



Legislation Text

File #: 14-0261, Version: 1

TITLE:

Continuation of Discussion on Joint Planning Public Hearing Item - Amendments to Allow for the Possibility of Locating Agricultural Support Enterprises in the Rural Buffer

PURPOSE: The purpose of this item is to continue the discussion and consider coming to a decision on proposed amendments to the Joint Planning Area Land Use Plan and Joint Planning Agreement which will make agricultural support enterprises allowable within the Rural Buffer portion of the Joint Planning Area. These changes are necessary in order for Orange County to approve proposed text amendments to its Unified Development Ordinance that will allow the new uses to occur within the Rural Buffer.

DEPARTMENT: Planning

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INFORMATION: At its June 3, 2014 regular meeting, the Board of Aldermen reviewed a proposal from Orange County to adopt text amendments to the Joint Planning Area Land Use Plan and Joint Planning Agreement, and subsequently to the County’s Unified Development Ordinance (UDO) to allow agricultural support enterprises in the Rural Buffer. County staff presented the amendments to all three parties of the joint planning agreement-Orange County, Chapel Hill and Carrboro--at a joint public hearing on March 27, 2014. As part of its review, the Board of Aldermen referred the item to advisory boards, and it was presented at the May 1, 2014 joint review meeting. Advisory board recommendations and comments were included in the [June 3rd](#) materials as well as supplemental materials prepared by Orange County staff in response to questions from the May meetings (See Item #14-0186).

The culmination of several years of preparation, the ASE agenda materials are extensive and challenging to digest in a single meeting. During the June 3rd meeting, Board members requested additional information in several areas as noted in the chart below. Aldermen Haven-O’Donnell prepared a summary table of the uses for the Rural Buffer (Attachment A) and met with Planning staff during the summer to discuss. Orange County Planner, Perdita Holtz, has prepared a new memorandum (Attachment C) to respond to these concerns and to provide clarity about the overall framework of the ASE program.

Board of Aldermen Comment	Response
Look into accessory uses as an approach for farmers adding supplemental uses to their agricultural operation.	Memo from Mike Brough, Town Attorney - attached (Attachment B).
Bring back item within next two weeks.	Item was originally scheduled for June 17 and was postponed until after the summer break to provide more time for follow up.

Report on the establishment of a “low intensity” definition for ASE uses that would serve as a parallel for low density.	Perdita Holtz, Orange County Planning, has provided a memo that describes in detail the uses proposed to be allowed in the Rural Buffer (Attachment D).
Consider the demands on groundwater - should uses be limited?	The draft ordinance provisions include performance standards for studying groundwater impacts based on the expected groundwater demand of proposed uses.
Add language that would bind the County to this version of uses in the LUO or to have to come back to the Town if the uses are amended from the list as provided	Final version in preparation draft is attached as Attachment B.
Bring back information on uses, their definitions, and if they are located in other sections of the zoning ordinance. Provide color if there are charts and other material in that are shown in color.	The County provided a detailed breakdown of existing and proposed uses which may provide income to the farming community. See Attachment D.
Include current allowable high intensity uses in Orange County	See attached memo from Orange County staff, Attachment C, for discussion of intensity of uses.
Work on providing agenda packet material in a better hardcopy format	Staff has discussed and will work to respond as requested.

The draft resolution which includes proposed amendments to the Joint Planning Land Use Plan and Joint Planning Agreement has been prepared by Orange County staff is included as Attachment E.

Background Information - Development of Agriculture Support Enterprises (ASE)

Regulatory Framework

The original ASE proposal developed in 2001 was designed to accomplish three main objectives: to clarify which uses qualified as bona fide farm purposes and were thereby exempt from county zoning, to identify new land uses related to agriculture which offered farmers supplemental income and would provide agricultural infrastructure, and to determine appropriate permitting requirements for those new uses based on scale and intensity. In 2011, the North Carolina General Assembly clarified the definition of a bona fide farm with the passage of S.L. 2011-363 (House Bill 168) which outlined five “safe harbor” provisions for determining whether a property is being used for bona fide farm purposes. Any of the following are considered sufficient evidence:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participate in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner’s or operator’s Schedule F from the owner’s or operator’s most recent federal income tax return.
- d. A forest management plan.

- e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

The same legislation further expanded the definition of a bona fide farm for farms enrolled as an Enhanced Voluntary Agricultural District (EVAD).

With the definition of bona fide farm purposes clarified through state statute, the focus of the ASE program shifted toward the identification of new land uses which would help existing farms diversify and become more sustainable such as direct marketing (farm stands, CSA, cooperative farmers markets), adding value to raw goods through some level of processing (jams, breads, cheese, ice cream, bottling), and agro-tourism (farm stays, corn mazes, pick-your-own). Some of these uses are exempt from zoning if part of a bona fide farm. Others, due to size and intensity or a location on a non-farm parcel, require a land use permit to ensure that such uses are consistent with the overall land use plan and do not create a nuisance for areas that have transitioned, or are in the process of transitioning from rural/agricultural uses to more suburban residential uses. Other ventures that provide agricultural infrastructure such as tractor supply and repair, feed mills, large animal veterinarian services are beyond the scope of bona fide farm purposes but offer benefit to the local farm community. Ventures designed to promote agricultural tourism or take advantage of the rural landscape such as wineries with wedding and banquet facilities also offer urban residents an opportunity to have a farm connection. These types of businesses serve a niche market created from the growing number of suburban consumers, interested in supporting local farm operations, buying local products and enjoying a rural experience.

The ASE framework dictates permitting requirements based on the size and intensity of the proposed operation along with specific performance standards. For those uses with the greatest potential for negative impacts, and/or inconsistencies within the framework of the county's and joint planning area's land use plans, a conditional zoning mechanism has been suggested. Land use permits are approved using a quasi-judicial decision making approach; applicants that comply with local ordinances are typically approved unless there is a clear risk of negative impact to surrounding property values or the health, wealth and safety of the general public. Rezoning, by contrast are legislative decisions involving broad discretion by the governing board. Conditional district rezoning moreover, offers an opportunity to tailor a particularly proposal to its surroundings-a mechanism that would provide the County and Town with a way to allow uses to occur where they may be an asset to the community but not allow them where they may clearly be incompatible to adjacent properties.

The Joint Planning Agreement allows the Town of Carrboro to have input on ASE proposals in the Rural Buffer. The Board may wish to request an amendment to the joint planning agreement to extend the comment period that the Town has to review development projects in the Rural Buffer from 30 days to 45 days to ensure that sufficient time for input on ASE applications. Other changes that establish a time frame for revisiting these changes and assessing the benefits in relation to shared vision for the Rural Buffer, e.g. a sunset clause on the amendments, may also be worthy of consideration.

The Board of County Commissioners has continued its consideration of the UDO text amendments to November. The Chapel Hill Town Council is scheduled to continue consideration of the JPA amendments on October 15th.

FISCAL & STAFF IMPACT: None identified in association with approval of the changes to Plan and Agreement.

RECOMMENDATION: Staff recommends that the Board of Aldermen consider the attached material. Should the Board find that the proposed amendments are ready for action, staff will schedule the item for final action.