



## JEFFERSON COUNTY

### DEPARTMENT OF COMMUNITY DEVELOPMENT

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# Memorandum

**To:** Jefferson County Planning Commission  
**From:** DCD Staff  
**Date:** March 3, 2004  
**Re:** Issues for discussion and resolution concerning MLA04-26: proposed UDC amendments related to agricultural activities

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## QUESTIONS FOR PLANNING COMMISSION AND STAFF

In reviewing the proposed UDC amendments related to agricultural activities, as it stands now before the Planning Commission, DCD staff has identified a number of issues that, in our estimation, warrant discussion and require resolution. This memorandum lists these issues and questions for consideration at tonight's Planning Commission meeting. Main themes precede related questions presented *in italics* from the perspective of a landowner or a neighbor.

1. Differentiating between how agricultural activities are regulated on designated Agricultural Lands and on designated Rural Residential lands

*Section 4.3 is intended to define and regulate activities on designated Agricultural Lands. What if I want to practice agriculture on Rural Residential lands? Do any of these provisions apply to me? Do I need to get a permit to grow crops or is that a "matter of right"? What about processing and packaging? What about retail sales of agricultural products? Where is the line drawn on RR lands for when a permit is necessary or when the activity is not allowed?*

2. Clarifying the "Right to Farm" provisions in relation to #1 above

*If I own RR 1:5 property, the Use Table says that I can do agricultural activities, but I don't qualify for the "Right to Farm" provisions unless my property is designated RR 1:10, RR 1:20, or some other Rural Lands category. Also, my neighbors don't get notice that I may be practicing agriculture, nor do neighbors of other RR properties where agriculture is practiced and protected under the "Right to Farm," because the*

*notice provisions only apply to properties adjacent to Agricultural Lands. Is that how it's supposed to be?*

3. Explaining how the Open Space Tax Program is distinct and unrelated to zoning and regulation, except for how a parcel of land may qualify for an exception to standard stream and wetland buffers for existing and on-going agriculture

*I'm practicing agriculture on my RR land, which is enrolled in agriculture category of the County Open Space Tax Program. Is my property designated for agriculture? Can I use the agricultural activities provisions of Section 4.3? How is the tax status related to zoning and regulation? What if my land is enrolled in the timber category of the tax program, but I've been practicing agriculture on some of the enrolled land for years? Do I qualify for an exemption from standard stream and wetland buffers?*

4. Providing an appropriate reference to agricultural Best Management Practices (BMPs) for water quality, the Jefferson County Conservation District, the national Field Office Technical Guide, the voluntary basin-by-basin agricultural management planning process, and the State Department of Ecology

*What are the agricultural BMPs? What law says that we need to follow BMPs? Who enforces this? Where can we get help? What is the County and the Conservation District doing to protect water quality from the potential negative effects of agriculture?*

5. Delineating a clear line between what activities require a stormwater management permit (or stormwater review to determine whether the proposal exceeds thresholds) and what activities qualify for the "commercial agriculture" exemption to stormwater management standards

*It says that I am exempt from stormwater management standards because I practice commercial agriculture. Can I build a parking lot or a structure without stormwater review because commercial agriculture is exempt? If I'm practicing agriculture on RR land, can I use the commercial agriculture exemption? What if my land is enrolled in the agricultural category of the Tax Program? What if I just have a large garden, one that exceeds the 7,000 square feet of land-disturbing activity stormwater management threshold? Do I need to get a stormwater management permit? Would that be a one time thing or every spring when I prepare the garden?*

6. Establishing a clear process by which the Administrator would determine the appropriate permit process for any proposal that exceeds or lies outside of the "matter of right" terms in the proposed Section 4.3 (and in the context of #1 above, differentiating that process and those terms for proposed agricultural activities on Rural Residential lands)

*How does the Administrator determine what permit process to apply? Is a proposal handled like a "D" use (i.e., Discretionary) in the Use Table? Would I get a chance to comment if I'm the neighbor, or does the Administrator simply make a call outside of*

*a process that includes the public? How would the Administrator know that a proposed or implemented activity goes beyond the “matter of right” provisions of Section 4.3? What if I’m proposing an agricultural activity on my RR land, do I need a permit or a decision from the Administrator? Is that a different process than the process for considering proposals on Agricultural Lands?*

7. Clearly defining and distinguishing the following terms, relating them more precisely to agricultural activities, and stating clearly when a permit is and is not required: Feedlots and Stockyards, Heavy Agricultural Processing, Light Agricultural Processing, Heavy Resource-Based Industry, Light Resource-Based Industry, Light Industrial/Manufacturing, Unnamed Industrial Use, Unnamed Commercial Uses, Lumber Yards/Building Supply & Materials, and Lumber Mills and Associated Forestry Processing Activities

*I looked in Section 2 of the UDC and found only some definitions for these terms and other definitions that were confusing. What is the difference between “heavy” and “light” agricultural processing and resource-based industry? The definition for Resource-Based industry is centered in Forest Lands<sup>1</sup>. What is the application to Agricultural Lands? What kinds of industrial uses would you expect for Agricultural Lands and what is the difference between how those are regulated and how industry is regulated in rural Light Industrial or Heavy Industrial districts? Could an industrial operation be established on Agricultural Land without a land use permit? What types of Unnamed Commercial Uses would be permitted on Agricultural Lands? Aren’t you saying that limited retail services directly associated with the farm are just part of agriculture? Why and when would the Commercial Uses category be used? What about Lumber Yards/Building Supply & Materials? When would that be appropriate on Agricultural Lands? Can you give me an example? Living next door to a farm is one thing; living next door to an industrial operation is another. What protections are in the code against an industrial operation happening next door (without a permit review process) that is more appropriate in a Light Industrial/Manufacturing district?*

8. Reconsidering the proposed amendments to the Use Table (3-1) in the context of #6 above
9. Determining whether the Agricultural Housing aspect of the proposal is consistent with State law

*Does the State have any requirements associated with the supply of housing to agricultural workers, be they permanent or temporary?*

10. Addressing the issues raised by the State Department of Community, Trade, and Economic Development (CTED) in a comment letter submitted to the Planning Commission

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<sup>1</sup> From Section 2 of the UDC: **Resource Based Industrial** – A Forest Resource-Based Industrial land use designation that recognizes existing, active sawmills and related activities.

11. Crafting additional language for the proposed Section 4.3 to address issues discussed during Planning Commission meetings, such as sales of farm equipment manufactured on-site as an accessory practice to farm operation

*If I manufacture farm equipment on my land, can I conduct retail sales of that equipment on my land? What are the limitations? Can I sell John Deere equipment along with my own?*

12. Editing the proposal for consistency and clarity in preparation for attachment to a draft ordinance for consideration by the Board of County Commissioners (BOCC)

### **DCD STAFF RECOMMENDATION PENDING**

DCD staff fully supports this effort and the basic concepts behind the proposal as currently drafted. As outlined above, however, staff has concerns about some of the details of the proposal and wishes to study thoughtfully the remaining issues and offer suggested code language to address those issues. Staff expects to study and discuss these issues and prepare a staff recommendation by the end of next week. Should the Planning Commission place MLA04-26 on the agenda for the March 18 meeting, we will provide the staff recommendation to the Planning Commission prior to that meeting.

### **PLANNING COMMISSION OPTIONS**

The Planning Commission schedule for the first quarter of 2004 included deliberation on MLA04-26 during the two March meetings. The Planning Commission could elect to vote on a recommendation to the BOCC at tonight's meeting without the benefit of a staff recommendation. Staff would then transmit the staff recommendation to the BOCC along with the Planning Commission recommendation. The Planning Commission could elect to deliberate on MLA04-26 this evening and postpone a vote on the proposal until the next meeting, March 18. Other topics may be placed on the March 18 agenda, as well.

Staff suggests that the Planning Commission discuss the issues presented in this memorandum at tonight's meeting, provide suggested policy direction through deliberation, and allow staff to work on a staff recommendation for your review before voting on the Planning Commission recommendation to the BOCC for MLA04-26.

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