

To: Mayor and City Council

From: Richard Hatfield, Planning Commissioner Minority Report

Re: Planning Commission recommendations on Urban Farms ordinance C20-2013-005

The Planning Commission held a public hearing on this item on 9/24/2013 and voted to recommend the revised ordinance to the City Council. The vote on this item was 6 to 1. I was the only opposing vote on this proposed ordinance change. While the Planning Commission dutifully considered the issues that rose in the Public Hearing, I believe that some factors related to this proposed ordinance change were not considered and that the city wide perspective of the impact of this ordinance change was not fully represented in the public hearing. Therefore I am respectfully requesting that this proposed ordinance change be sent back to the Planning Commission for reconsideration or an independent task force to look at the issues. The reasons for this request are:

1. Inadequacy of the public stakeholder process that resulted in the recommendations from the Sustainable Food Policy Board.

It appears from the testimony at the public hearing that the directly impacted neighborhoods surrounding the four urban farms were asked for input at the beginning of the process, but there seems to have been a lack of follow up with these stakeholders to ensure that they continued to be involved with the process and that their concerns were addressed in crafting the Board's position. This has resulted in a recommendation from the Sustainable Food Policy Board that is heavily slanted to reflect the desires of four of the existing thirty urban farms needs rather than achieving a balance between the desires of approximately 30 of the existing urban farmers and the concerns of the surrounding neighborhoods. We need an ordinance that is not just to legitimize four urban farms, but that also reflects the potential impact of the proliferation of all farms in a city of over 800,000 and that is expected to continue to growth in the years ahead.

A second major issue with the process is that while the staff focused on the four urban farm owners and sustainable food advocates input, the process lacked city wide outreach to ensure that all neighborhoods were aware of this proposed ordinance change and how it would impact their areas. This lack of city wide engagement is clearly seen in the Austin American Statesman editorial concerning this proposed ordinance, which was the first city wide media attention given to this issue.

2. Public Health and Safety issues were not adequately vetted in the process

One of the major issues with this proposed ordinance change is the processing of animals and the slaughtering of these animals on the sites of Urban Farms, and the composting of the resulting animal parts from the processing. While only one existing farm has been slaughtering and composting animal parts, the failure of that composing process resulted in offensive odors that then brought this issue to the attention of the city. Continuing to allow this processing of chickens and now, rabbits and fish presents serious health and safety issues. Unfortunately the stakeholder process did not have adequate representation from our Public Health Department. The lack of early input into the crafting of this ordinance by the health department is a concern. In particular the provision to allow animal parts composting to be allowed in areas prone to flooding raises a legal liability issues for the city that were not considered in the deliberation of this proposed ordinance change.

3. Particular concerns about the recommended ordinance

The ordinance that was approved by the planning commission did contain several positive changes. However the following issues I believe need further discussion so that we may achieve a balanced ordinance that ensures the continued viability of urban farms and protects our neighborhoods and ensure the integrity of our zoning processes.

* The inclusion of “Urban Farms with Facilities for Gatherings” as a conditional use, while better than as a permitted use, still puts neighborhoods in the position of having to be “on call” to respond to future request for these conditional use permits. Many of the speakers at the Planning Commission public hearing noted that urban farms cannot financially survive by selling their produce alone, that they need additional revenue to survive. But at what point does “urban farm” become a cooking school, wedding and reception hall, fundraiser events or other types of “gathering” that is then the primary business of that site? Such commercial uses, if they are the primary means to stay financially solvent, then this business use of the property is no longer an “accessory” use to these residential properties. At what point then should the ability to hold these “gathering” be handled by an appropriate zoning change rather than permitting them as a “conditional use”?

* The allowance of “Urban Gardens” on single family zoned property without an actual housing unit on site is not then an “accessory use”. Again this should not be allowed except by an appropriate zoning change that would be required for a purely commercial use of the property.

* Various provisions of the ordinance are good in concept but cannot be adequately enforced by the city in any proactive way. Such enforcement will only come as complaint driven after the fact and will therefore not prevents negative impacts on surrounding neighbors. The ordinance needs the means to ensure that the stipulations are adhered to and are enforceable.

* Only one existing farm has in the past processed animals on site that I know of that composts the remaining body parts. While if you raise chickens in your back yard and process them yourself, that is a reasonable use. However the slaughtering, processing and composting of animal parts on any scale beyond personal consumption should be defined as a commercial use. Again such an operation should not be allowed on residentially zoned property and should be handled as a zoning change.

* If urban farms are to provide sales opportunities at their sites, adequate parking should be available on site to handle the customer traffic, Further if “gatherings” are permitted in any fashion the adequate parking for these gathering should be provided. Again when a use on a residential zoned property has to accommodate the traffic and parking needs of commercial activity, then adequate onsite parking should be provided.

Urban Farms are an important part of providing Austin with fresh and healthy produce. They historically have been welcomed in our neighborhoods and have contributed to feeding our city and educating our community about healthy foods. And while the Urban Farm ordinance does need to be updated, the current draft ordinance needs further study to ensure the continued viability of these farms and the preservation of the quality of life we have in our neighborhoods. Please take the time to review this ordinance, and send it back to the Planning Commission or an independent task force for additional review.

Sincerely, Richard Hatfield Planning Commission