

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2018-2: AMENDMENT TO EXPAND ACCESSORY USES TO AN AGRICULTURAL MARKET IN THE AGRICULTURAL RURAL (A-R) ZONE

INITIATED BY: Urban County Council

PROPOSED TEXT: (See attachment)

STAFF REVIEW:

The Urban County Council has initiated a Zoning Ordinance text amendment to expand the allowable accessory uses to an agricultural market in the Agricultural Rural (A-R) zone (Article 8-1(d) of the Zoning Ordinance). The Planning Commission has only 60 days to review this proposal, and return a recommendation on it to the Council.

HISTORY OF AGRICULTURAL MARKET ZONING REGULATIONS

This proposed text amendment has a lengthy history that began in the early 2000s when the Blue Grass Stockyards first began considering moving their facility from its historic location on Lisle Industrial Avenue to a location outside of the Urban Service Area (USA). In 1995, a major text amendment to the A-R and A-U zones defined those uses that were both appropriate and inappropriate within the agricultural zones. At that time, several uses were either removed from those zones or greatly restricted so as to help preserve the rural character of the agricultural area and discourage all forms of urban development. This met the intent of our Agricultural-Rural (A-R) zone and helped to frame the subsequent Rural Land Management Plan in 1999. Particular to the 1995 text amendment, stockyards and slaughtering of animals were added as a specifically prohibited use in the A-R zone.

In the early 2000s, there were two schools of thought about how to regulate a stockyard (aka agricultural market) land use. In 2003, while reviewing the zoning ordinances of other communities, it was found that many communities, similar to Fayette County, only allow stockyards or livestock markets within their industrial and commercial areas. Some communities allow stockyards within their agricultural areas, but only after obtaining special use permit approvals.

In 2003, the filing of a text amendment to permit stockyards as a conditional use in the A-R zone (ZOTA 2003-5: Amendment to Article 1-11 and 8-1 to Allow Livestock Markets as a Conditional Use in the A-R Zone) raised the threshold issue as to whether or not a livestock market or stockyard use would be appropriate within the Rural Service Area (RSA). A stockyard or livestock market is a business that serves the agricultural industry; however, that does not necessarily mean that it should be located within the RSA. Many business uses that support the agricultural market are only allowed within the USA, such as tractor sales and repair, restaurants, and farmers' markets. There were many concerns expressed about the appropriateness of these uses in the agricultural area. These concerns stemmed from the impact of potentially intense developments in the rural area, such as the impact caused by a large volume of (and the type of) traffic that is generated by a livestock market; environmental concerns about the impact that a large concentration of animals, humans, and vehicles would have on the soil, air, and water; and concerns about the impact of the proposed use on any surrounding agricultural and residential properties.

At that time, the Commission thought that the best approach would be the creation of a new overlay zone. The staff spent several months drafting such a regulation, and then an additional two months

reviewing the draft with the Commission. Although the previous petitioner (dba BBBBP&S, LLC) initially requested that a livestock market be regulated as a conditional use in 2003, they did agree with the drafting of a new overlay zone, proposed their own version of such a regulation, and were on record being in agreement with the recommendation made by the Planning Commission in October of that year.

One of the most discussed issues with the 2003 text amendment was the pertinent question as to what types of ancillary or accessory uses would a modern livestock market or stockyard need, and which of those uses would also be appropriate in the Rural Services Area. In 2003, the Planning Commission insisted that the extent of the allowable accessory uses associated with a livestock market use should be greatly limited.

Even with the sensitive nature of the proposal, the Planning Commission recommended approval of a proposed text amendment to create an Agricultural Market Overlay zone (in Article 24 of the Zoning Ordinance). However, an adhoc committee of the Urban County Council further studied the issue and ultimately decided to adopt a Zoning Ordinance change to the A-R zone to permit agricultural markets as a conditional use in March 2004.

In October 2005, following a lengthy Board of Adjustment public hearing that resulted in the disapproval of a conditional use for an agricultural market, the Urban County Council initiated a text amendment to implement the Agricultural Market (AM-1) Overlay Zone (ZOTA 2005-9: Amendment to Article 24: Agricultural Market Overlay Zone). This text amendment was virtually identical to the staff alternative text that was recommended by the Planning Commission to the Council in October 2003. The proposed text amendment was processed within the 60-day timeframe and adopted by the Urban County Council in mid-December 2005. The Overlay zone would be an alternative way for the Blue Grass Stockyards to seek approval to move to a new location that did not involve an application to the Board of Adjustment. Article 24B allows a livestock market, stockyard, horse race track, horse training facility or horse sales establishment as a principal permitted use within the Agricultural Market (AM-1) Overlay zone.

Political pressure ultimately resulted in the stockyards remaining in their historic location until a devastating fire destroyed the seven-acre facility on January 30, 2016. In September 2017, the Blue Grass Stockyards re-opened in Fayette County at their new location on Iron Works Pike, adjacent to Interstate 75.

RURAL SERVICE AREA PROTECTION

Lexington's award winning Urban Service Area (USA) is the nation's oldest urban growth boundary, and provides the cornerstone for planning in Fayette County. The flip side of the coin, and equally as important, is the Rural Service Area (RSA). Every Comprehensive Plan of Fayette County for at least the last 40 years has recommended protection of the RSA. The 1973 Comprehensive Plan states: "our objectives should be to insure that such land is not unnecessarily impinged upon by illogical urban residential, commercial, or industrial uses which can easily afford economic intrusion." The 1988 Comprehensive Plan states: "capital improvements shall not be extended outside the USA in such a way that rural areas are subjected to urban development pressure." The RSA was studied in detail following the 1996 Comprehensive Plan, culminating in the adoption of the award-winning 1999 Rural Land Management Plan. The 2013 Comprehensive Plan further supported the RSA by recommending an update to the Rural Land Management Plan, which was adopted by the Rural Land Management Board and the Urban County Planning Commission in November 2017.

Since the adoption of the original Rural Land Management Plan, other ordinance changes, such as the 40-acre minimum lot size, have been implemented in order to further protect the rural character of the RSA, and any text amendment that may impact the RSA is scrutinized for its potential effect on the rural character of the community. The Purchase of Development Rights (PDR) program has

been successfully implemented and has permanently preserved thousands of acres of agricultural land to date.

The *Chapter 2 – Land Use Summaries* of the 2017 Rural Land Management further defined the agricultural cluster within Fayette County. The RLMP states that the policy emphasis for the agricultural cluster is to support and strengthen farming and to encourage the retention and growth of indigenous agriculture-related businesses, recreation and education that are a good fit in the agricultural industry of Fayette County. Agribusiness, defined as “a group of industries dealing with agricultural produce and services required in farming,” can assist a farming operation in extending the economic impacts of agriculture beyond the farm. The RLMP recommends recognizing the full importance of the agricultural cluster and its impact on the local economy, and supporting farms and agribusiness operations that provide learning opportunities, hospitality and ag-related recreation for the general public while protecting agricultural operations (Agricultural Cluster Recommendations – pages 35 and 36).

PROPOSED TEXT AMENDMENT

It has long been recognized that having a well functioning stockyard and livestock market is important to the agricultural industry of Fayette County, and to the surrounding Bluegrass region. Nothing proved that more than the absence of the stockyard and livestock market for over 18 months between early 2016 and fall 2017.

The purpose of this text amendment is to create a destination for agricultural commodities and activities in conjunction with agricultural markets, as approved by the Board of Adjustment. The extensive effort to create the regulatory language for agricultural markets was the product of discussions over six months, where the overarching goal was protection of the rural and agricultural nature of the Rural Service Area, consistent with the community’s goals and plans. This remains a primary focus of the staff’s review of the proposed text amendment.

The principal land use has been deemed appropriate for the A-R zone, under very specific locational criteria and with additional oversight by the Board of Adjustment. Based upon these established locational criteria, there are a limited number of properties within Lexington-Fayette County that might meet all the limitations of the Zoning Ordinance.

Article 8-1 of the Zoning Ordinance currently requires that an agricultural market be wholly located within an enclosed facility (sales and marketing) or under roof (pre-sale and post-sale handling of livestock) on a site of 40 acres or greater. Accessory uses are limited to 25% of the total square footage of all buildings or 40,000 (whichever is less). The site shall be located outside of the Urban Service Area; within one (1) mile of an interstate interchange; and have frontage along a state or federal highway. In addition, the facility (structure) shall be located a minimum of 1,000 feet from a property in a residential zone, a Rural Settlement (RS) or an Existing Rural Residential (ERR) land use, and any property designated on the National Register of Historic Places; and outside of any environmentally sensitive area, including any wellhead protection area.

This text amendment proposes the following modifications to the existing regulations:

1. **Clarify the definition of “facility”** to mean only stockyard activities (pre-sale, marketing, sales and post-sale), rather than the entire agricultural market. This change would allow accessory uses to be separate and apart from the stockyard activities.
2. **Elimination of accessory use aggregate size limitations** of 25% or 40,000 sq. ft., whichever is less
3. **Allow additional accessory uses**
 - a. retail sale of farm machinery & equipment with outdoor display area, including indoor service and repair
 - b. covered event arena for agricultural and agritourism activities

4. Expand size of accessory uses

- a. office/meeting rooms for banks, insurance and financial institutions; government; or agricultural commodity trading = 60,000 sq. ft.
- b. coffee shop or restaurant = 5,000 sq. ft. (remove 5% limitation)
- c. retail sale of farm machinery, including service and repair = 20,000 sq. ft. (new)
- d. covered event arena for agricultural and agritourism activities = 75,000 sq. ft. (new)
- e. retail of agricultural products, supplies and related items = 25,000 sq. ft. (existing 5,000 sq. ft.)
- f. total accessory use square footage limitations = 185,000 sq. ft.
- g. no limitation for veterinary clinic or owner/operator/caretaker dwelling unit

5. Increase size of free-standing signs from 50 square feet each to 100 square feet each and remove restriction that prohibits accessory uses from being listed on the face of the sign

6. Modify prohibited uses to add “except as provided herein” phrase for offices, museums and institutional uses; major and minor automobile and truck repair; and automobile service stations.

7. Modify small farm winery restaurant and bistro parking requirements

As mentioned previously, the ancillary uses to the agricultural market are an important aspect of the land use and its potential impact to the surrounding area. Several of the proposed changes simplify and condense the existing list of allowable accessory uses, which the staff supports. The staff also supports the new accessory uses, and some level of relaxation of the square footage limitation of twenty-five percent (25%) or 40,000 square feet (whichever is less). The Planning Commission should keep in mind the overarching goal of protecting the character of the rural area, but balance that aspiration with the desire to grow and support the agricultural cluster, as recommended by the RLMP. The staff generally agrees with the direction of the text amendment but would offer an alternative text that limits the accessory uses to fifty percent (50%) of the total floor area of any approved agricultural market, does not alter the signage allowances and does not make unnecessary changes to other sub-sections of Article 8-1 of the Zoning Ordinance. Maintaining a percentage limitation would help to ensure that the agricultural market itself remains the primary focus of the site, while still allowing for the success of ancillary uses that support the market as well as other agricultural or agritourism activities within Fayette County. In this way, an agricultural market could become a destination, and almost a small activity center of sorts.

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

1. The text amendment will grant flexibility to an agricultural market to expand the scope and scale of accessory uses to support the agricultural economy of Lexington-Fayette County. Where expanded uses are permitted, they should be co-located with other agribusiness activities in places that have the necessary infrastructure to support the land use.
2. An agricultural market, including its accessory uses, is an agribusiness operation that can provide learning opportunities, hospitality, tourism and ag-related recreation for the general public while protecting agricultural operations. The success of such agribusiness operations should be supported in a balanced manner to meet the recommendations of the 2017 Rural Land Management Plan, an adopted element of the 2013 Comprehensive Plan.