

TOWN OF WINDSOR

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Carita J. Richardson, Mayor
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Greg Willis
N. Macon Edwards, III
Patty Fleming
Tony Ambrose

Town Manager
Michael R. Stallings

Town Clerk
Terry Whitehead

Town Attorney
Wallace W. Brittle, Jr.



Established 1902

July 28, 2016

Memorandum

To: Michael R. Stallings, Jr. Town Manager
Hon. Mayor Carita J. Richardson
Town Council Members

From: Dennis W. Carney, Planning and Zoning Administrator

Subject: Poultry in A-1 District

Issue: The proposal is to permit poultry in the A-1 Agricultural District by amending the Town of Windsor Land Development Ordinance as follows (the underlined sections indicate the amendments):

§160.53(A) Permitted Uses in the A-1 Agricultural District

“(2) The raising of cattle, sheep, and other domesticated livestock including non-indigenous livestock such as alpaca and llamas but does not include intensive farms as defined under the Code of Virginia. The raising of poultry, is permitted provided the A-1 Agricultural parcel or tract exceeds five acres and all pens and houses for poultry are at a minimum of fifty (50) feet from the property lines of the parcel or tract that are zoned A-1 Agricultural. If the subject property meet all of the other requirements but adjoins non-agriculturally zoned property then any and all pens and houses for poultry must be at a minimum 100 feet from the adjacent non-agricultural property.”

§160.53(C) Conditional Uses in the A-1 Agricultural District

“(12) Swine raising and/or processing of swine and processing of poultry.”

And repealing existing section which read §160(C) (12) “Swine and/or poultry raising and/or processing.

Facts: The Town of Windsor Land Development Ordinance does not permit livestock of any type, other than horses and ponies in the LDR Low Density Residential District, in any district except A-1 Agricultural. It is controlled in two sections of the Ordinance in the A-1 Agricultural District. In Section 160-53A (2) livestock is permitted by right with the exception of intensive livestock farming. However, Section 160-53 C (12) the section

that lists the potential Conditional Uses for the A-1 District makes the raising of swine and poultry a conditional use.

The Code of Virginia Section 3.1-22.28 Right to Farm act deals with restrictive ordinances. It does not permit counties, cities and towns to “unreasonably restrict or regulate farm structures or farming and forestry practices in an agricultural district unless such restrictions bear a relationship to the health, safety and general welfare of its citizens.” The law was passed in 1995. The present outright ban on poultry could be viewed as an unreasonable restriction for an A-1 Agricultural District.

Planning Commission Action and Public Comments: After a duly advertised public hearing, the Commission unanimously recommended that Town Council approve the amendment. Mr. Walter Bernacki of Johnson Avenue spoke in favor of the amendment at the Planning Commission public hearing. Very few of the Town’s A-1 parcels are under five acres in area and can probably provide the needed setbacks if poultry is ever wished to be placed on the property.

It is noted that last month when this was brought to Town Council, a resident had brought the need to place a larger setback when poultry would adjoin a non-agricultural property. The change was duly noted and is reflected in the rewritten amendment that is the subject of the public hearing. At their August meeting, the Planning Commission did not have any concerns with the changes to the amendment

This proposal is completely separate from the issue regarding the permitting of chickens and pot-bellied pigs in certain residential districts. This proposal only deals with the A-1 Agricultural District and for large lots/parcels that can provide adequate setbacks to protect the health and safety of the Town.

Staff Comments: The amendments have been legally advertised and as of the date of this writing, Staff has not received any further public comments. Staff recommends that Town Council consider approving the amendments. In this manner, the Town can be in compliance with Virginia’s Right to Farm Act.