

Sustainable Code Committee
Minutes
April 16, 2013
3:00 PM
City Hall, City Manager's Conference Room
255 W. Alameda Ave., 1st floor

1. Welcome and Introductions

Attendees:

City Staff: Adam Smith (PDSD), Frank Dillon, (PDSD), Irene Ogata (OCSD), Bruce Plenk (OCSD), Gina Chorover (HCDD)

Committee Members: Garrett Smith, Rob Kulakofsky, Danielle Kontovas Fidel, Merrill Eisenberg, Cathy Blough, Jason Wong

M/C Aides: Karla Avalos-Soto (Mayor's Office)

Audience: Tres English, Casey Townsend, Kathryn Townsend, Chuck Martin

2. Overview of the Proposed Urban Agriculture Text Amendments

Staff presentation.

3. Discussion of the Proposed Amendments

Topic #1: How should the term "event" be defined? (Background: The proposal limit the incidental sale of produce grown in a home garden to no more than "4 events per year.)

Committee Member (CM) Comments:

- There should be no limit to the number of events, particularly when the sale is to a neighbor "over the fence" and is not done as part of a yard sale or other organized event.
- Specify that there are no limits on "unadvertised" events and limit the number of advertised events.
- Perhaps limit advertised events to no more than one time per month.
- Define event as an advertised occurrence.

Recommendation #1: 1) To place limits on the number of advertised events and to limit the number of advertised events to a reasonable number per month or year. 2) Staff will prepare draft language for the committee to review at their next meeting.

Topic #2: Should residents be required to post a sign or some other form of notification informing buyers of home grown produce that they are doing so at their own risk (i.e. the seller cannot guarantee the safety/quality of the produce sold)?

Committee Member (CM) Comments:

- No, such notification is not even required of stores and farmer's markets. To require such notification places an addition restriction when the intent here is to promote food security through home gardens.
- Home grown produce is likely safer than produce purchased in a store.

Recommendation #2: To not require "buyer beware" notification for home grown produce. No change to the proposal is necessary to implement this recommendation.

Topic #3: What regulations, if any, can be implemented to better ensure that food sold from a home is safe for consumption (e.g. concern with use of greywater)?

Committee Member (CM) Comments:

- No additional regulations should be imposed
- Allow the food code to govern in this regard

Recommendation #3: To not require "buyer beware" notification for home grown produce. No change to the proposal is necessary to implement this recommendation.

Topic #4: Re: Community Gardens - How is "non-profit" defined? Is a community garden on private property considered non-profit?

Committee Member (CM) Comments:

- Concern that the definition of community garden is too limiting and would make problematic or prohibit those instances when a private business owner allows a community garden on a portion of her property.

Recommendation #4: To revise the definition of community garden to read as follows [note: allow staff to reword as necessary for syntactical/grammatical purposes]: "An area of land operated for not for profit by a group of people to grow and harvest food crops primarily for the use of its members who typically cultivate individual garden plots within the community garden. Composting areas may be included. It also includes incidental sales of grown yield and the limited husbandry of small animals, both consistent with UDC requirements. This use may be a primary or accessory use."

Topic #5: Should there be a maximum/minimum size limit for community gardens?

Committee Member (CM) Comments:

- Don't place any size limits beyond what the underlying zone requires.

Recommendation #5: Allow the minimum size to be determined by the existing dimensional standards for the zone. No change to the proposal is necessary to implement this recommendation.

Topic #6: What regulations, if any, can be implemented to better ensure that food sold from a community garden is safe for consumption (e.g. concern with use of greywater)?

Committee Member (CM) Comments:

- No additional regulations should be imposed.
- Allow the food code to govern in this regard.
- One committee member said that community gardens should have some liability insurance to address food safety concerns. Gina Chorover (City staff and board member of a local community garden association) said that the association she works with has liability insurance to cover accidents/injuries that might occur while on-site, but she did not think their insurance provided coverage for the food grown/sold from the garden.

Recommendation #6: To not require “buyer beware” notification for home grown produce. No change to the proposal is necessary to implement this recommendation.

Topic #7: Definition of “Urban Farm”. Does it prevent non-profits such as the Food Bank from operating an “urban farm” because it is not run “predominantly for profit” as specified in the definition?

Committee Member (CM) Comment: The definition should not prevent non-profits from operating an urban farm.

Recommendation #7: 1) Ask staff to draft revisions to the urban farm to accommodate non-profits. 2) Ask staff to compare the existing Crop Production use and the proposed Urban Farm use. It may be that a potential conflict/redundancy of uses will be created by the Urban Farm use.

Topic #8: Clarify whether greenhouses are permitted. If yes, should there be any standards to mitigate noise from heating plants or cooling fans?

Recommendation #8: To allow greenhouses without additional restrictions. Allow the Neighborhood Preservation Ordinance to govern permitted sound levels generated by a greenhouse’s mechanical equipment.

Topic #9: Have the proposed standards been “ground truthed”?

Staff Response: No, not yet, but will by the next meeting.

Topic #10: Should a standard be added requiring that the produce being sold is actually grown by the seller and not store-bought produce?

Committee Member (CM) Comments:

- Appears to be several ways to address this issue: 1) buyer beware; 2) allow the management of the farmers' market to regulate as they see fit; and/or 3) develop a City regulation.
- One committee member said this should not be regulated by the City.
- This is a very difficult matter to regulate and enforce.

Recommendation #10: No clear recommendation was made. Staff note: Based on the tenor of the discussion, it appeared to staff that the committee felt this should not be regulated by the City and instead left to the farmers' market management.

Topic #11: The maximum permitted frequency and duration of seasonal farmers' markets. (Background: the proposal limits seasonal farmers' markets to no more than 28 days per year and no more than 3 consecutive days at one time.)

Committee Member (CM) Comments:

- 28 days is not enough.
- If done responsibly, why can't a seasonal farmers' market operate every weekend?
- The focus should be on regulating any potential nuisances to surrounding residents rather than the number of days or hours.
- If one of the objectives is to make fresh produce more accessible to the public, then the number of days will have to be increased.
- The term "seasonal farmers' market" is a misnomer since here in Arizona it's possible to sell produce year round. Consider renaming.
- Are permits required for seasonal farmers' markets?

Recommendations #11:

- 1) Increase the maximum permitted number of days and/or develop/enhance the neighborhood compatibility standards;
- 2) Make the standards more restrictive when the Farmers' Market is in a residential zone and lessen/eliminate the regulations when in office, commercial, or industrial zones;
- 3) Consider consolidating the proposed Permanent Farmers' Market use into the General Merchandise Sales or Food and Beverage Sales uses.
- 4) Rename "Seasonal Farmers' Market" to "Farmers' Market."

4. Call to the Audience

There were 3 speakers: Casey Townsend, Kathryn Townsend, and Tres English.

Casey and Kathryn Townsend distributed a position paper with comments and suggested revisions to the proposed urban agriculture amendments. In general, the Townsends think that urban agriculture-related activities taking place at someone's home should only be regulated as it pertains to any potential negative effects on surrounding property owners and not specific caps on such things as the number of small farm animals onsite or location of an aquaponics growing area. Specifically, the Townsends recommended: 1) to not regulate the maximum number of permitted animals and instead focus any regulation on mitigating potential negative effects on surrounding property owners; and, 2) to consider limiting the number of mature animals, but don't limit the number of baby animals. Other recommendations are included in their letter. Staff encouraged the committee members to review the Townsend's letter and informed the Townsends that this matter will be discussed in greater detail at future meetings.

Tres English expressed his thoughts that the focus of any regulation should be mitigating any negative effects on surrounding property owners rather than placing very specific arbitrary limits on certain activities – in other words, seemingly incompatible land use activities to neighboring residences can be mitigated through good design (i.e. screening, setbacks, etc.)

5. Next Steps

The committee agreed to hold future committee meetings on the 3rd Wednesday of each month from 3-5. Staff is going to reserve the 4th floor conference room at the Joel Valdez Library if available.

The meeting concluded at 4:55.