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September 14, 2012

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Thank you for the opportunity to offer comments on the City of Oakland's Draft Urban Agriculture Zoning Update Proposal from August 13. It is clear that the existing draft reflects a considerable amount of research and consideration that seeks to strike a difficult regulatory balance amidst a wide spectrum of divergent opinions.

SPUR, as detailed in our report *Public Harvest* from April 2012, believes that cities benefit from urban agriculture in numerous ways. These include vibrant green spaces and recreation; education about fresh food and the effort it takes to produce it; ecological benefits for the city; sites that help build community; and a potential source of modest economic development.

For cities to capture these benefits, the barriers to entry and continued operation must be kept low, especially for small-scale gardening and farming. The draft proposal recognizes this by progressively placing greater regulatory burdens on the operations that are likely to have greater impacts. However, we feel that a variety of modifications would improve the balance between the potential impact of a garden or farm and the level of regulation for that type of operation.

Operator's Permit – Changing Category 1 to a One-time Permit

We suggest making the proposed "Category 1" operators permit a one-time application rather than an annual application. In San Francisco, for example, permitting for new urban agriculture operations is through a "change of use" permit, which is an over the counter administrative permit. This is less of a burden for both the applicants and for the planning department than either a Conditional Use Permit or an annual permit.

In Oakland, if an urban agriculture project with a one-time Category 1 permit is causing a nuisance, the Planning Department could revoke this special activity permit by enforcing nuisance law. Certain activities, like those currently listed as Category 2, have a greater potential for impact and therefore an annual application seems more appropriate to give the planning department an automatic review process each year. But an annual permit for what is currently listed as "Category 1" seems overly burdensome.

We also recommend that the Planning Department reconsider the noticing requirement for Category 1 operations. San Francisco, for example, did not include a noticing requirement

as part of its zoning change. For most activities currently listed as Category 2, a noticing requirement seems reasonable.

Setbacks, Quartering, and Physical and Operational Standards for Animals

As currently drafted, the physical and operational standards for animal husbandry other than “residential livestock” require that applicants:

- Submit an Animal Care Management Plan to the Planning Department
- Develop a stormwater management plan
- Keep detailed records about their animals
- Provide a quarantine area for each livestock species on the site
- Perform a detailed and complicated calculation for providing animals with specific amounts of space within a specific setback from property lines

We suggest making these requirements apply only to those operations that fall within the categories of “Urban Farming with Animal Husbandry” and “Intensive Crop and Animal Raising.” These requirements, which would require a considerable amount of time and paperwork for both the applicants and the city, seem intended to reduce the impacts of the animal husbandry on the site as well as within its vicinity and also ensure that the farmer is giving adequate consideration to their animals’ welfare. This burden may be justified for operations that can have more than 20 small or 4 medium animals, but does not seem justified for the operations of that size or smaller. Instead, we recommend that those standards be enforceable for larger operations and only offered as suggested guidance for smaller operations.

Operational Standards for Crop Raising – Soil Testing and Agricultural Practices

The proposal would require all gardeners and farmers to test their soil for toxicity, the results of which would have to be available upon request. For those selling or donating their produce, the proposal would require them to post a “Buyer Beware Notification” that includes details about pesticide and fertilizer use as well as soil test results. This goes above and beyond what is required of rural farmers. Furthermore, the results of soil tests often do not convey to the consumer a good estimation of the health risk of the produce from that soil because the scientific understanding of the transmission of toxicity from soil to fruits and vegetables is very limited. Even if the gardeners and farmers were required to post this information, it wouldn’t necessarily help consumers make healthier choices. We recommend removing both of these requirements. In its place, Oakland could follow the model of the Seattle Planning Department which does not require soil testing, but makes very clear in its urban agriculture guidelines that testing is highly encouraged and that free or low-cost resources are available to residents and organizations.

Remove Limits on Farm Stands and Classes

The proposed restrictions on the operation of farms stands, frequency of classes, and size of classes may not be necessary. Rather than create arbitrary limits for their operations, which could be difficult for the planning department to track and enforce, it may suffice to allow existing nuisance law to address any issues that arise from these activities.

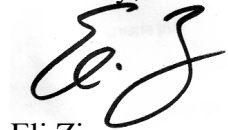
Merge Community Garden Category into Urban Farming Without Animal Husbandry

The impacts to a neighborhood of a community garden or a market garden can be very similar. Some gardens can have a low intensity of activity. Others can be bustling. It usually depends more on the size of the site than on the project's management structure. For that reason, we recommend simplifying the proposed regulations by merging the Community Garden category into "Urban Farming Without Animal Husbandry."

In summary, the draft proposal will provide clarity where there is now confusion, especially in regard to animal husbandry. Overall, these rules will help individuals and organizations understand what is and is not allowed in specific areas of Oakland. Because we are concerned that some of the regulations may be overly restrictive and stifle future urban agriculture projects that would benefit the city, we suggest that the Planning Department start with a set of regulations that are more permissive than what's currently proposed. If, in a few years, those regulations have not settled contention within the city and amongst neighbors, then the city will have ample reason and preparation for imposing stricter regulations.

Thank you for taking these comments into consideration. Please let me know if there is any additional information I can provide.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Zigas', written over a light grey rectangular background.

Eli Zigas
Food Systems and Urban Agriculture
Program Manager