CITY OF ORLANDO

Friday, June 25, 2010

RE: Agricultural uses in Residential Zones LDC2010-00131

Colleagues:

This letter has been written at the request of Celveta Lewis in our Code Enforcement Division concerning the agriculture activities of the owner of 3260 Fitzgerald Drive. In this particular case, the owner is growing 10-foot tall corn stalks in most of the available space in both the front and back yards of his R-1 zoned lot. While this letter is being written to address this particular enforcement issue, it is also being generalized to address other such activities in all other residential zones in the City.

Issue – May the owners of residential property grow food on their properties? If so, when would this activity constitute a code violation?

Zoning – Figures 2A.LDC and 2C.LDC of Chapter 58 limit the use of "agricultural" to "Holding" and "Conservation" zoned properties. No residentially zoned properties may have agricultural principal use activities.

Definitions - Our code defines "Agriculture" with the following:

> *Agriculture: The production, keeping or maintenance, for sale, lease or personal use, of plants and/or animals useful to humans. This term includes:*
> - *Animal and stock grazing.*
> - *Bee keeping.*
> - *Citrus cultivation.*
> - *Dairy farms and sod farms.*
> - *Farms.*
> - *Forestry.*
> - *Groves.*
> - *Riding stables.*
> - *Roadside agricultural stands.*
> - *Truck gardening.*

Intent – In a strict interpretation, anyone who grows a tomato plant in his or her back yard would be in violation of the code because they would be in *"the production, keeping or maintenance, for sale, lease or personal use, of plants ..... useful to humans".* Clearly this was not the intent of our code. In my opinion, the intent of the code was to prevent the nuisance effects of major farming activities from harming the reasonable use and enjoyment of adjacent, non-agricultural property owners. These negative effects include odors from animal and farm wastes, noise from diesel equipment, and visual effects of storage buildings, equipment, packaging crates, etc; most of which are limited or eliminated in the aforesaid situation.

Principal / Accessory Uses – The above identifies that agriculture may not be a principal use in residential zones. Our code does allow some consideration for other uses as an "accessory use" as defined below:

Accessory Use or Structure: A use or structure which is clearly incidental to, customarily found in association with, and serves a principal use; is subordinate in purpose, area, or extent to the principal use served; and is located on the same building site as the principal use, or on an adjoining building site in the same ownership as that of the principal use.

The Code also limits the area for an accessory use to 10% of the building site with the below:

Sec. 58.912. Maximum Floor Area.

The total floor area occupied by all accessory service uses shall not exceed 10% of the floor area of a development site; nor, shall such uses occupy more than 25% of the floor area of any single building.

Determination – Considering the above I will consider the growing of plants for food to be an accessory use in a residential zone with the following limitations:

- **Accessory Use Only** – This use of the property may only be considered as an accessory use. This means the maximum amount of the property to be used for growing food plants shall be 10% of the lot size.

- **Personal Use only** – The growing of plants for food may only be for the use of the residents of the principal building on the site.

- **Location –** The plants must be located behind the principal building. No growing of food plants in the front yard.

3260 Fitzgerald Drive – The owner of 3260 Fitzgerald Drive may grow corn for his own personal use providing the plants are limited to only 10% of his lot size and only in his back yard.

Signed:

Mark Cechman, AICP , Zoning Official

Concurred:

Dean Grandin, Jr., AICP , Planning Official