



CITY OF SAINT PAUL
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TO: Comprehensive Planning Committee
FROM: Anton Jerve, Planning Staff
DATE: July 9, 2013
RE: Urban Agriculture Zoning Study – Summary and response to June 1, 2012 public hearing testimony and recommended changes to zoning amendments

BACKGROUND

The Planning Commission initiated the Urban Agriculture Zoning Study on October 14, 2011 in response to a City Council request. Staff reviewed existing regulations and best practices, and identified the need for zoning regulations for agricultural uses (including community gardens, market gardens, urban farms, etc.) and farmers markets. Generally, zoning text changes included:

- Agricultural uses (growing produce, fish, or bees for personal consumption, sale, or donation) requirements were revised to allow on sites that are smaller than the 5-acre minimum currently required.
- Agricultural uses of one acre or more would require a conditional use permit (CUP) in residential, traditional neighborhood, and business zoning districts. Agricultural uses on sites less than one acre would be allowed without a CUP, but with extra requirements in residential and traditional neighborhood zones.
- Farmers markets were defined and allowed in all zoning districts, with more restrictions in residential districts. Markets with five or fewer vendors were proposed to be allowed without a CUP; those with more than five vendors would require a CUP.
- Basic site plans (with a recommended reduced fee) for both agricultural uses and farmers markets were proposed to be required and filed with the Department of Safety and Inspections. This will facilitate tracking and monitoring of these uses.

The Comprehensive Planning Committee released draft zoning recommendations for public review on April 20, 2012, and the public hearing was held on June 1, 2012. A copy of the staff report released for the public hearing is attached.

Prior to the hearing, the Mayor's Office requested further study of potential property tax implications of the zoning study. In response, staff met with the Ramsey County Assessors Office and reviewed the latest research on economic impacts of community gardens. Although the Assessors Office had no official comments on the zoning study, they advised that the biggest impact to property taxes would be if commercially-assessed land switches to agriculturally-assessed land. However, most of the gardening activity on private property takes place on residentially-assessed land, and the difference in the tax rate between residential and agriculture uses is relatively small. Furthermore, well-maintained community gardens have been found to have a positive impact on neighboring residential properties. As a result, staff concludes it is unlikely the zoning changes will have much impact on the tax base overall. A memo analyzing potential tax base impacts is attached.

PUBLIC HEARING TESTIMONY AND RESPONSE

At the hearing, 16 people testified and six letters were received. The Planning Commission minutes and letters are attached. Letters of support were received from District Councils 1, 12 and 13. The other letters were from Saint Paul – Ramsey County Food and Nutrition Commission, Farmers' Legal Action Group, Inc., and SPARC. These letters were generally in support of the proposed amendments, but each recommended specific changes, which have been incorporated into the summary of issues below. The majority of the issues brought forth in the testimony and letters had to do with the proposed fees, on-site sales, and accessory structures.

The Comprehensive Planning Committee met June 26, 2012, to discuss the public hearing testimony. The Committee recommended changes to the proposed zoning text based on the testimony. Portions of the language have been revised for clarity. The responses to the testimony are below in *italics*.

- Fees
 - Seven people testified that the proposed fees were too high for larger sites and would be a barrier to entry.
Fee structure has been clarified that all agriculture uses regardless of size shall have the \$30 site plan review fee. Conditional Use Permit fees shall remain the same.
- Sales
 - Two people opposed limiting sales for agricultural uses to only that grown on-site. They recommend changing the language to reflect sales of “products grown by the farmer,” rather than “products grown on-site” as was proposed in the draft to allow for flexibility for the grower.
Sales of products grown on site were intended to allow for CSA pick-ups and incidental sales. It was not intended to supplant farmers markets, which is what could be the case if sales were broadened to include what a grower had grown anywhere, rather than what is grown on site. This would also create administrative difficulties in terms of tracking what is grown on site.
 - One person suggested the licensing requirement for home-processed foods be removed.
This requirement was removed as to not confuse licensing requirements with zoning requirements.
 - The Saint Paul Growers Association expressed concern that increased sales locations will flood the produce market.
The intent is to provide access to healthy food. This type of sales may help to reach populations with limited access to produce and/or farmers markets.
- Accessory Structures
 - Three people suggested including additional guidance in the code regarding accessory structures, hoop houses and temporary structures, especially in terms of what types of structures count as accessory buildings and how temporary structures will be treated.

Draft text was clarified to make accessory building size limits clearer and exempt temporary structures being used to extend the growing season. Temporary structures were defined.

- The St. Paul Growers Association said they have concerns with greenhouses including the side effects of spraying and venting in residential areas and the stability of greenhouses and hoop houses in high winds.
Spraying in residential areas will have to meet residential standards. Residential Green houses and hoop houses will have to get all applicable permits, which may vary by the type and size of the structure.
- Saint Paul – Ramsey County Food and Nutrition Commission wanted clarification in the code language that a fence would be considered an enclosed structure.
A fence is a structure and may be used to screen equipment.
- Competition
 - District 1 testified that the proposal may create some competition between community gardeners and urban farmers and want preference given to community gardens and community based gardening for the public.
These zoning regulations will apply city-wide and will create more opportunities for all those looking for growing space. Several City departments have gardening leases which give preference to community gardeners.
- Definition
 - The Saint Paul – Ramsey County Food and Nutrition Commission recommended eliminating the words “harvested” and “donated” to ensure that these changes apply only to those who are selling their harvest. Otherwise, the definition may be interpreted to apply to anyone growing and harvesting edibles, even for personal or donation use.
The definition was revised to clarify that this ordinance applies to non-accessory uses. Keeping “harvested” and “donated” is important to allow for growing for personal use and community gardening for both personal use and donation.
- Plants
 - One person testified that an issue that could arise relates to the planting of soil building cover crops in-between production plantings. These include plants such as grasses, clovers and legumes that are planted to put nutrients back into the soil. These plants can get to be five feet tall, but the City’s zoning ordinance says that grasses cannot be over 8 inches tall.
Under the proposed ordinance a site plan can be submitted that would identify planting beds on a property which creates a record of where plants are located.
- Compost
 - One person testified the amount of compost and mulch that can be stored on a property should be looked at, because he would need more space than would be permitted on the average residential lot.
Composting is regulated under the licensing section of the City Code rather than the Zoning Code. This section is currently being updated by the Department of Safety and Inspections to allow for more flexibility.

- Fencing
 - One person said the proposed zoning amendments do not address deer fencing. *Fencing will be regulated based upon the fence requirements of Sec. 33.07 of the building code.*
- Food Safety
 - The St. Paul Growers Association had concerns about how these uses would be regulated in a way that would prevent salmonella poisoning. The Saint Paul Growers Association has checks and balances in place to prevent this. *Salmonella can be a risk for all food sources. Food safety is a concern, so a summary of best practices will be provided by the City's website as well as to those applying for a site plan.*
- Sales Tax and Insurance
 - The St. Paul Growers Association had concerns that sales tax on flowers, workers compensation and liability insurance would not be regulated with the ordinance. *These are licensing and market management issues that would be up to the market operator to work out. The zoning code regulates land uses rather than licensing.*
- Mediation
 - The Saint Paul – Ramsey County Food and Nutrition Commission recommended third party review for citations that could mediate between inspectors and growers. *Site plan review process in itself is expected to help to resolve questions and increase communication and understanding between growers and city inspectors. Disputes would be resolved as they are for all land use citations, through an appeal to the City Council. The fee for site plan review was kept low to not be a burden for the applicant. Third party review/mediation would require a higher fee to pay for the service.*

OTHER ISSUES

There was an email sent after the hearing requesting clarification regarding where the zoning changes will apply. The zoning regulations would apply to all land in the city including privately owned parcels and City-owned land, including, Parks, right-of-way and HRA owned land. Gardening on City-owned land requires a lease with the applicable City department. The leases are more restrictive than the zoning regulations; for example, they may not allow for sales of produce for profit. The zoning regulations would not supercede the more restrictive lease agreements.

An additional requirement for soil test was added to site plan approval to ensure soil quality is considered when establishing the use and to make zoning consistent with existing City gardening lease requirements.

STAFF RECOMMENDATION FOR COMMITTEE ACTION

Staff recommends the Comprehensive Planning Committee forward this report and the following draft zoning text amendments pertaining to urban agriculture and farmers markets to the Planning Commission with a recommendation for approval.

ATTACHMENTS

Farmers Market and Agriculture Zoning Text Amendments

Planning Commission Resolution

Potential Property Tax Implications of Urban Agriculture Land Uses Memo

Urban Agriculture Zoning Report for June 1, 2012 Public Hearing