



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: March 18, 2013

To: Thomas J. Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Steven L. Medlin, AICP, Planning Director *Steven L. Medlin*

Subject: Unified Development Ordinance Text Amendment, Farmers' Markets and Commercial Crop Production (TC1200005)

Summary. Current Unified Development Ordinance (UDO) regulations limit the permissibility of both farmers' markets and agricultural crop production. The goal of the proposed text amendment is to establish broader permissibility along with explicit supplementary requirements. These text amendments would primarily modify the use table, limited use standards, and temporary use permit provisions of the UDO.

Recommendation. Staff recommends approval. The Planning Commission recommended approval with a 12-1 vote on December 11, 2012.

Background. Farmers' markets have become an increasingly important commercial avenue for local growers, while also providing a social outlet and gathering place for the community. Current UDO provisions do not specifically address these markets beyond considering them within a common category of "retail," thus limiting locations to zoning districts that permit retail as a primary use.

Commercial agricultural crop production regulations are currently very restrictive within the City limits. Crop production in an urban setting is becoming an increasingly important commercial activity, particularly for areas that have not seen more intense development, or for infill purposes for properties that have been historically left vacant. Utilization of these properties for crop production can further sustainable lifestyles by promoting local food production and distribution.

The Joint City-County Planning Committee (JCCPC) reviewed a preliminary draft of the text amendment on September 5, 2012, and heard comments from the public regarding the proposed provisions. A stakeholder meeting was held on October 2, 2012, to receive additional comments regarding proposed standards. The JCCPC reviewed a revised draft ordinance on November 7, 2012, recommending adding provisions for food and beverage vendors at farmers' markets and a definition for

apiculture. Additionally, the JCCPC voted to move the text amendment forward through the public hearing process. The attached draft ordinance reflects comments and recommendations received from the JCCPC, the public, and additional internal departmental review.

On December 11, 2012, the Durham Planning Commission held a public hearing on this text amendment and received a request to allow crafts within farmers' markets; and requests for reduced parking requirements, aquaponics, and the sale of compost for crop production within the City limits. The Planning Commission recommended approval of the text amendment without further changes with a vote of 12-1, recognizing that although some of these topics warranted further review and discussion, they were beyond the scope of this text amendment; and thus not worthwhile delaying the adoption of the text amendment. The Durham Board of County Commissioners will consider this text amendment at its April 8, 2013, meeting.

Issues.

Farmers' Markets: Current regulations limit farmers' markets to commercial zoning districts. The intent of the amendment is to establish broader permissibility for farmers' markets in areas where retail activity is not typically permitted. The following summarizes the proposed regulations:

1. Establishment of a temporary use permit process to allow farmers' markets in all non-residential zoning districts and within certain non-residential uses in residential zoning districts.
2. Vendors shall be limited to those who produce food or beverage items, farm products, or value-added farm products. Definitions for these terms are also proposed.
3. Supplemental requirements are proposed specifying allowed hours and days of operation, signage, and parking.
4. Clarification of existing principal use provisions for apiculture and outdoor markets.

Concern regarding the restriction of non-farm-product craft items was raised at meetings and to the Planning Department. The scope of this text amendment has been to provide additional avenues to sell farm products, where current Ordinance regulations restrict most outdoor sales activity of any kind to within commercially-zoned property. This amendment would allow a particular type of outdoor market; specifically, a market for the sale of farm products, to be located in any non-residential zoning district and in a residential zoning district if the site contains a primary non-residential use. Due to this expansion of permissible locations, Planning is concerned that allowing non-farm products would provide opportunities to create farmers' markets in name only; where the market would meet technical

requirements, but sell a substantial number of non-farm products and therefore become no different than a commercial outdoor market. The Planning Department is willing to consider and further review this issue at a later date, but does not want to further delay this amendment.

Crop Production: Agricultural crop production is not currently permitted in most zoning districts within the City limits. Current regulations permit agricultural uses only within the Rural Residential (RR) and Residential Suburban-20 (RS-20) zoning districts within City limits. Agricultural uses within the County are exempt from zoning regulations due to State statute.

The intent of the amendment is to allow crop production within all zoning districts within City limits, while providing basic supplementary requirements. The following summarizes the proposed regulations that would apply only within the City jurisdiction:

1. Maintain permissibility of all agricultural uses within the RR and RS-20 zoning districts within City limits, and expand crop production as a permissible use within all other zoning districts within the City.
2. Require on-site parking when permanent structures are proposed for on-site sales.
3. Establish supplemental prohibitions on aquaponics and the sale of compost.

Concerns have been raised regarding the exclusion of aquaponics (the growing of crops within water with fish, and using fish effluence as nutrients for the plant material) and the commercial sale of compost. The Planning Department recognizes these as important aspects of crop production; but the impacts of such uses and activities on neighboring properties warrant further research and review and are beyond the scope of this text amendment.

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Attachments:

Attachment A: An Ordinance to Amend the Unified Development Ordinance For Farmers' Markets and Commercial Crop Production (TC1200005), Mark-Up Version

Attachment B: An Ordinance to Amend the Unified Development Ordinance For Farmers' Markets and Commercial Crop Production (TC1200005), Clean Version

Attachment C: Planning Commission Comments