



DEPARTMENT OF BUILDING AND DEVELOPMENT
STAFF REPORT

BOARD OF SUPERVISORS PUBLIC HEARING

DATE OF HEARING: January 11, 2010

CASE NUMBER/CASE NAME: ZOAM 2007-0004

Zoning Ordinance Amendment To Permit Farm Markets in Various Zoning Districts and To Reduce Acreage Requirements for Agriculture, Horticulture and Animal Husbandry Uses

DECISION DEADLINE: At the Pleasure of the Board

ELECTION DISTRICT: Countywide

PROJECT PLANNER: Michelle Lohr

EXECUTIVE SUMMARY

On February 17, 2009, the Board of Supervisors adopted a Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance (Zoning Ordinance) to add Farm markets without agricultural production on-site, as a special exception use within the AR-1, AR-2, JLMA-1, JLMA-2, JLMA-3, JLMA-20, TR-10, TR-3, TR-2, TR-1 zoning districts and to reduce the minimum acreage requirements for agriculture, horticulture, and animal husbandry uses. The amendments propose to: (1) amend Tables 2-102, 2-202, 2-1003, 2-1103, 2-1203, 2-1303, 2-1402, 2-1502, 2-1602 and 2-1702 to add a new use type, Farm markets (off-site production), as a special exception use within the Use Category of "Retail Sales and Service" for the AR-1, AR-2, JLMA-1, JLMA-2, JLMA-3, JLMA-20, TR-10, TR-3, TR-2, TR-1 districts, (2) amend Article 8, *Definitions*, including, without limitation, amending the existing definition of "Animal Husbandry" and establishing new definitions for "Farm Market (off-site production)" and "Livestock" and "Pet"; (3) amend Additional Regulations Section 5-603, *Farm markets*, to ensure consistency in regulations and terminology and establish new maximum building size, parking, landscaping and buffering standards; (4) amend Additional Regulations Section 5-626, *Agriculture, Horticulture and Animal Husbandry*, to reduce and/or eliminate minimum acreage requirements under certain circumstances; (5) amend Section 6-700, *Site Plan Review*, to clarify when site plans or rural sketch plans are required, and (6) amend such other sections of the Zoning Ordinance as necessary to implement and maintain consistency with the foregoing amendments.

I. RECOMMENDATIONS

Planning Commission: At its December 1, 2009 Work Session, the Planning Commission voted 9-0 to forward ZOAM 2007-0004 to the Board of Supervisors with a recommendation of approval, subject to the changes shown in the proposed text dated November 24, 2009 and December 1, 2009.

Staff: Staff recommends that the Board of Supervisors approve ZOAM 2007-0004, as amended by the Planning Commission, with certain grammatical, spelling, and punctuation revisions as noted.

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II. SUGGESTED MOTIONS

1. I move that the Board of Supervisors forward ZOAM 2007-0004 to the February 16, 2010 Business Meeting for action.

OR

- 2A. I move that the Board of Supervisors suspend the rules.

AND

- 2B. I move that the Board of Supervisors adopt ZOAM 2007-0004, amendments to the Revised 1993 Loudoun County Zoning Ordinance, to: (1) establish the use type “Farm market (off-site production)” as a special exception use within the AR-1, AR-2, JLMA-1, JLMA-2, JLMA-3, JLMA-20, TR-10, TR-3, TR-2, TR-1 zoning districts, as contained in Attachment 1, Pages A1-A4 and (2) reduce the minimum acreage for Agriculture, Horticulture and Animal Husbandry uses, as contained in Attachment 1, Pages A5-A6.

AND

- 2C. I further move that the Board of Supervisors finds that these Amendments are required by the public necessity, convenience, general welfare and good zoning practice.

OR

3. I move an alternative motion.

III. BACKGROUND

The Planning Commission and Board of Supervisors held previous public hearings (11/19/07 and 1/8/08, respectively) regarding proposed amendments to the regulations regarding Farm markets. Following discussions by the Planning Commission, the proposed amendments were revised to include other zoning districts and amendments, thus prompting the need for a new Resolution of Intent to Amend the Zoning Ordinance that was adopted February 17, 2009. The proposed amendments will create a new use type, “Farm markets (off-site production)” permitted by special exception in the AR-1, AR-2, JLMA-1, JLMA-2, JLMA-3, JLMA-20, TR-10, TR-3, TR-2, TR-1 districts, ensure consistency between the definition of Farm market and the Additional Regulations of Section 5-603, establish a maximum structure size for both types of Farm markets and establish parking and landscaping requirements for Farm markets (off-site production). Further, amendments are proposed to clarify the types of uses that may be established with a sketch plan.

During review of the proposed Farm market amendments in January 2009, the Transportation and Land Use Committee discussed a letter addressed to the Board of Supervisors from the Rural Economic Development Council (REDC) recommending that the minimum acreage requirement for Agriculture, Horticulture and Animal Husbandry be eliminated.

The Transportation and Land Use Committee recommended to the Board of Supervisors that the Resolution of Intent to Amend include an amendment regarding the minimum acreage for agriculture, horticulture and animal husbandry in addition to the Farm market amendments. This

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Resolution was adopted on February 17, 2009. A copy of the February 17, 2009 Board of Supervisors Action Item on the Resolution of Intent to Amend the Zoning Ordinance is included as Attachment 5. The specifics of the amendments are summarized in Section V and the actual text is included in Attachment 1.

As a reminder for the Board of Supervisors and the public, with the adoption of amendments to the Zoning Ordinance on December 3, 2007, the minimum acreage requirement in Section 5-626 for Agriculture, Horticulture and Animal Husbandry uses had been increased from 3 to 5 acres. The Board of Supervisors has subsequently reviewed three requests for modifications through the minor special exception process (SPEX 2008-0029 Berkeszi, SPEX 2009-0043 Francis Property, SPMI 2009-0004 Oberlander) seeking reduction of the 5-acre minimum. All three applications were approved with conditions limiting the number of animals on the property based on the size and characteristics of the specific parcel.

IV. PLANNING COMMISSION PUBLIC HEARING, WORK SESSIONS AND REVIEW

The Commission conducted a public hearing on October 15, 2009. Four people spoke in favor of the amendment and one spoke in opposition. The Commission held work sessions on November 12, 2009 and December 1, 2009 to discuss the proposed amendments.

At the December 1, 2009 work session, the Planning Commission voted 9-0 to send ZOAM 2007-0004 to the Board of Supervisors with a recommendation of approval, subject to the changes to the proposed text made at the December 1st meeting. The revised language is included in Attachment 1. (Staff has noted some grammatical, spelling and punctuation corrections which are indicated by double underline.)

V. SUMMARY OF PROPOSED TEXT CHANGES

The following is a brief description of the Amendments to the Zoning Ordinance. Attachment 1 includes the specific revisions in the proposed draft text.

A. Revise the use lists to add “Farm market (off-site production)”

The proposal is to revise the use lists in AR-1, AR-2, JLMA- 2, JLMA-3, JLMA-20, TR-10, TR-3, TR-2, TR-1 to add the Use Type “Farm market (off-site production)” within the Use Category of Retail Sales and Service as a special exception use.

B. Revise Section 5-603 Farm Markets

The proposed language amends the additional regulations for Farm markets as follows:

- (1) Amend to state that 25% of the products offered for sale must be from on-site production. The definition of Farm Market is also proposed to be amended so that the language in Section 5-603 and the definition are consistent. This language replaces the existing language which states that 25% of the gross sales receipts must be from products produced on site.
- (2) Amend to specify that the Virginia Department of Transportation is the authority for determining whether the Farm market entrance has safe sight distance.

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- (3) Establish a maximum retail sales area within structures of 10,000 square feet of floor area or a Floor Area Ratio of .02, whichever is greater. This maximum size is currently the maximum for a Wayside Stand.
- (4) Establish parking requirements for Farm market (off-site production) equivalent to retail requirements of 4 parking spaces per 1,000 square feet with a minimum of 10 spaces.
- (5) Establish minimal landscaping, buffering and screening requirements to reduce the impact of the use on adjacent properties of four acres or less. The landscaping/screening/buffering standards of Section 5-653 are referenced. These standards are included as Attachment 2.

C. Revise Section 6-701 Site Plan Required and Section 6-703 Rural Sketch Plan

The proposal is to revise these site plan requirement sections to clarify that a Farm market can be established with a sketch plan; however a site plan would be required for a Farm market (off-site production). Sketch plans would also continue to be required for Animal Care Businesses, Child Care Home, Stables and Wayside Stands regardless of the zoning district.

D. Revise Article 8, Definitions of Farm Market and Farm Market (off-site production)

The proposal is to add a definition for Farm Market (off-site production) and to revise the Farm Market definition for consistency with the Additional Regulations for Farm Markets (Section 5-603) to clarify that the requirement for 25% of the products offered for sale on the property may be produced on-site or other property owned or leased by the operator within Loudoun County.

E. Amend Section 5-626, Additional Regulations for Agriculture, Horticulture and Animal Husbandry

Section 5-626 is proposed to be amended to delete the minimum lot size requirement for Agriculture and Horticulture and to require a minimum of 3 acres for Animal Husbandry use unless the owner submits a Conservation Farm Plan (Farm Management Plan) with a Best Management Practices section reviewed and approved by the Loudoun Soil and Water Conservation District and the Virginia Cooperative Extension Service verifying that the property can support the number of animals proposed.

F. Amend Article 8, Definitions of Animal Husbandry, Livestock, and Pet

The definition of Animal husbandry is proposed to be amended to add alpaca and pigeon. Two new definitions are proposed: Livestock and Pet to aid in the distinction of the types of animals considered within those designations.

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VI. DISCUSSION POINTS/ISSUES

	Issue Description	Staff Comments & Recommendation	Planning Commission Comments & Recommendation	Status
1	Maximum Structure Size for Farm Markets	The draft text includes a maximum structure size of 10,000 sq. ft. or .02 FAR which is consistent with the maximum size of a Wayside stand	The Planning Commission recommends the draft text.	Amendments included in draft text.
2	Districts in which Farm Market (off-site production) proposed to be permitted	The draft text proposes to add "Farm Market (off-site production) as a special exception use in AR-1, AR-2, JLMA 20, JLMA-3, JLMA-2, JLMA-1, TR-1, TR-2, TR-3, and TR-10 zoning districts.	The Planning Commission discussed the possibility of removing the JLMA 1, 2, and 3 districts from the districts that would permit Farm Market (off-site production), but did not actually include the change in their final motion, thus the draft text still includes these districts as those that would permit Farm Market (off-site production) by special exception.	Draft text includes Farm Market (off-site production) as a special exception use in AR-1, AR-2, JLMA 20, JLMA-3, JLMA-2, JLMA-1, TR-1, TR-2, TR-3, and TR-10 zoning districts.
3	Farm Market (off-site production) has characteristics of a retail use including parking requirements and landscaping standards	As the use is similar to a retail use, the draft text includes parking and screening requirements for Farm Market (off-site production) that are appropriate for retail use.	The Planning Commission recommends the draft text.	Amendments included in draft text.
4	Minimum Lot Size for Animal Husbandry Uses.	<p>The draft text recommends a 3 acre minimum lot size for animal husbandry use. Lots of less than 3 acres could establish an animal husbandry use with an approved Conservation Farm Plan with Best Management Practices section for animal husbandry use.</p> <p>If adopted, Staff anticipates that the new regulations regarding the requirement for a Conservation Farm Plan (Farm Management Plan) with Best Management</p>	The Planning Commission considered draft language to include a table to establish an "animal unit" chart to permit animals on parcels less than 5 acres at a rate of one animal unit per two usable acres. The Commission discussed this method and recommends instead a 3 acre minimum lot size for animal husbandry use. Lots of less than 3 acres could establish an animal husbandry use with an approved Conservation Farm Plan with Best Management Practices section for animal husbandry use as included in the draft text.	Amendments to decrease minimum acreage from 5 to 3 acres included in draft text with ability to establish animal husbandry use on less than 3 acres with an approved Conservation Farm Plan with Best Management Practices section for animal husbandry use.

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	Issue Description	Staff Comments & Recommendation	Planning Commission Comments & Recommendation	Status
		Practices section for an animal husbandry use would be reviewed for compliance at the time of zoning permit issuance for any structure associated with the use. Staff anticipates that enforcement would be initiated by zoning violation complaint.		
5	Stable and Equestrian Uses	Staff recommends the minimum lot size requirements for stable and equestrian facility uses not change and the draft text reflects no change.	The Planning Commission discussed potential changes to minimum lot size for stable and equestrian uses and recommends that the regulations not change.	Amendments not included in draft text.

VII. FISCAL IMPACT

The only fiscal impact anticipated is the Staff time to aid property owners in the development of the Conservation Farm Plans. These plans are proposed to be developed through and with the Loudoun Soil and Water Conservation District and the Virginia Cooperative Extension Services. It is anticipated that existing staff can accommodate the additional work. Should staff resources in these areas be reduced during the FY11 budget process, staff may not be able to process these plans as anticipated in the item. Staff will advise the Board of these specific concerns during the budget deliberations.

VIII. ZONING ORDINANCE CRITERIA FOR APPROVAL

Section 6-1211(D) of the Zoning Ordinance states "...for an amendment to the text of this Ordinance, the Planning Commission shall consider the following matters...":

Standard: *Whether the proposed text amendment is consistent with the Comprehensive Plan.*

Analysis: The Revised General Plan provides the basis for evaluating land development proposals, is the foundation for amendments to the Zoning Ordinance, and ensures that the County's goals are implemented through the regulatory process. The preservation and enhancement of the rural economy is a central focus of the rural strategy. The policies of the Revised General Plan support the establishment of uses in the Rural Policy Area that preserve the rural character of the landscape, that are compatible with the dominant rural agricultural land use pattern, and that promote opportunities for the expansion of the County's rural economic as well as environmental goals. The Plan identifies a variety of traditional and non-traditional agricultural enterprises, including crop and cattle production, the equine industry, animal husbandry, vineyards and wineries, horticulture and specialty farm products, farm

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markets and wayside stands, farm supportive businesses, hospitality services (bed and breakfast enterprises, country inns, rural retreats and resorts), private camps and parks, rural corporate retreats, etc. which are appropriate in the Rural Policy Area (*Revised General Plan, Chapter 7, Land Use Pattern and Design Strategy Policies, Policies 5 & 6*). The Plan supports the “Right to Farm” policy to protect existing farms and farmers in the Rural Policy Area from nuisance complaints from neighboring rural residents and supports the development of regulations to avoid potential conflicts arising from the proximity of agriculture to residential development (*Revised General Plan, Chapter 7, Land Use Pattern and Design Strategy Policies, Policy 7*). The Plan also specifies that rural uses should meet “established performance criteria, including traffic capacity limits, employee limits, site design standards (i.e. buffering, use intensity, siting, architectural features) and pose no threat to public health, safety and welfare” to ensure their compatibility with the character of the rural area (*Revised General Plan, Chapter 7, Land Use Pattern and Design Strategy Policies, Policy 6*).

Some properties may not be conducive to animal husbandry uses and may unreasonably adversely affect adjoining residential properties. While Plan policies support the “Right to Farm”, certain minimum acreages are required for agricultural activities. Loudoun County Animal Care and Control and the Virginia Cooperative Extension should evaluate properties to determine if they are adequate to accommodate the proposed animal husbandry use and to determine the appropriate number of animals for the site.

Standard: *Whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.*

Analysis: The intent of this Ordinance is defined under Section 1-102, which states: “*This Ordinance is enacted in order to promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan.*” The proposed amendments are designed to promote the health, safety and welfare of the residents of Loudoun County. Section 1-102(L) states that the Ordinance is designed to “*Provide for the preservation of agricultural and forestal land and other lands for the protection of the natural environment.*” Section 1-102(J) states that the Ordinance is designed to “*Encourage economic development activities that provide desirable employment and enlarge the tax base.*” The ability to develop agricultural, horticultural and animal husbandry uses on smaller parcels will preserve agricultural land. Further, the inclusion of Farm Markets (off-site production) within certain zoning districts will provide opportunities for employment and the enlargement of the tax base.

IX. RECOMMENDED TEXT

Attachment 1 includes the proposed draft language, dated December 1, 2009, with some grammatical, spelling and punctuation corrections suggested by staff indicated by double underline.

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X. ATTACHMENTS

No.	Description	Page
1.	Recommended Text, Revised through December 1, 2010 by Planning Commission with grammatical, spelling & punctuation revisions by Staff	A1-A6
2.	Section 5-653, Landscaping Standards for Specific Uses	A7
3.	List of Districts Permitting Agriculture	A8
4.	February 17, 2009 Board of Supervisors Action Item on Resolution of Intent to Amend	A9-A21
5.	Copy Teste and Resolution of Intent to Amend	A22-A24
6.	October 15, 2009 Planning Commission Public Hearing Staff Report	A25-A90
7.	November 12, 2009 Planning Commission Worksession Staff Report	A91-A134
8.	December 1, 2009 Planning Commission Worksession Staff Report	A135-A145