

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2017-1: MARKET GARDENS

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: See Attached

STAFF REVIEW:

The Urban County Planning Commission recently initiated a text amendment to define and regulate “market gardens” throughout Lexington-Fayette County in November 2016. The proposed text amendment also proposes defining “urban agricultural use” in Article 1, clarifying existing regulations for agricultural exemptions in Article 3, and providing new regulations for such land uses in Article 8, Article 11 and Article 23 of the Zoning Ordinance.

Within *Chapter 8: Implementation* of the 2013 Comprehensive Plan, an implementation table is included that identifies tasks and projects that could realistically be completed within five years of its adoption. These tasks and projects support the themes, goals and objectives of the Comprehensive Plan in tangible and meaningful ways. Within the table, under the heading of Ordinances, Regulations and Text Amendments, is listed the task “update the Zoning Ordinance to permit community gardens.” A brief description is included, which states “directly permit community gardens in residential zones as a method for providing fresh food and temporarily enhancing underutilized property.” Encouraging community gardens has also been part of the Greenspace Commission’s work over the past decade.

Beginning in late 2014, the Planning Services staff endeavored to research community garden regulations in many other communities. Meetings followed with local stakeholders (Local Food Coordinator in the Mayor’s Office, Seedleaf, NoLi CDC, & the UK Extension Office), and a draft of a Code of Ordinances change was prepared that would allow community gardens in all zones within the community. It provides a framework for how the gardens would be an asset to the neighborhoods, and not a liability in terms of nuisances.

In December 2015, the Urban County Council’s Planning and Public Safety Committee reviewed the community garden proposal prepared by the Division of Planning, and made a recommendation to the Council in 2016 to adopt the proposed addition to the Code of Ordinances.

During the process of developing a regulation for community gardens, stakeholders identified a desire to allow neighbors to rent a plot, share the products grown, and, in some instances, to sell the products grown. The definition of community garden permits the sale of the products grown in any zoning category that permits retail sales of merchandise and food. In many cases, community gardens are located in residential neighborhoods, thus sale of products grown on-site would not be permitted generally.

Stakeholders also expressed a strong interest in identifying a way for some of the gardens to sell the products on-site. This aspect has many more zoning implications. In order to allow this use, the stakeholders and staff agreed that a conditional use permit would be the appropriate avenue for these circumstances. For this reason, the staff worked with stakeholders to come to a consensus about which zoning categories would be appropriate for the market gardens to be principal, conditional and prohibited. Market gardens are proposed to be principal uses in most business zones, conditional uses in residential and industrial zones (subject to Board of Adjustment approval), and prohibited uses in the agricultural and professional office zones.

In addition to the regulation of market gardens by zone, the proposed text amendment also defines “urban agricultural use” in order to clearly distinguish the urban agricultural activities which are occurring on parcels less than five acres in size, and the typical agricultural uses found through Fayette County. The text amendment also clarifies the agricultural exemption stated in Article 3 of the Zoning Ordinance will also apply for community gardens because they qualify as an urban agricultural use.

Since the Urban County Council removed all references to a “private garden” from the Code of Ordinance regulation, such language should also be removed from the Zoning Ordinance in the definition of “urban agricultural use” as follows:

AGRICULTURAL USE, URBAN - The use of a lot or a portion of a lot within the Urban Services Area that is ~~one (1) contiguous acre or less in size for a private garden or five (5) acres or less for a community garden as regulated further in the Code of Ordinances.~~

The Staff Recommends: **Approval of the Staff Alternative text,** for the following reasons:

1. The 2013 Comprehensive Plan, *Chapter 8: Implementation* recommends updating the community’s regulations to permit community gardens in support of Theme A: Growing Successful Neighborhoods. To further implement the Comprehensive Plan, community, and by association market gardens, will help to build stronger neighborhoods by encouraging positive social interactions, reducing food dessert impacts, and promoting sustainable and affordable local food production.
2. The proposed Zoning Ordinance text amendment will help to encourage urban agricultural in Fayette County and also provide appropriate regulations by which agricultural products might be sold on-site, if deemed appropriate by the Board of Adjustment.

TLW/WLS

1/5/17

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