It will look at applicable sections of the county's zoning ordinance and its subdivision regulations and determine if modifications are needed to provide additional clarity and direction. The study can also be used to broaden understanding of the processes associated with seeking permits for activities that support farming. The study will look to the Department of Permitting Services and other Executive Branch agencies to help explain the need for and value in regulating some agriculture-related activities.

### **Tasks 1-8**

#### **Task 1 - Stakeholder Cooperation**

Cooperative development, with Executive Branch agencies and other stakeholders, of appropriate strategies for encouraging increased economic development in support of farming and ensuring that applicable regulations and guidelines are both comprehensive and readily grasped by decision makers and prospective entrepreneurs.

**Advisory Committee:** An Advisory Committee composed of community stakeholders and agritourism experts will be established to review progress of the study and to provide input at key intervals and decision points. Agritourism experts and advocates from the non-profit and private sectors, in addition to local officials, would provide a balanced discourse on the current issues and status of agritourism in the County. At this time, Advisory Committee membership is anticipated to include representatives from Montgomery County Department of Agriculture, Montgomery County Department of

Permitting Services, and key Montgomery County staff; in addition to civic associations and farmers with expertise in agritourism.

**Technical Committee:** Technical Committee will consist of key Planning and County staff. Both will meet regularly to help guide the project's direction on more of a day-to-day basis.

## **Task 2 – Interviews**

To get a better sense of the kinds of planning and zoning issues facing property owners and to generate ideas about how they might better address them, conduct a series of interviews/focus group discussions, organized by Planning staff. These interviews will provide Planning staff and the Committees a better sense of the kinds of issues being faced and it will further provide guidance for subsequent research on what other communities have done to address similar questions.

- Stakeholder interviews analyses to understand issues and opportunities
  - Determine what is “actually working” in terms of agritourism
  - Identify what is threatened by current plans, policies, development patterns, and market forces

## **Task 3 - Montgomery County Heritage Area Management Plan**

Evaluation and updating sections of the 2002 Montgomery County Heritage Area Management Plan to determine if adjustments are needed to incorporate agricultural economic development and cultural initiatives; market analysis undertaken for the original heritage plan could be reviewed and updated as part of this effort. Consultant services are included in the Agritourism study that could be used for this work

## **Task 4 - Zoning Evaluation**

Detailed evaluation of the county's Zoning Code and its Subdivision Regulations and, where necessary and appropriate, recommendations for modifications.

## **Task 5 - Comparative Review**

Comparative review of agricultural tourism and economic development efforts in other jurisdictions; Thurston County Washington, for example, has an extensive set of zoning and regulatory mechanisms devoted to economic development activities in its agricultural areas.

**Finalizing the Study:** Tasks 6 and 7 will primarily be the responsibility of the Planning Staff and may require multiple meetings with various elected and appointed individuals and bodies.

**Task 6 – Narrow Choices**

- Begin to narrow potential solutions to address agritourism issues based on input from Advisory Committee, Planning Board, County Executive, and County Council.

**Task 7 – Identifying/ Refining Policies**

- Identify policies and regulations that need to be modified as necessary based on direction from the Advisory Committee, Planning Board, County Executive, and County Council and complete report.

**Task 8 – Composing and Presenting the Final Report**

- Prepare and present final report to the Planning Board and Council.





**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

## **Agritourism Study Advisory Committee Meeting**

*Date: Wednesday November 29, 2017*

*Time: 6:00 pm – 8:00 pm*

*Location: The Clarksburg Cottage (23201 Stringtown Road in Clarksburg, MD)*

- |             |  |                   |
|-------------|--|-------------------|
| <b>I.</b>   | <b>Welcome and Introductions</b><br>Opening Remarks  | 6:00 PM – 6:30 PM |
| <b>II.</b>  | <b>Identifying Agritourism Challenges</b><br>Land Use & Zoning<br>Health & Sanitation<br>Building Code Compliance<br>Advertising & Promotion | 6:30 PM – 7:45 PM |
| <b>III.</b> | <b>Summary &amp; Next Steps</b><br>Next Meeting Focus<br>Meeting Times and Locations   | 7:45 PM – 8:00 PM |
| <b>IV.</b>  | <b>Adjournment</b>   | 8:00 PM           |

## Attendance List 11-29-2017

### Committee Members:

Jeremy Criss  
Caroline Taylor  
James R. Clifford, Sr.  
Dr. Thomas Hartsock  
Mark Beall  
Keith Miller  
Jane Seigler  
Bob Cissel  
Michele Cropp  
Paula Linthicum  
Susan Butler  
Wade Butler  
Jessica Snyder  
Phil Muth  
Janis Glenn  
Robert (Bob) Tworkoski  
Ehsan Motazedi  
John Fendrick  
Ellen Gordon

### M-NCPPC Staff

Josh Penn  
Frederick Boyd  
Jonathon Casey

### Visitors

Dale Tibbitts, Councilmember Elrich Staff  
Lauren Greenberger  
John Siegel  
Washington White



Author: MNCPPC Staff

Committee on Agriculture tourism - 11/29/17

TH – Keep the AG in the Ag Reserve and keep the AG in Agtourism

JF –Solar on farms. Specifically requiring commercial building permits for solar on barns.

Solar as a land use issue

Building Code Issues

DPS wants to ensure structural safety of building mounted solar arrays. Residential permits for homes and commercial for commercial structures.

Side topic: do we need to define Agriculture better to avoid conflicts like solar on a barn is agriculture not commercial

Other: Determine the goals of the study (ex: expand agtourism, farm profitability) Identify 1st tier (M-NCPCC staff can handle/ Ex: signage/new app) issues vs. 2<sup>nd</sup> (requires outside assistance/coordinated by M-NCPCC) and 3<sup>rd</sup> tier (requires extensive outside coordination).

MB - As individual topics come before the committee staff from DPS is available and will attend to discuss detail level questions.

M-NCPCC staff is also available to attend to discuss specific topics as needed

WW-Helping versus just say no culture in trying to achieve goals.

State and Federal are helpful and try to get to yes

County seems to say no as 1<sup>st</sup> response

There is an appearance of a double standard between parks/county and landowners

LOS, level of service is very low comparative to other counties

JS and PL- Pole Barns requiring permits as discussion item on distillery roundtable at Council level what is happening?

Bill 35-16 and 12-16 would regulate (see email)

TH- Agriculturally zoned areas are not the same as non-agriculturally zoned areas we need to make sure that the "code" understands this (ag uses in AR v. Rural zones v. all other zones)

Additional definitions or changes to clarify might be needed

CT- Clarity of regulations and code

What is the permitting process? Is it being applied uniformly?

We need to find the balance between clarity and flexibility

Some want certainty on what they can do while others fear clarity could limit farmers as times change and eliminate future opportunities

#### JC – Agricultural Ombudsman

Provide single point of contact to avoid varying answers amongst government

Sense of certainty that when they get an answer its correct

Ex. 311 depending on how you phrase a question you could be sent to multiple different departments

#### WW/SB – Create a flow chart/decision tree for permitting based on use desired

#### PL – Land ownership versus land lease

Economic environment has changed and now the farmers don't always own the land but just the right to use (land lease)

Investors in land don't always hold same view as a land owner farmer

#### SB – Food, Water & Restrooms

Ag visitors/Tourists need certain basic necessities if we are to effectively promote Agritourism

#### WB – Well and Septic issues

What is the best way to deal with temporary facilities?

Normal porta potties most find distasteful and would prefer real facilities

Fancy porta potties can be found and rented but cost \$2,000 per event making it economically difficult for farmers

#### JF – Septic

Other places allow holding tanks that could be pumped allowing for a real facility to be built and level cost as fixed known budget item (county is inflexible about holding tanks)

Is it state or local restrictions that are causing the issues?

Use of alternative septic systems

#### JF – Be careful when adding restrictions they can lead to unforeseen consequences

MALPF considered parking restrictions as part of their easements Montgomery County farmers didn't want the restrictions even though the intention was good the results could have severely affected the operations of agritourism type activities

#### DT – Traffic in the reserve

Can the infrastructure handle volume (individual and cumulative)

Conflicts between farmers and visitors

CT – “Special benefit performance permits” (ch.30 non-profit events) such as the soccer tournaments and other large scale events are an issue on rustic roads

MB – difference between performance permit and special event permit (?)

BC - Conflicts with bicyclists, especially tour rides conflicting with machinery during harvest season

Rustic roads and tree trimming county doesn't adhere to regular 3, 5, 7 year plans machinery getting damaged

Farmers need the ability to move ag equipment in the ag reserve

Note: General conflict between farmers and rustic roads (ex: bridge reconstruction)

JF - Winery events

Why should we limit events to 9 as in current code

When did winery events change in code

Can we look at removing this

Sugarloaf – cumulative impacts (events, cyclist, winery, wedding, etc.)

JS – Conditional Use process

To expensive

To difficult

Not viable option for most farms

BC – Agricultural producers need to diversify

This is the trend farming is not your grandfathers farm anymore to be successful people have to be creative.

JS – Visit Montgomery

There was a past initiative about branding and advertising the Ag Reserve and Ag Reserve products. What happened to those previous efforts.

Promotion of the Ag Reserve can be done better

Signage for Ag Reserve

Bio notes:

Washington White & Susan Butler - Waters Orchard (Apples and cider)

JG – Rockland – Winery and hosts weddings

Author: Jeremy Criss  
Agritourism Advisory Committee Meeting November 29, 2017

Josh- overview of the study and thinks that 6-7 meetings of the Ad Com will occur.

The group will present views and recommendations on agtourism and present all findings.

AHFP not available tonight-Jeremy will look into for future meetings.

SCA rep suggested the Linden Barn as possible venue for future meetings.

John F. Asked why are we here? There is a difference between Ag Economic and Ag Tourism.

Josh- we are here to make recommendations on ways to advance Agritourism. Examples include signage, zoning text amendments, changes to building codes, impact to Historic Preservation, OAG publishes Farm Directory, MCA publishes Explore the Ag Reserve Guide, perhaps we can combine these two publications as an example. We plan to prioritize the recommendations the you propose because agtourism is one simple word that applies to so many other policies-building code, safety code, health code, food safety, traffic along rural and rustic roads, etc.

Fred B- the MNCPPC is not the regulatory agency on agtourism. DPS is the regulatory agency that determines what you can and cannot do on your property.

Caroline-MCA provided a survey of Ag Reserve residents that identifies there frequently asked questions and concerns on agtourism.

Josh-Let us start with Land Use

John F.-concerned about mounted solar panels to roofs of agricultural buildings where the DPS requires permits for a commercial building and permits do not exist since it is an Ag building.

Mark-solar panels on residential buildings require permits to make sure the roof is structurally designed to accommodate solar panels. Solar panels mounted on ag building that do not require permits is a problem since the solar panels can pull off and destroy the roof in extreme weather events.

Caroline-There is a lack of understanding of what Agriculture is and how it is defined.

Josh-Historic Preservation staff could not attend the meeting tonight and perhaps we can schedule a future meeting devote to HPC issues where staff can attend.

Bob C-He understands why solar panels must be mounted safely to buildings so the building can safely accommodate them.

Washington-The Federal and State Gov have been very helpful but no one in the County Gov has been helpful. MC needs to be more helpful rather than just saying no.

Josh-he attended the tour of farms in Loudoun County, VA that the OAG hosted and it was very helpful to see how other jurisdictions promote agtourism. He was very impressed with how it felt like a family in VA where the County and farmers are working together doing many things to promote agtourism including the use of ag buildings for agtourism.

Jeremy-he said that VA allows agricultural buildings to be used for agtourism without permits. In VA, they allow agricultural buildings to “share” the septic system that serves the primary residence.

Tom H- he believes a pole barn can be built without a permit.

Jessica SB-She says that Tommy Heyboer (Staff to Hans Riemer) sent her the announcement for another Round Table discussion for Montgomery County Alcohol Production scheduled for December 14, 2017 at 2:00pm and the first item on the list is new policies surrounding ag buildings now require building permits.

Ehsan- he said that currently DPS is not requiring permits for ag buildings.

Paula-she said that an ag building with concrete floor requires a permit.

Jeremy-he explained how Bill 35-16 and ZTA 12-16 may have changed the requirement where ag buildings can only be allowed without permits if the building and property are used exclusively for agricultural purposes.

Tom H- he believes the agtourism study should be divided into two parts. The County Code states that agriculture is the primary use in the agricultural reserve and we need to make sure agtourism is directly related to agriculture. The other part would involve areas outside the agricultural reserve where some requirements may be different.

Josh-he said he was doing research to prepare for the meeting and found that farming is permitted in most zones and that urban farming is allowed in the urban zones where farming itself is not permitted.

Fred-he explained how the County also has rural residential zones like Rural, Rural Cluster, and RE 1, 2, 2C etc.

Caroline-She said that clarity is needed on the requirements that are being implemented by the DPS and that amendments may be needed to prevent interpretations. She said that DPS needs help on this clarity and she hopes the group can put this in place. Example- Can I build a barn with a cement floor without a permit?

Josh- Where is the line between clarity and exactly what a property owner can or cannot do with their property? Where are we willing to give up flexibility to gain clarity on specific requirements?

Ehsan- He said there is no one model that fits all cases.

Jim C-He said the County has established focus-working groups over the years (1993 Future of Agriculture Study-Recommendations) and it has been recommended repeatedly that farmers and Ag Reserve property owners need an Agricultural Advocate or Ombudsman (the agricultural go to guy) in the DPS-one person is critical to getting the right answer to questions surrounding land use, permitting, and building codes etc.

Paula-She said there are many different types of farms in the County and many farmers lease a majority of the acreage that they farm as compared to the farmers that own the acreage they farm. Understanding this factor will be important in our conversations on the Ag Reserve where farming is the primary land use.

Josh-he asked how the 311 system works for zoning.

Mark- he said that in the case of zoning you should never be receiving multiple answers to your questions. When requests for information on zoning come to DPS including questions all inquiries are referred to Mark.

Susan-she said that agritourism is all about serving people. Farmers that offer agtourism must provide food, water, restrooms and other basic needs to the guests that visit our farms. We need assistance from the County to make sure we can provide these basic needs in a cost-effective way.

Jonathan-she said that a flowchart or check list could be helpful to identify the requirements for different types of agtourism activities and events.

Wade-Many of these events are seasonal and most people do not like portable toilets. The cost of construction is cost prohibitive for agtourism activities and events that are offered on a seasonal basis.

Josh-he asked for the definition of tourism and what does a tourist need? He said that VA will allow the agricultural buildings to share a septic system with the primary residence.

Wade- he said the we should add the tourist needs a place to sleep.

Joh- he said the first thing people do when they get out of their car is to go to the bathroom.

Josh-he said the Ag Reserve is a bathroom desert.

Washington-he said the last thing that people ask him before they leave is a good place to get something eat-decent meal.

John-he said that the Maryland Agricultural Land Preservation Foundation-MALPF has a cap of no more than 2 acres devoted to parking and this is very restrictive for pick your own operations like Rock Hill Orchard and Homestead Farm.

Jessica-she said the Waradeca Farm Brewing Company and Brookeville Beer Farm have entirely different parking issues. Jessica said she does not want someone telling her how to park cars.

Dale Tibbitts-he said that traffic in the Ag Reserve needs an appropriate balance for the commodity farmers, residents, bike riders and agtourism.

Fred-the policies of the Rustic Roads program requires that maintenance and improvements of roads to be balanced with the rural area including the character of the area.

Caroline-She said that performance benefits events (soccer games, dirty dinners, like Caleva conducts will need to part of the discussion for achieving the balance.

Tom -he is a member of the Rustic Roads Advisory Committee and the RRAC has major problems with soccer events etc. The Rustic Roads are designated to keep the speeds down.

Dale- he asked what is the nature of the events-the hours of operation for both starting and ending.

Bob-he said Caroline raised a good point about the performance benefit permits and how these events create traffic challenges in Poolesville. Commodity farming is the largest component of farming in the Ag Reserve and the bike event on October 8, 2017 created big challenges for the farmers that were moving farm equipment along the County Roads to access their farms to harvest their crops. The overhanging tree limbs also create an unsafe environment as motorist, bus drivers, farmers and Fire Truck drivers move to the center of the road to avoid hitting the tree limbs. Farmers are constantly spending money replacing broken mirrors, GPS beacons, roof lights and roof racks due to the damage these overhanging trees cause.

John-asked why a winery is only allowed to conduct 9 events annually were the owner charges an admission fee? Why wasn't this changed as part of the zoning rewrite process?

Jonathan-he said the Zoning Rewrite process was not designed to make wholesale changes to the County Zoning Code and the MNCPPC focused on the assignment to condense the code and make it easier to understand.

John- he said this agtourism Advisory Committee should take this standard of only 9 events and propose a higher number.



Fred-he said the winery is allowed as both a limited use and conditional use and if the owner of the winery wants to exceed the limited use standards then the conditional use approval for a winery is one way for John to achieve what he is saying.

Wade-the conditional use of approval process is very uncertain.

Jon S-the conditional use of approval is very expensive.

Fred-in reviewing conditional use applications we need to take into consideration the Rural and Rustic Roads constraints.

John – he said his farm is along Md Route 27 that traffic capacity of 50,000 cars per day and he said one day he may want a winery.

Josh- he said we may need to devote a full meeting to events venues that would be allowed.

Ehsan-he recommended that anyone with questions on events including the number of events should come in and talk to the DPS staff. He said that performance benefit events are issued by the Fire Marshal for non-profits organizations only.

Ellen-she said she lives along Comus Road and on weekends there is a lot of traffic for several properties along the road-Comus Market, Comus Inn, Sugarloaf Mt Winery and Sugarloaf Mountain. If the winery can have unlimited number of events the traffic along the road will more difficult.

Bob- he said that production agriculture is tied to agtourism as some farm families have 4-5 generations and some of the new farm family members are looking for ways to diversify like Turf-Jamisons, Winery-Butz, Farm Breweries-Butts, and Vegetables-Stablers. We need to make recommendations that are not discouraging these diversity products.

Robert T.-we need to think about guest speakers for future meetings.

Josh-The next agenda will be developed using the discussion from tonight.

Jessica-she said that Visit Montgomery has plans to promote the Agricultural Reserve as part of their Rebranding the County initiative. The Ag Reserve was included as part of their discussions because they are interested in the Ag Reserve which was on the top of their list.

Josh-Ag Reserve signs are in storage?

Jim- he said signs need to on the agenda next time.

Tom- future meetings should be closed to members of the Advisory Committee only.

Fred-These meetings are open to the public.

Josh-Next meeting on a Wednesday day or night?

Group-the group preferred an evening meeting.

Author: Jim Clifford

Committee on Agriculture tourism - 11/29/17

Issues:

- Commercial solar permit is required even for a barn. Building code issue. Bill 35-16 may address this issue as to it applies to non Ag use pole barns.
- concern over obstructionist at DPS.
- concern over the county starting to require pole buildings. No basis.
- we need a single expert at DPS to field Ag related permit questions.
- we need to make smooth water, bathrooms & Food access.
- parking restrictions are a concern.
- traffic balance evaluation or consideration.
- should permitted uses be part of the agriculture operation.
- issue of effect on Rural and Rustic roads.
- large non agriculture events should be examined.
- uses should accommodate the existing residents.
- advertising by the county and the state to expose the business in the Ag reserve.
- signs and regulations relating there to.

