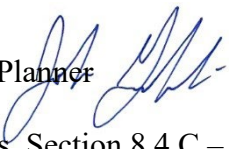




MEMORANDUM

TO: East Hampton Planning & Zoning Commission

FROM: John Guskowski, AICP, CZEO – Interim Town Planner 

RE: Proposed Text Amendment to Zoning Regulations, Section 8.4.C – Accessory Uses to Agriculture (PZC #23-015)

DATE: November 15, 2023

I have reviewed the proposed text amendment referenced above, seeking to add to the definition and parameters of the Town’s current Zoning Regulations concerning “Agriculture and Livestock” in Section 8.4.C in a way that would permit a broader range of Accessory Uses to agricultural operations in the broad category of agri-tourism. The current definitions of agriculture in the Zoning Regulation are limited to:

"The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, animal and poultry husbandry, etc., when such use is the principle use of the land"

This does not currently anticipate a wider variety of uses such as corn mazes, horse or livestock shows, on-farm wineries or breweries, hosting of special events, or even pick-your-own operations. While by its very nature, agriculture is a commercial enterprise, in its purest form it does not involve a great deal of direct interaction with the public or encourage traffic and visits to the farm other than by farm labor or vehicles involved with delivery and pickup of products. These accessory uses would encourage significantly more direct interaction with residents and visitors in a sphere closer to hospitality businesses.

The primary consideration the Planning & Zoning Commission must make when reviewing potential text amendments – aside from basic concerns of public health, safety, and welfare – is the goals of the Plan of Conservation & Development (PoCD). In this case, the 2016 PoCD, entitled “A Vision for East Hampton” is very clear about its approach to agricultural promotion. Page 48 of the PoCD – a section entitled “Preserve Agricultural Heritage” makes a strong case for the Town being much more active in promotion of its farms and farm businesses. Specifically, the first Agricultural Preservation Strategy states that the Town should: “Encourage the sale and purchase of products grown locally and regionally. Support farm markets and farm stands and Agrotourism.” The Town’s Vision clearly includes promotion of agritourism.

The challenge, therefore, is that the current Zoning Regulations do not anticipate, define, or regulate agritourism as a use category. The current text amendment application attempts to begin

that process. To that extent, this is an important and valuable application. The applicant makes a strong case that in order to survive economically, the Town's farm operations must diversify and be flexible about their income streams, including broadening interface with the public.

Having said that, the current application has numerous structural problems that would make it challenging to adopt in its current approach. The purpose statement blends philosophical explanation with regulation approaches in a way that is not consistent with the way the current Regulations are written. Without belaboring the specifics, it does not make organizational sense to embed a relatively complex set of potential uses and regulatory considerations into a single sub-section of a portion of the Regulations primarily concerned with livestock density and housing. It is far more analogous to creating a separate section similar to "Commercial Stables" in Section 8.4.D or "Commercial Recreation" in Section 8.4.F. Establishing "Agritourism" or "On-Farm Events" as a separate use category would allow the Commission to add some thoughtful nuance to its approach. That would also allow the Commission to add this use category to the allowable uses in the R-4 Rural Residential Zone of Section 4.4 – either as a Site Plan Review use (Sec. 4.4.C) or as a Special Permit use (Sec. 4.4.D).

The reason to separate this as a distinct use category is that not all "agritourism" is created equally. A small roadside farmstand is dramatically different from an on-farm winery with a large barn capable of hosting 250 people for a wedding. A seasonal corn-maze is different from an on-farm ice cream stand open year-round. The differences in these uses go directly to the Planning & Zoning Commission's purview- elements of traffic, noise, parking, stormwater management, wastewater management, and neighborhood impacts. Certainly, on-farm activity should be a worthwhile goal, but the Commission must be careful about managing the extent of its impact.

Nearby communities, including Marlborough, Durham, Lebanon, and Colchester provide a more nuanced approach to these agritourism or on-farm activity regulations, creating different categories of permitting and review based upon the likely community impacts. Certain activities, such as a roadside farmstand, could be as-of-right in conjunction with a bona-fide farm, and others such as a wedding venue, could require Special Permit approval. The American Farmland Trust commissioned an update to a very helpful guidance document entitled "Planning for Agriculture: A Guide for Connecticut Municipalities" in 2022 that provides useful guidance, case studies, and regulatory examples for this sort of activity. A copy can be found here: https://farmlandinfo.org/wp-content/uploads/sites/2/2020/11/AFT_CT-PlanAg2020Final.pdf

For that reason, I would encourage the Commission to consider either denying the current application without prejudice or requesting that the applicant withdraw the proposal, while simultaneously offering to work with the applicant (perhaps through staff) on a more nuanced and better-structured approach that would both encourage a wider variety of farming-related

activities and providing the Commission with an appropriate level of oversight at different levels of potential community impact.

I look forward to discussing this matter with you at the December PZC meeting.