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To: Planning Commission
From: Comprehensive Planning Committee
Date: April 6, 2012
Subject: Saint Paul Urban Agriculture Zoning Text Amendments

Background

On October 14, 2011, the Planning Commission initiated the Urban Agriculture Zoning Study.

The study is a part of an ongoing response to a 2009 City Council resolution requesting “necessary changes to City policy (including possible zoning, licensing/permitting, HRA/easement policies” in order to “facilitate a network of resources to support the production, distribution, and consumption of healthy and locally grown food.”

The goal of the study is to identify how locally grown food-related uses are dealt with in the zoning ordinance and if there is a need to revise the code to remove any undue barriers. Staff reviewed national best practices to develop draft amendments for those topics that are appropriately addressed by zoning.

Review of Existing Regulations

The following table summarizes the topics and issues identified in the study and proposes recommended solutions:

Topic	Issue	Proposed Action
Agricultural use permits (Zoning)	Allowed but too restrictive	Broaden definition with a distinction between larger and smaller uses.
Community gardens (Zoning)	No zoning definition	Allow with Agriculture amendments
Home occupations (Zoning)	Use of yards not allowed for home occupation	Allow with Agriculture amendments

Topic	Issue	Proposed Action
Farmers markets (Zoning)	The determination of similar use to “outdoor gardening center” made by the Planning Commission in 2005 is not yet reflected in the zoning code text.	Add definition of Farmer’s Market and a distinction between larger and smaller markets. City Market and Minneapolis regulations used as models
Aquaponics/ Aquaculture (fish farming, etc.) (Zoning)	Currently allowed in industrial zones	Agriculture amendments would allow in other districts as a secondary use
Accessory uses (Zoning)	Review regulations	None needed
Hoop houses (Zoning)	Hoop houses are regulated under accessory building regulations	None needed. DSI is developing a policy on temporary tent structures
Greenhouses (Zoning)	Review regulations	None needed
Yards/landscaping (Zoning)	Planting in yards is considered landscaping	None needed
Bee keeping (Animal control/Zoning)	Bee keeping requires permit from DSI	Allow as accessory to agricultural uses
Chicken keeping	Chicken keeping requires a permit from DSI. The permit requirements were recently updated by DSI.	Allowed as accessory to residential use, but not on independent agricultural plots
Animal keeping/ processing (Licensing/Animal control)	Animals are allowed with a permit at an occupied residential property	Allowed as accessory to residential use, but not on independent agricultural plots
Composting (Licensing)	Language is outdated. Composting is regulated under the licensing section of the City Code.	DSI is recommending changes allowing a proportional size limit, outside compost
Rainwater harvesting (Building code)	There are no standard regulations for harvesting rain water. DSI is reviewing these projects on a case-by-case basis.	Continue to monitor best practices and development of standards

Analysis

Zoning text amendments are recommended for agricultural uses and farmers markets, with fees for design review.

Agricultural Uses

Agriculture is currently allowed as a conditional use, but the conditions limit the use to such an extent that few, if any, parcels in the city would be eligible. Community gardens, which exist in the city, are not clearly addressed in the zoning code.¹ Although these uses have existed throughout the city, land use planning for agriculture has not been a common activity. When adopted, the Lowertown Master Plan is the first small area plan to include urban agriculture as an official component of the plan.

There are three primary ways in which agricultural uses are regulated in other US cities.

- Under a separate zoning district, typically in cities that are not fully developed where agriculture has existed historically (Austin, Portland);
- As a permitted or conditional use across many zoning districts and broken down by sub categories, such as community gardens, market gardens, urban farms, industrial agriculture, etc. (Minneapolis, Seattle, Chicago, Kansas City); and
- As a use permitted across many districts up to a certain size, and as a conditional use across many districts above that size (San Francisco).

The proposed amendments are modeled after the third approach and modify the standards and conditions for agriculture to regulate agriculture under one category at two thresholds: a smaller scale (under one acre) that would be a permitted use in all zoning districts subject to certain standards and conditions; and a larger scale (one acre or more) that would require a conditional use permit in most zoning districts. More conditions are specified for smaller agricultural sites because they would not require a conditional use permit. It would be up to the discretion of the Zoning Committee and Planning Commission to add any conditions that may be necessary to address such topics for the larger sites based upon the applicant's proposal, adopted plans of the area, and characteristics of the site. This approach was selected for ease of administration, general permissiveness, compatibility with state regulations², and appropriateness for a completely built-out city. This approach would regulate all independent uses (not accessory to another use on the parcel) where food and plants are grown to be eaten or sold under the agricultural use category, including community gardens, market gardens, urban agriculture, etc.

The recommended text changes eliminate barriers to locally-grown food by expanding the

¹ Note that many potential impacts of urban agriculture are currently regulated in other sections of the City Code, including noise provisions (Chapter 293), accessory building provisions (Sec. 63.501), pesticide usage provisions (Chapter 377), and compost provisions (Sec. 357.08).

² State regulations allow people to sell the unprocessed produce they grow without a permit so it would be difficult to impossible to regulate agriculture under sub-categories related to sales, such as "community gardens" versus "market gardens."

definition of agricultural uses, which would include community gardens, give the Department of Safety and Inspections (DSI) a standardized mechanism for design review and to track legal agricultural uses, and reduce the situations that would require a conditional use permit by creating standards for smaller agriculture uses in residential and traditional neighborhood districts to ensure compatibility with the neighborhood. The most common development standards used to ensure agricultural uses are good neighbors in residential areas include size limits for accessory structures, restrictions to on-site sales, landscaping requirements, equipment storage, signage, animals allowed on-site, and nuisance parameters.

Private and community gardens that exist as accessory uses would continue to be regulated as accessory uses and not be restricted by these amendments. The amendments, however, would allow people to sell from accessory gardens for up to two days per week.

Farmers Markets

The recommended changes establish:

- A definition for farmers markets;
- Standards for farmers markets;
- The level at which a conditional use permit is required (six vendors) and below which a permit would not be required; and
- Gives DSI a standardized mechanism for design review and to track farmer's market uses.

There is no definition of farmers market the zoning code. Farmers markets were determined to be a similar use to "outdoor garden centers" as part of a zoning case in 2005. This was recognized as an insufficient definition by the Planning Commission when it was completed, as well as during a subsequent zoning case in 2010. Several conditions for outdoor garden centers are an ill fit for a farmers market, such as the location criterion requiring the use to be to the side or rear of a principal use. Additionally, there are regulations in the City Charter specifically for the City Market, which was used as a model for farmers markets. The amendments build upon the City's determination of similar use, City Market regulations, and Minneapolis Farmers Market and Minimarket regulations to develop conditions for use for farmers markets with more than five vendors, which would be allowed with a conditional use permit and farmers markets with fewer than five vendors, which would be allowed by right if the use meets certain standards.

The benefit of allowing markets with fewer than five vendors to operate without a conditional use permit is that it would increase access of consumers to local food, and would increase flexibility of local producers to market their product. The standards and conditions for markets with fewer than five vendors ensure low impact on the surrounding community.

Standards include limiting what products may be sold, and the times sales can take place.

Fees for Design Review

The recommended thirty-dollar (\$30) fee for design review on agricultural use sites would enable DSI to ensure that the use meets the standards, provide an opportunity to answer questions, document approved site plans for inspectors, create a database for public service announcements, and help them respond if there are complaints.

Staff Recommendation

Staff recommends that the Planning Commission release the attached draft zoning code amendments and set a Planning Commission public hearing for June 1, 2012.

Recommended Text Amendments

Sec. 65.771. – Agriculture.

Agricultural uses are those Uses that produce food or horticultural crops to be harvested, sold, or donated.

Standards and conditions:

- (a) In residential, traditional neighborhood and business districts, Agriculture uses shall be located on parcels of land separately owned outside the boundaries of a proprietary or auditor's subdivision, having an area of not less greater than five (5) one (1) acres require a conditional use permit.
- (b) All uses shall be subject to the health and sanitation provisions of the City of Saint Paul.
- (c) Approval of a site plan illustrating the location of any growing plots, sheds, structures, and fencing, with contact information for a site manager.
[Requiring a site plan ensures applicant will meet with DSI and can get any questions answered. This also will create a record of the use so that enforcement will be aware of its location.]
- (d) Keeping of all animals other than bees and fish is prohibited except by residents of the property, subject to City permit requirements.
- (e) The use shall be conducted in a manner that controls odor, dust, erosion, lighting and noise and is in compliance with existing City standards so as to not create a nuisance.
- ~~(e) Principal access shall be provided to a major thoroughfare.~~
- (f) Any tools, equipment, and material shall be stored and concealed in an enclosed, secured structure.
- (g) When an agriculture use has been discontinued, any structures shall be removed and the property shall be restored with grass or planted ground cover to control erosion, dust and mud. Any utilities available shall be appropriately disconnected. For properties not in compliance with this provision the City may pursue abatement through Chapter 45.

Standards and conditions for agriculture in residential and traditional neighborhood districts uses with an area of less than one (1) acre:

- (h) On-site sales are limited to products grown on site and may occur two (2) days a week between the hours of 7am to 7pm. Sales shall not take place on the public sidewalk or boulevard.
- (i) Landscaping equipment shall be limited to that which is designed for household use.
- (j) Structures shall not exceed an area greater than thirty-five (35) percent of the rear twenty-five (25) feet of the parcel.
[An “enclosed structure” could include a fence. Structure differs from “building” as defined in the zoning code in that it does not require a roof. The size limit is based on the City’s accessory building regulations. For example, a standard 40’ x 120’ lot would limit structures to 450 square feet. This criterion was selected because 25’ is the minimum size of a rear yard and the size of accessory buildings is limited to 35% of the area of the rear yard. Other cities limit structures to ~10% - 15% of total lot area. 10 % of a standards city lot would be 480 square feet. A building permit is required for structures with a floor area over 120 square feet. An alternative approach would to adopt regulations similar to other cities and limit structures to 10% of the total lot area, with a maximum structure size of 1000 square feet.]

(k) One identification sign is permitted, not to exceed six (6) square feet. The name and contact information for a site manager shall be included on the sign.

[This is the same size as a “for sale” sign and was selected because it was a similar impact as could be found in any neighborhood in the city.]

(l) Planting beds shall be located four (4) feet from any public right of way.

[The setback reduces the risk of erosion and produce encroaching onto the sidewalk and inhibiting pedestrian traffic.]

Sec. 65.515. Farmers Market

An outdoor, regularly recurring event, created for public benefit, where a group of market vendors consisting principally of agricultural producers, and that may include food market manufacturers, food market distributors, craft producers, and home processors are organized for the purpose of selling their product directly to the public.

Standards and conditions:

(a) In residential districts, the use shall be located on a civic or institutional use site, or on a zoning lot which is at least one (1) acre in area.

(b) A farmer’s market shall have a designated market director who is responsible for coordinating the market vendors and activities.

(c) Approval of a site plan showing the number and location of vendors at the site, with contact information for the market director.

[This provides a record and primary contact for DSI inspectors.]

Standards and conditions for farmers markets with more than five (5) vendors:

(d) A conditional use permit is required.

(e) The use shall be limited to no more than three (3) days per week.

(f) Prepared foods, manufactured goods, wares and merchandise may be sold by up to 25 percent of the vendors if approved by the market director.

[Limit of 25% is based on Minneapolis zoning requirements. Saint Paul City Market does not limit percentage, simply requires market director approval.]

Standards and conditions for farmers markets with five (5) or fewer vendors:

(g) Sales shall be limited to no more than two (2) days per week.

(h) Sales shall take place between 7am and 7pm.

(i) Sales shall be limited to meat, fish, fruit, vegetables, and other products of the farm, garden, greenhouse, apiary or forest. Home-processed food sales require a sales license.

Sec. 65.515~~6~~. Florist.

Sec. 65.516~~7~~. Food and related goods sales.

Sec. 65.517~~8~~. Food shelf.

Sec. 65.518~~9~~. Garden center, outdoor.

Sec. 65.51~~9~~20. Greenhouse.

Sec. 65.52~~0~~1. Gun shop, shooting gallery.

Sec. 65.52~~1~~2. Liquor store.

Sec. 65.52~~2~~3. Massage center.

Sec. 61.302. - Application forms and fees.

(a) Application forms and fee. All applications shall be filed on appropriate forms. Pursuant to Minn. Stat. § 462.353, subd. 4, a fee to defray the costs incurred in administering official zoning controls established pursuant to Minn. Stat. § 462.351-364, as set forth in the schedule below, shall be paid by the applicant when a zoning application is filed. The fee for applications filed with the planning administrator shall be paid to the department of planning and economic development. The fee for applications filed with the zoning administrator shall be paid to the department of safety and inspections. Zoning control application fees shall be amended by ordinance.

(b) Fee schedule. Fees for the following zoning control applications shall be as follows:

(1) Site plan review:

a. Two hundred dollars (\$200.00) residential, one (1) to two (2) dwelling units.

b. Five hundred dollars (\$500.00) up to ten thousand (10,000) square feet of land and two hundred dollars (\$200.00) for each additional ten thousand (10,000) square feet of land for all other uses, and an additional fee of two hundred sixty dollars (\$260.00) for sites on steep slopes or in the river corridor or tree preservation overlay districts. For any site plan for which a travel demand management plan is required, there is an additional fee of four hundred fifty dollars (\$450.00).

c. In addition to the site plan review fee, three hundred dollars (\$300.00) for site plans that are reviewed before the planning commission.

d. Thirty dollars (\$30.00) for site plan review agricultural uses required by Section 65.771.c. and farmer's markets required by Section 65.515.d. [\$30 was selected because it was the lowest fee for design review and it is estimated that reviewing these uses would be a similar level of effort as single family/duplex additions.]

(2) Design review:

- a. Forty five dollars (\$45.00) for new single family dwellings and duplexes.
 - b. Thirty dollars (\$30.00) for additions to single family dwellings and duplexes.
- (3) Conditional use permit: Eight hundred dollars (\$800.00) up to one (1) acre of land, two hundred dollars (\$200.00) for each additional acre of land, and an additional fee of one hundred eighty (\$180.00) for a river corridor conditional use permit.

Sec. 66. Use Tables.

Agriculture and Farmers Market will be added as a permitted or conditional use in all zoning districts.