

Council member Marilyn Balcombe

Subject: Zoning Text Amendment 23-09 – Farming Incidental Outdoor Stays

I would like to express my objections to the Zoning Text Amendment (ZTA) 23-09 – Farming to allow “Incidental Outdoor Stays”. This ZTA would change the entire nature of the uses allowed in the Agricultural Reserve Zone (AR) and ask that you vote against it. The proposal is not consistent with the purpose of the AR. If this ZTA is enacted, it would authorize the construction of up to 10 luxury resort lodging structures on farm properties in the AR. These structures would:

- A. Not be subject to accessory structure size limits.
- B. Misleadingly called incidental outdoor stays.
- C. Would be exempt from limitations on short term rentals.

The proposed ZTA does not meet any of the fundamental purposes of the AR to preserve working farms, open space and water resources. For these reasons, it should be rejected.

The Montgomery County Agricultural Reserve has been used as a model in other states to preserve farmland and protect farmers. Montgomery County has the highest percentage of farmland under agricultural land preservation easements in the nation. This highly successful model would be at risk if ZTA 23-09 is approved.

Background

The purpose of the AR is to protect farmland, agricultural, open space, wildlife, and water resources. Properties in the AR can only be used for Farming and “accessory uses” that are specifically authorized in the Montgomery County Zoning Ordinance Section 3.2.6. Residential development is limited to no more than one dwelling unit per 25 acres and can be clustered to further preserve agricultural use of the property. The AR zoning currently restricts the maximum footprint for any structure and the total footprint of all structures primarily used for education or tourism to 10% of the total footprint square footage of all structures on the site used for agriculture.

Marc Potash, the owner of Trippy Goat distillery, was interviewed by WTOP and stated that the units would not be rustic. He said, “Imagine going to the Ritz-Carlton or the Four Seasons” where each unit would be “like a small cabin,” but cushier. “Like any high-end hotel” but “not over the top.”

Reasons to reject ZTA 23-09

- A. The ZTA would eliminate the current AR zoning limits on the maximum footprint for any structure and the total footprint of all structures primarily used for education or tourism to 10% of the total footprint square footage of all structures on the site used for agriculture. The result is that the structures could be any size. The elimination of this restriction and allowing 10 luxury resort lodging structures of any size to be constructed on one property is not consistent with the purpose of the AR.
- B. The ZTA would allow occupancy of the 10 structures by no more than 2 persons 18 or older but has no limit on the number of persons under 18 who can accompany them. While the ZTA

would limit the length of individual stays to 4 days, it does not prevent each unit from being occupied 365 days a year by different parties for stays of 4 days or less.

- C. Authorizing 20 or more additional persons to reside on a single farm property on a year-round basis would create a significant burden on the well aquifer and waste disposal in the AR. The ZTA would authorize the addition of the 10 lodging structures to a property that may have other authorized but restricted uses under the other provisions of the zoning code such as a farm distillery. Distilleries are recognized to use substantial amounts of water and create up to 15 gallons of waste per gallon of product. Authorizing 20 or more additional persons to reside on such a property year-round would place an unprecedented burden on the well water aquifer and waste disposal in the AR.
- D. The ZTA misleadingly adds and applies the term “outdoor stays” to the uses that are accessory to farming in the AR while creating authorization for the construction of up to 10 luxury resort type structures with no size limits that can be occupied year-round. Applying the term “outdoor stays” to accommodations in these types of structures is completely inconsistent with the other types of outdoor activities that are authorized in the AR.
- E. Adopting the ZTA would create confusion and conflicts with more limited authorized uses and restrictions under Agricultural Preservation Easements that have been purchased by Montgomery County using millions of dollars in taxpayer dollars. Keeping and enforcing these restrictions is critical for the preservation of the AR.

Please vote to reject ZTA 23-09. Alternatively, please table any consideration of ZTA 23-09 and form a committee to fully assess and understand all the impacts that it would have on a model agricultural preservation program that is used as a gold standard in other states. The County Council should not make the significant changes or eliminate the important use restrictions proposed in ZTA 23-09 without critical study and consideration.

Your time and attention to this matter is greatly appreciated. It is a significant issue to me, my family, and my community. Please feel free to contact me with any questions or clarifications using the contact information provided below.

Respectfully,

Doug Crosswhite

Nancy Crosswhite