

Zawitoski, John

From: Jane Seigler [seigler.jane@gmail.com]
Sent: Tuesday, September 11, 2012 1:24 PM
To: Pamela Dunn
Cc: Criss, Jeremy; Jane Evans; Tom Linthicum; senecaayrtom@aol.com; Eddie Kuhlman; Tim McGrath; Callum Murray; Matthews, Catherine; David Weitzer
Subject: Re: Comments of the ag community on the July 15, 2012 Consolidated Draft Zoning Rewrite Report

Dear Pam,

Once again, I want to thank you and your staff for all the hard work you have put in on this project. I know that the members of the ag community are very appreciative of the thoughtfulness and responsiveness that you have afforded us as we work our way through the proposals. I know it has been a long slog, but hopefully we are in the home stretch.

Thank you for sending your detailed response to the points I raised in my June 20, 2012 email. In a number of cases, your response has resolved our concerns satisfactorily, and I will not further address those issues here. There do remain, however, a few issues about which we still have some concerns.

Most important remains the issue of the creation of a number of new and separately defined farming uses, specifically crop farming, livestock farming and urban farming. I know that you and staff have struggled to accommodate current law with concerns about certain agricultural practices in residential and other non-agricultural and non-rural zones. Nevertheless, we feel that the current scheme unnecessarily confuses and complicates the code, and results in some of what we feel are unintended consequences and changes from current law. For example, "aquaculture" is included in the definition of agriculture, but it is not included in the definition of either livestock or crop farming. It is included in the definition of urban farming. The implication, therefore, is that it is not permitted in the ag, rural or residential detached zones. Also, we are aware of a number of properties in residential zones that are currently engaged in activities that are within the definition of agriculture, including the keeping of livestock, which would become non-conforming under the new draft.

After giving the matter considerable thought, we have concluded that these concerns can be alleviated, and current uses can be preserved, by a simple change to the definition of farming, Section 3.2.6. The current draft states:

Sec. 3.2.6 Farming

A. Defined, In General

Farming is a tract of land, with or without associated buildings, that is devoted to agriculture. Uses considered accessory to farming include:

1. Accessory agricultural processing and storage of products grown on-site.
2. The sale of products of agriculture and agricultural processing, if products are produced on-site.
3. The sale of horticultural products grown off-site, but kept on the farm temporarily on a maximum of 2 acres or 20% of the site, whichever is less.
4. The delivery and installation of horticultural products grown on the farm.

B. Crop Farming

1. Defined

Crop farming is the growing and harvesting of produce and other plant-based agricultural products. Includes the cultivation of crops such as fruits, vegetables, cotton, grain, nuts, horticultural crops, cattle food, and sod.

2. Use standards

Where crop farming is allowed as a limited use, sod farms and accessory agricultural processing are prohibited.

C. Livestock Farming

1. Defined

Livestock farming is the keeping and raising of fowl and livestock, including cattle, swine, sheep, asses, mules, and goats. Includes accessory slaughter- ing. Does not include Equestrian Facility (see Sec. 3.2.4, Equestrian Facility).

2. Use standards

Where livestock farming is allowed as a limited use, it is subject to the following standards:

- The minimum lot size is 5 acres.
- Accessory agricultural processing is prohibited.

D. Urban Farming

1. Defined

Urban farming is the cultivation of fruits, vegetables, flowers, and orna- mental plants, as well as the limited keeping and raising of fowl or bees and the practice of aquaculture. Plants and animals or their products may be sold off-site, or on-site under the standards of a Farm Market, On-site (see Sec.3.2.10.D, Farm Market, On-site).

2 Use Standards

Where urban farming is allowed as a limited use, it is subject to the following standards:

- a. The minimum area for an urban farm is 4,000 square feet.
- b. One fowl may be kept for every 1,000 square feet of land area; roosters are prohibited.
- c. Aquaculture is permitted in tanks or pools that meet the standards for accessory structures Sec. 3.2.6.D (below).
- d. The maximum total gross floor area of all structures, excluding green- houses, is 10% of the net property area on any urban farm.
- e. The minimum setback for accessory structures from any property line is 25 feet.
- f. The maximum height for any accessory structure, including any pitched roof, is 12 feet.
- g. Only manual or walk-behind mechanical equipment and practices com- monly used in residential gardening may be used.

We propose changing the definition of farming so that it would read as follows:

Sec. 3.2.6 Farming

A. Defined, In General

Farming is a tract of land, with or without associated buildings, that is being used for agriculture and is agriculturally assessed. Agriculture is the business, science and art of cultivating and managing the soil, composting, growing, harvesting, and selling crops and livestock, and the products of forestry, horticulture and hydroponics; breeding, raising, or man- aging livestock, including horses, poultry, fish, game, and fur-bearing animals, dairying, beekeeping and similar activities, and,equestrian events and activities. Agriculture includes processing on the farm of an agricultural product in the course of preparing the product for market and may or may not cause a change in the natural form or state of the product.

Uses considered accessory to farming include:

1. Accessory agricultural processing and storage of products grown on site or on property owned, rented and/or controlled by the farmer.
2. The sale of products of agriculture and agricultural processing, if products are produced on site or on property owned, rented and/or controlled by the farmer.
3. The sale of horticultural products grown off-site, but kept on the farm temporarily on a maximum of 2 acres or 20% of the site, whichever is less.
4. The delivery and installation of horticultural products grown on the farm.

B. Urban Farming

1. Defined

Urban farming is the cultivation of fruits, vegetables, flowers, and ornamental plants, as well as the limited keeping and raising of fowl or bees and the practice of aquaculture. Plants and animals or their products may be sold off-site, or on-site under the standards of a Farm Market, On-site (see Sec.3.2.10.D, Farm Market, On-site).

2 Use Standards

Where urban farming is allowed as a limited use, it is subject to the following standards:

- a. The minimum area for an urban farm is 4,000 square feet.
- b. One fowl may be kept for every 1,000 square feet of land area; roosters are prohibited.
- c. Aquaculture is permitted in tanks or pools that meet the standards for accessory structures Sec. 3.2.6.D (below).
- d. The maximum total gross floor area of all structures, excluding greenhouses, is 10% of the net property area on any urban farm.
- e. The minimum setback for accessory structures from any property line is 25 feet.
- f. The maximum height for any accessory structure, including any pitched roof, is 14 feet.
- g. Only manual or walk-behind mechanical equipment and practices commonly used in residential gardening may be used.

We believe that incorporating the current definition of agriculture into the definition of farming avoids confusion and inadvertent omissions and eliminates the need for additional crop and livestock farming uses. The inclusion of the additional requirement that the land be both farmed and agriculturally assessed should solve any problems concerning present and future activities in residential zones. Note that there is precedent for this standard in the current code (see Sec. 59-B-2.1 (f)) With this revised definition of farming, just two uses would be necessary: Farming, which would be "P" in all ag, rural and residential zones, and Urban Farming, which would be "L" in the CR, Employment and IL zones. We are also suggesting increasing the maximum roof height for an accessory structure to 14 feet.

We think this provides an elegant solution to what has been a thorny problem. Please let me know if you have questions or would like to discuss it further.

In addition, there are a few remaining issues for which we have additional comments, which I have tried to summarize below.

1. Re: ag education and tourism. Thank you for adopting this suggestion! We have received various comments about the appropriate lot size, and have concluded that it might be best to delete the minimum lot size requirement, and replace it with language similar to what we added to the farming definition above. i.e., that the land be in use for agriculture and agriculturally assessed.
2. Re: your response to my point 5 in my June 20 email, in which I requested that Bed and Breakfasts, and Farm Supply, Machinery, Sales and Service be deleted from the list of prohibited uses in Section 3.1.5. for lots in the AR zone on which a TDR easement has been recorded. You stated that you did not wish to make this change because "the goal of the rewrite has been to retain the uses and standards in the RDT zone as they currently exist . . ." However at least one use currently listed in FN 48 (the predecessor to Sec. 3.1.5), private swimming pool, has already been deleted. We think these uses, which would be "C" uses and therefore subject to controls, should be allowed because they complement farming, and would not negatively impact farming operations, as I explained in my June 20 email. Similarly, we believe that attached accessory apartments should also be allowed, for the same reasons.
3. While we are on the subject of making changes to the current code, we note that under the current code, ag processing is permitted in the RNC zone. So we are wondering why it makes sense to have it remain as a "C" use in the AR zone?

Finally, in the interest of thoroughness, we would like to be able to check where all 50 of the ag footnotes have been incorporated into the latest draft. Is there any document or chart that already exists that would help us do that? If so, I would appreciate your directing me to it.

Again, thanks so much for your consideration.

Best,
Jane

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