



May 1, 2017

While the Advocates for Herring Bay have concerns about the statutory language in Bill No. 25-17, an Ordinance concerning: Zoning – Agritourism, we want to stress at the outset that we support efforts to promote the economic viability of our farming community, which is key to the strength of our local economy and plays a critical role in promoting the health of the Bay.

However, we feel that many of the provisions in this bill pose environmental and social issues that have not been sufficiently resolved. As a result, we believe that topics like value-added processing, farm distribution centers, nurseries, and equestrian centers should be studied more thoroughly and addressed in separate legislation. We also recommend that the county consider creating more than one zoning tier for agritourism to account for the wide range of activities covered by that business model.

Based on our preliminary review, we have identified five major shortcomings in bill 25-17, as introduced:

- Newly authorized farming and nursery activities could degrade ecologically important land in Resource Conservation Areas within the Critical Area and in Open Space Conservation areas;
- The bill lacks limits on impervious surfaces associated with the new uses. Similarly, there are no transparent and enforceable metrics for determining whether an activity is an accessory use.
- “Value-added processing” could involve slaughtering, packaging, fermenting, and other quasi-industrial activities that warrant special siting and performance standards but are left largely unregulated in the bill;
- Farm distribution centers could be operated as large-scale, wholesale markets that primarily serve farms outside of Anne Arundel County; and
- The performance standards for agritourism are not tailored to the wide spectrum of activities that are directly or implicitly authorized by the bill, which results in some activities being subject to too much regulation and others too little.

On the following pages, we list some of the specific provisions that need to be addressed and welcome any feedback you can provide. Please contact us at herringbay@gmail.com if you have any questions about our comments. We are hopeful that if our concerns can be addressed we will be in a position to support legislation that boosts the agricultural economy in Anne Arundel County.

Bill Section/Location	Issue:	Comments
Title I: DEFINITIONS Farming Page 3, line 3 And Page 5, line 11	Environment: “Value-added processing” activities should not be allowed in Resource Conservation Areas (RCA) in the Critical Area or in the Conservation Overlay for land zoned as Open Space (OS-C).	<p>Lands mapped as RCA are supposed to be used in ways that protect and preserve the habitat and the health of the Chesapeake Bay. As written, quasi-industrial activities could be sited in RCA areas because the bill includes “value-added processing” in the definition of “farming”. As noted by the county’s Agritourism Work Study Group, value-added processing could include slaughtering, distilling, fermenting, or freezing.</p> <p>To protect the land and waters of Critical Area and OS-C, “value-added processing” must either be expressly prohibited or be deleted from the definition of farming and treated as a new, separate land use.</p>
Title 9: Other Zoning Districts (Table) Farming Page 5, Line 11	Environment: “Farming” should not be allowed <i>“to change the stability of the land”</i> if it is zoned as Open Space or in the “Open-Space Conservation Overlay.	<p>Current law allows farming activities in land mapped as OS and OS-C <i>if the use “does not change the stability of the land.”</i> Land in the OS Overlay includes some of the most fragile and biologically sensitive lands in the county, including wetlands, bogs, and woodlands that are habitat for forest interior dwelling species.</p> <p>We strongly believe that—at a minimum—the bill should re-instate the requirement that any farming activity there should not be allowed to change “the stability of the land.”</p>
Title 9: Other Zoning Districts (Table) Nurseries with landscaping and plant sales Page 5, Line 11	Environment: “Nurseries with landscaping and plant sales” should not be allowed <i>“to change the stability of the land”</i> if it is zoned as Open Space or in the “Open-Space Conservation Overlay.	<p>Our concerns here are the same as for farming activities allowed in OS and OS-C areas. Land in the OS Overlay includes some of the most fragile and biologically sensitive lands in the county, including wetlands, bogs, and woodlands that are habitat for forest interior dwelling species. Nurseries and related business activities could impair those habitats.</p> <p>In our view, nursery operations should not be allowed in the OS Conservation Overlay. If policymakers decide otherwise, we strongly believe that the bill should be amended to include a prohibition on any activities that would change the stability of the land.</p>

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Title I: DEFINITIONS Farming Page 2, Line 50	Environment: “Value-added processing” may not be appropriate for properties that rely on septic systems and wells.	<p>As noted above, “value-added processing” could include activities that require energy, water, and waste-treatment facilities. Most of the RA and RLD parcels in the county rely on septic systems and well water, which may not be sufficient to handle the loads from such operations in an environmentally sound manner.</p> <p>We recommend that such quasi-industrial uses be sited on land zoned for heavy commercial or industrial uses, which would have the infrastructure necessary to support them. Only small-scale processing activities like those authorized in current law should be allowed in RA and RLD zones.</p>
Title I: DEFINITIONS Farming Page 2, Line 50	Environment: Farm composting may not be an appropriate use in RCA and Open Space areas.	<p>Embedding this use within the definition of farming would mean that composting activities could occur in environmentally sensitive areas.</p> <p>We urge the county to get scientific guidance on whether composting an appropriate use on lands set aside to preserve habitats and ensure clean water. We’d like that question to be answered before any bill is enacted.</p>
Multiple Authorizations	Environment: Productive farmland should not be paved or covered with buildings and other impervious surfaces .	<p>We think the bill should have clear, enforceable limits on the extent of any increase in impervious surfaces and the size of any structures. This could involve codifying informal standards like those followed by the Office of Planning and Zoning, which currently states that accessory sales areas must not exceed 600 square feet. Similarly, the limit in Montgomery County agritourism facilities is 10% of the total square footage of all other structures on-site used for agriculture.</p> <p>Limits should be added to provisions that authorize commercial and quasi-industrial activities on RA and RLD parcels. Those include:</p> <ul style="list-style-type: none"> ■ “Agriculture,” which would be defined to include selling products aggregated from multiple sites; ■ “Farming,” which would include value-added processing; ■ “Farm Distribution Centers,” which could be of undefined scale; and ■ “Agritourism” which could include new types of permanent

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		<p>structures for restaurant-scale offerings of prepared meals and alcoholic beverages and facilities for events like conferences, weddings, educational programs, and charity galas.</p>
<p>Title 10: Multiple: Farm Product Distribution Centers Page 6, Line 19 Agritourism Page 5, Line 26</p>	<p>Environment/Community: Labeling an activity as an “accessory” use provides no useful or enforceable limit on the scale of activities.</p>	<p>We believe the bill needs to identify the metrics that would be used to verify that agritourism and/or distribution centers are an “accessory” or secondary use. What test would the county use? Would it be based on the ratio between the acreage devoted to cultivation and tourism or centers? If someone grows hay on 15 acres, could they use 10 acres for a tourist resort? Alternatively, would it be based on income? How would the county enforce an income test if the businesses used multiple LLCs? Or would the county simply assume the owner is in compliance?</p>
<p>Title I: DEFINITIONS Farming Page 2, Line 50</p>	<p>Support for farming: “Value added “processing” activities should serve AA County farmers.</p>	<p>Since the goal of this bill is to help farmers in Anne Arundel County, we’re concerned that the language doesn’t require the use of agricultural materials grown in the county. It only requires <u>one</u> product grown or produced on a farm in the state of MD.</p> <p>Given the current profile of county farmers, we think authorizing processing facilities is premature. According to the USDA’s 2012 Census of Agriculture, there were 381 farms in the county in 2012, of which 117 grew hay, roughly 30 to 40 raised corn and soybeans, 57 raised cattle and 33 raised chickens. Those numbers may have gone up over the last five years, but USDA’s data raises questions about the economic viability of a processing facility for <u>county</u> farmers.</p>
<p>Title I: DEFINITIONS Farm Product Distribution Center Page 2, Line 45</p>	<p>Support for farming: Farm product distribution centers should be designed to meet the needs of AA County farmers.</p>	<p>Under the bill, distribution centers only have to market goods grown on a farm OR a farm in Maryland. The bill does not require that the center sell anything from any farm in the county.</p> <p>Because of the relatively small number of farms in the county that harvest fruits and vegetables, we feel that authorizing this use is premature and would require much stronger standards. Of the 381 farms in the county in 2012, only 27 grew vegetables and only 16 had fruit orchards.</p>

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<p>Title 4: Farm Product Distribution Centers Residential Districts (Table) Page 4, Line 1</p>	<p>Community: Commercial activities that generate a high volume of truck traffic in rural areas should be special exceptions.</p>	<p>Under this bill, there would be no limits on the size or scale of these wholesale food distribution centers. Because of potential impacts to the community of unfettered truck traffic, we believe distribution centers should only be allowed as a special exception (SE) if located on RA or RLD parcels.</p>
<p>Title 10: Farm Product Distribution Centers (1) Page 6, Line 13</p>	<p>Environment/Community: Farm product distribution centers should not be located on RA or RLD properties simply because someone calls it a “farm.”</p>	<p>Because there isn’t a requirement for a certain amount or percentage of property zoned agricultural to actually be <u>used</u> for growing agricultural products, anyone in this situation could claim to be a farm and be entitled to build a distribution center. This definition would allow distribution centers to be located on almost any property zoned RA or RLD, regardless of the effects on the land and community. Relying on a vague definition will lead to litigation over eligibility, as it has for farm tenant housing (see Board of Appeals case BA-50-V, Linda Mitchell).</p> <p>It is our recommendation that these wholesale operations be located on parcels zoned for commercial or industrial uses. However, if policy makers want to locate these operations on RA and RLD parcels, we believe that the eligibility standard should be at least as strong as the siting requirement for agritourism. If the intent is to allow these facilities everywhere, then the bill should say so and just require that they be on RA or RLD properties. If that is not the intent, then the bill should restrict the siting to bona fide, commercial farms.</p>
<p>Title 10: Farm Product Distribution Centers (6) Page 6, Line 29</p>	<p>Public Safety: The hours of operation should account for heavy cycling traffic on rural roads on weekends.</p>	<p>Because roads in rural parts of the county are heavily used by cyclists on weekends, we believe weekend hours should be restricted or eliminated altogether. Increasing truck traffic would put lives at risk and hurt South County’s reputation for eco-tourism.</p>
<p>Title 10: Farm Product Distribution Centers (4) Page 6, Line 22</p>	<p>Public Safety: Requiring centers to be located on roads with “collector” or higher classifications is meaningless</p>	<p>Distribution centers could increase vehicular traffic on roads that cannot handle trucks safely. Many collector (and some arterial) roads in rural areas are narrow and winding, without shoulders or land markers. We believe the bill needs to be amended to prohibit the siting of these</p>

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	because the classification system isn't based on roadway capacity or safety.	facilities on scenic or historic rural roads, the same restriction in the bill for equestrian centers.
Title I: DEFINITIONS Agritourism Page 2, Line 30	Community: Food services like those provided by restaurants and event venues should not be authorized in residential zones unless the activities are subject to regulations that protect the community and public.	Left unrestricted, the reference to "farm to table meals" in the definition of agritourism would undoubtedly include the serving of prepared meals and the sale of alcohol. The Agritourism Workgroup of the Governor's Intergovernmental Commission for Agriculture's (GICA) proposed definition of agritourism does not include food services or farm to table meals, only picnics and parties. We believe that commercially prepared meals and alcohol sales be excluded from the definition of "agritourism" and regulated as a separate use, similar to zoning laws for wineries, farm breweries, etc. (See recommendation for zoning tiers below.)
Title 10: Agritourism (4), buildings Page 5, Line 31	Community: All lodging activities should be regulated by the county to protect public health and safety.	As used in the provision regarding building codes, the word "occupied" could be interpreted to implicitly authorize overnight or long-term accommodations. We recommend changing the language from "occupied" to "used" and including a statement prohibiting overnight lodging under the "agritourism" zoning category. (See recommendation for zoning tiers below.) Our concern about lodging is amplified by the growth in transient rentals through on-line venues like Airbnb. Although the zoning code sets parameters for traditional B&Bs and Inns, there are no standards if similar services—including wedding and event venues—are marketed on the internet. As a result, the rules being adopted to promote agritourism could, when coupled with this loophole, inadvertently spur an increase in large-scale lodging and event venues that operate without the appropriate health, public safety, and community protections.
Title 10: Agritourism (5), food and beverages Page 5, Line 36	Community: Commercial venues that serve alcohol and prepared meals should not be authorized in residential areas unless the activities are subject to	Provisions in the bill that restate the need to comply with state and local laws imply that the "agritourism" zoning category condones selling food and alcohol to the public. This could create a loophole for festivals akin to the Renaissance Festival, which could adversely affect a community. As noted above, we believe that selling alcohol and prepared meals should

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	regulations that protect the community and the public.	be expressly excluded from the definition of agritourism. (See recommendation for zoning tiers below.)
Title 10: Agritourism (7) parking Page 6, Line 5	Community: Operators should provide on-site parking .	We believe that any activities related to agritourism should require parking to be on-site to avoid creating backups or triggering accidents on narrow, rural roads.
Title 4: Agritourism Residential Districts (Table) Page 4, Line 1	For your consideration: Tailor the zoning for agritourism to the land use and community impacts of the activities.	<p>Because the impacts on the environment and community from agritourism will vary widely, we recommend that the zoning standards be tailored to the type, scale, and duration of the activities, possibly through the use of three different tiers. For example, those tiers might vary as follows:</p> <p>Tier 1 Agritourism (P, permitted)—seasonal, intermittent activities that do not involve major structures, prepared meals, alcohol, lodging, or parking for more than a certain number of cars (TBD).</p> <p>Tier 2 Agritourism: (C, conditional) activities involving structures large enough to require building permits (e.g. to accommodate education groups), parking for a certain number of cars (TBD), but that do not provide prepared meals, alcohol, or lodging.</p> <p>Tier 3 Agritourism: (SE, special exception) activities that involve structures large enough to require building permits, parking to accommodate a certain number of cars (TBD), and may include providing prepared food, alcohol, and lodging—with regulations for Airbnb and other online lodging services.</p>