

To: Comprehensive Plan Committee
From: Mark Eyerman
Subject: Possible Approaches for Revising the AG/RP District
Date: April 6, 2009

I have outlined three alternative approaches for revising the requirements of AG/RP District to provide the committee with a starting point for our discussion at Tuesday's meeting. As you think about these alternatives, it is important to keep in mind two things:

1. What is the City's objective for the AG/RP District (see my other email)?
2. In some areas the AG/RP District is coupled with an RR or LDCR District along the road frontage to create some development potential for the owners of large parcels that have road frontage. As we think about these alternatives, we need to keep this concept in mind since a fourth alternative in some areas could be to establish or re-establish a strip of RR or LDCR where it does not currently exist in conjunction with an updated AG/RP District.

Alternative #1 Update the AG/RP Provisions Without Changing the Basic Intent

There has been discussion that the current provisions of the AG/RP District are outdated and difficult to use. There seems to be four issues with the current provisions:

1. The name of the district
2. The limited range of agricultural activities that meet the definition of farm
3. The 50% of income provision
4. The treatment of related rural uses

Here are some ideas for how these four issues could be addressed. This assumes that the basic purpose of the zone remains unchanged and that a residential use is permitted only in conjunction with "commercial agricultural" operation on a parcel that has at least 10 acres.

1. **Name** – I'm not sure I understand the issue with the current name but maybe the committee could propose changing it to something like Rural Resource Protection District.

2. **Definition of Farm** – While the AG/RP District allows a wide range of agricultural uses, the current definition of farm that is used to determine if a house is allowed is much more restrictive. The farm for purposes of the AG/RP District must use at least 10 acres for the production of field crops or the grazing of livestock. If strictly applied, this precludes a house in connection with many commercial agricultural operations. One possibility is to change the requirement so that a house has to be accessory to a “commercial agricultural use” rather than a farm and to eliminate the 10 acre of use requirement. A commercial agricultural use could be defined broadly to include the full range of agricultural activities that are carried out on a commercial basis.

3. **Income Test** – This is a tough issue since the objective is to limit the ability to build a house to those situations where there truly is or will be a commercial agricultural use. The current definition is worded “will be derived” recognizing the prospective nature of this. It also talks in terms of annual income to the farm occupant which to me implies the “net profit” from the farm. Realistically, a start-up operation or even a buy-out of an existing operation may not be profitable for a significant period. Here are a couple of possible ways to revise the current provision:

- change the test from annual income of the farmer to a revenue based requirement – how much revenue does the operation create
- reduce the percentage of household income that must be derived from commercial agricultural to better reflect the possibility for outside employment by members of the household
- tie the requirement to the filing of a Schedule F (or farm partnership or corporation schedules) for federal income tax purposes or some other evidence of a commercial agricultural activity such as a loan commitment. Schedule F is the farm income schedule that is typically filed by small farmers.

4. **Related Uses** – The permitted uses and special exception uses in the AG/RP District allow a wide range of agricultural and related activities. A number of the uses do include some type of limitation related to activities that occur on the property. The agricultural produce item j. limits this to “produce grown on the premises”. The definition of “wayside stand” limits products to those “primarily grown or produced on the premises . . .” Sawmills are allowed “incidental to the harvesting of forest products” which implies that you can have a sawmill only in conjunction with a harvest. We could consider modifying the permitted uses to allow more rural related uses on free-standing basis or with fewer “locally produced” limitations. For example, many communities have

struggled with the issue of “traditional farm stands” versus retail outlets that include items produced off the premises in addition to home-grown/produced items.

Alternative #2 Create a New Zone with Very Limited Residential Development Potential

In a sense, the current coupling of the AG/RP District with a strip of RR or LDCR along the road frontage does this. It allows the road frontage to be developed as house lots while the backland is “protected” from development. The overall residential density that is allowed under this arrangement is a function of the percentage of the parcel in AG/RP and the zoning of the road frontage. The percentage of a lot that is in RP is a function of its size, depth, and amount of road frontage. In reality, the development potential of a parcel is controlled by its road frontage not its size. Here are a couple of simple examples based on a 50 acre parcel under a few different scenarios. These do not include any consideration of farm housing – if one or more homes were allowed under that provision, the overall density would increase accordingly.

- 50 acre parcel with 1000’ of road frontage that is zoned **RR**

RR allows 1 acre lots with a minimum of 250’ of road frontage or lot width therefore 4 lots could potentially be developed along the frontage resulting in a gross density of 4 units on 50 acres or *1 unit per 12.5 acres*

- 50 acre parcel with 2000’ of road frontage that is zoned **RR**

If the lot configuration changes to a wider, shallower parcel and the parcel has 2000’ of frontage in the RR District, 8 lots could potentially be developed along the road frontage resulting in a gross density of 8 units on 50 acres or *1 unit per 6.5 acres*

- 50 acre parcel with 500’ of road frontage that is zoned **RR**

Or if the lot has limited road frontage, only 2 lots could be created resulting in a density of 2 lots on 50 acres or *1 unit per 25 acres*

- 50 acre parcel with 1000’ of road frontage that is zoned **LDCR**

LDCR allows 3 acre lots with a minimum of 325’ of road frontage or lot width therefore 3 lots could potentially be developed resulting in a gross density of 3 units on 50 acres or *1 unit per 16.7 acres*. As the frontage

increases or decreases, the density would change the same way as if the frontage is zoned RR.

Rather than creating one zone along the road frontage and the AG/RP District behind it, the Committee could consider creating a revised zone that allows very low density residential development (say 1 unit per 10 acres) and creates flexibility for how residential development could occur. Here are some ideas for how that might work:

- the gross density would be 1 unit per 10 acres (or whatever is decided) but individual lots could be as small as 40,000 SF
- there would be no street frontage/lot width requirement so that lots could be created wherever it makes sense and access could utilize private drives or private ways
- lots would need to be located where it makes sense in terms of the natural characteristics of the land – away from land with agricultural potential or with natural resource constraints
- if development along existing rural roads is a concern, it could include a requirement for limiting direct vehicle access to certain roads and/or a provision for retaining/creating a natural buffer along these roads

In addition to these basic provisions, there could be a requirement that an amount of land equal to the difference between the 10 acre/unit density requirement and the actual lot size be set aside as permanent open space through a conservation easement or similar mechanism if this in an area where the City's objective is to create permanent conservation rather than a land bank.

This approach would accomplish a couple of things:

1. It would equalize the development potential for property owners that now is a function of frontage on existing roads – every property owner with 50 acres would potentially have the same development potential.
2. It would provide more flexibility in how the residential development that does occur can be located and laid out as opposed to the existing system that essentially requires that it be strung out along the road to meet the large lot width requirements.
3. If it was coupled with a land conservation requirement, it could allow significant areas to be permanently conserved over the long term while providing the property owners with some development potential.

Alternative #3 Revise the AG/RP District to Create Limited Residential Development Potential

The concept of Alternative #2 could be extended to areas where there is only AG/RP zoning without a strip of RR or LDCR along the road by allowing a property owner limited development potential that is not associated with “commercial agriculture” in return for doing something that benefits the City. The concept here is that allowing very limited development potential creates value for the property owner and that increased value could be shared between the property owner and the larger community. Here are some ideas along that line:

1. The City could allow property owners to buy the right to develop in the AG/RP District at the 1 unit per 10 acre or whatever density by paying the City a development offset fee. This fee would go into a dedicated account to purchase land in areas where the City wants to permanently conserve open space such as along the rivers or in the Lake Auburn or Taylor Pond watersheds.
2. Similarly, the City could allow property owners the right to develop in return for conserving 10 acres of land per unit either on the parcel or in other areas where the City wants land conservation. This might be granting a conservation easement to a land trust or watershed protection group. For example, a property owner who owns land on both sides of North River Road could create a small number of lots on the land away from the river in return for permanently conserving land on the riverside of the road by granting a conservation easement to a land trust or state agency.

This approach would give property owners of AG/RP only land some very limited development potential but only as a trade-off for doing something the City wants. The downside is that it would potentially result in some residential development in these areas that would reduce the value of the AG/RP District as a “land bank” since it could make the future conversions of the land to other uses more problematic. On the other hand, it would allow property owners some residential use and potentially create a mechanism for conserving the open space that the City is interested in.