

Agricultural Reserve Change: Zoning Text Amendment 18-03

The LWVMC has been a supporter of the Agricultural Reserve (AR) established through the Functional Master Plan for the Preservation of Agriculture and Rural Open Space adopted in 1980. Public purpose elements of the plan include preservation of regional food supplies, energy conservation, protection of the environment and maintenance of open space. A variety of programs to preserve farmland have been implemented over the years and the League has been active in supporting the principles of the Reserve. Currently wineries are specifically permitted in the AR zone and a couple of well-known breweries, Waredaca Brewing Company and Brookeville Beer Farm, coexist with agriculture.

This spring Zoning Text Amendment (ZTA) 18-03, Farm Alcohol Production – Standards, was introduced to add farm alcohol production as a limited use allowed in the agricultural and rural residential zones and establish the standards for farm alcohol production. Farm alcohol production means the transformation of agricultural products into alcoholic beverages and includes wineries, cideries, breweries or distilleries on farms and may include other activities unrelated to the production and sale of alcohol or farming under certain circumstances.

As introduced, the ZTA 18-03 provided where farm alcohol production is allowed as a limited use, it must satisfy the following standards:

- i. The production capacity and associated activities of the alcoholic beverage must comply with the license issued by the State of Maryland Comptroller's Office.
- ii. Some ingredients used in the production process must be grown on-site.
- iii. The underlying land must be classified as agricultural by the State Department of Assessments and Taxation.
- iv. Subject to all licensing requirements, the facility may operate an on-site tasting room for its products and prepare and sell food to the extent allowed by the State alcohol manufacturing license.
- v. Events and activities that are normal and customary to the regular operations of a winery, cidery, brewery, and distillery are allowed.
- vi. Weddings, corporate retreats, and other events accessory to the production of alcohol are allowed:
 - (a) A maximum number of 9 events or activities with more than 300 participants is allowed in a calendar year. Additional events with more than 300 participants require conditional use approval by the Hearing Examiner under Section 7.3.1.
 - (b) All parking must be accommodated on site.
 - (c) Noise levels must satisfy Chapter 31B standards

The League presented the following testimony at the May 3 Planning Board hearing on the ZTA 18-03:

“The League of Women Voters of Montgomery County supports policies that ensure the viability of agriculture in Montgomery County, especially a policy that considers preservation of farmland to be a primary design consideration for development in the AR zone. This includes restricting

the provision of water and sewer service beyond the established envelope. Increased commercial and industrial activity must be scaled to be compatible with this restriction.

The League supports restrictions on activities and events that result from or stimulate the need for commercial and industrial development in the agricultural reserve. Farm alcohol production is acceptable as an activity ancillary to farming, but it must remain an ancillary activity with more than token input from the farm. An ancillary activity must be sized to preserve the goals of the Functional Master Plan for the Preservation of Agriculture and Rural Open Space and its public purposes including preservation of a regional food supply, energy conservation, protection of the environment and maintenance of open space. Limitations on placement, activity frequency and farm input should be applied. In order to preserve the integrity of the Reserve, it would be appropriate to allow activity beyond basic farm alcohol production and in-scale tasting rooms only as a conditional use in the Agricultural Reserve.”

The County Council received this comment and heard a variety of testimony at a public hearing held on May 15. Subsequent review resulted in a recommendation (supported by the League) from council staff to delay action on the ZTA for the following reasons:

1) ZTA 17-07 allowed breweries and distilleries in CR, CRT, and CRN zone. It also expanded the limits of brewing and distilling in EOF zones. (Those zones also allow retail uses - tasting rooms- without conditional use approval.) ZTA 17-07 only became effective on January 1, 2018. ZTA 18-03 would allow the same use in the Agricultural zone on much less expensive land. The Council may want to know the effects of ZTA 17-07 before considering ZTA 18-03.

2) The Department of Permitting Services has recently interpreted the building code to allow breweries and distilleries on farms with an entry level tasting room for less than 50 people as an agricultural building that does not require a new building permit. The impact of this recent interpretation on promoting more such facilities in the Agricultural Reserve Zone is not known.

3) Increased interest in the economic development of Montgomery County's Agricultural Reserve through tourism has led to an on-going Planning Department study. The study was approved by the Council in the Department's work program. The Planning Department has not completed this work. Recommendations are expected by January 2019.

At the July 23 meeting of the Planning, Housing and Economic Development (PHED) committee of the Council, members seemed prepared to accept some recommendations for changes to the ZTA including reducing the number of participants allowed at uncounted events to 225 and defining input from the farm as: A majority of the ingredients used in the alcohol production process, if available at competitive prices, must be grown on-site or within the county. The Ag Study Committee is concerned that while farm alcohol production is being called an ancillary use to farming, with this statement no connection to the farming activity is required. If cheaper ingredients can be obtained elsewhere, this version of the standard seems to say – get them there.

Councilmember Reimer has suggested the following requirement, but whether it will be incorporated into the final ZTA version is unknown: “A long-range plan to increase the use of local Montgomery County agricultural products in the production process must be submitted to the Department of Permitting Services.” Further action by the County Council is expected in September.

This article was written by Margaret Chasson, chair of the LWVMC Agriculture Committee.