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## TECHNICAL STAFF REPORT

*Petition Accepted on August 13, 2013  
Planning Board Meeting of August 29, 2013  
County Council Hearing to be scheduled*

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HOWARD COUNTY COUNCIL  
MEMBERS

**Case No./Petitioner:** ZRA-146 – Marsha S. McLaughlin, Director,  
Department of Planning and Zoning

**Request:** To amend Section 103.0 : Definitions of the Zoning Regulations to establish new definitions for the terms “Farm Brewery” and “Farm Brewery – Class 1A”.

To amend Section 104.0: RC (Rural Conservation) District to add “Farm Brewery – Class 1A” as a permitted accessory use under Section 104.C., subject to certain permit provisions.

To amend Section 105.0: RR (Rural Residential) District to add “Farm Brewery – Class 1A” as a permitted accessory use under Section 104.C., subject to certain permit provisions.

To amend Section 128.0.O in the Supplementary Zoning District Regulations to revise the Contents listing and the current criteria and permit requirements for a “Farm Winery – Class 1A” in order to add the “Farm Brewery – Class 1A” use as similar accessory use to farming uses in the RC and RR Districts.

Department of Planning and Zoning Recommendation:

APPROVAL

### I. DESCRIPTION OF PROPOSAL

- In 2011, the Department of Planning and Zoning proposed the Zoning Regulation Amendment case ZRA 130 to add Farm Wineries as a new use category. This proposal sought to allow such uses to be approved in the RC and RR Districts based upon the level of intensity of the Farm Winery.

Farm Wineries that were higher-intensity operations would be required to obtain Conditional Use approval from the Hearing Authority. A more basic Farm Winery use would be allowed as an accessory use to a farm in the RC or RR District subject to the approval of a Zoning Permit, under provisions in the Supplementary Zoning District Regulations section.

- ZRA 130 was approved with various amendments and the new Farm Winery regulations became effective July 4, 2011. The basic category requiring a Zoning Permit was called “Farm Winery – Class 1A.”

PETITIONER: Marsha S. McLaughlin, Director, Department of Planning and Zoning

## I. DESCRIPTION OF PROPOSAL

- **In 2012, new State legislation allowing a new beer manufacturing license category for Farm Breweries was approved and became effective. This new law is intended to support farms within the State. Such a license would allow a farm to produce brewed beverages using “home-grown” ingredients, and would also allow the sale of the final products.**

During the recent Comprehensive Zoning Plan process, it was brought to the attention of the Department of Planning and Zoning that a certain farm in the County that is an Agricultural Land Preservation Easement farm had applied for one of these new State licenses.

When it was determined that the farm would also need local zoning authorization for such a use, the Department prepared a regulation amendment for this purpose, with the intention of entering this new amendment in the ongoing Comprehensive Zoning Plan process. However, this process had already proceeded to a point when this amendment could not be included, as it was deemed to be too substantive in nature. Subsequently, the Department submitted this same amendment as this separate Zoning Regulation Amendment request.

- **The reasons for the requested amendments are to enable Farm Breweries to open and operate as a new accessory farming use in Howard County through a relatively easy Zoning Permit approval process, and thereby help promote the growing of brewing-related crops such as corn, grains, hops, fruit or other plants, and also the production of malt and other brewing ingredients, as agricultural products adding to the marketing potential for Howard County farms and other local farms.**

There are additional public benefits because there would be increased farm-operation economic development associated with the sale of the brewed products, and increased County-wide economic development associated with agritourism activities linked to the brewery operations.

- **The proposed amendments are relatively simple, and entail amending the Definitions section to add two new terms, amending the Accessory Use subsections in the RC and RR District regulations, and to amend the current criteria and permit requirements for a Farm Winery – Class 1A in the Supplementary Zoning District Regulations section order to add the new use as a similar accessory use to farms. The complete proposed amendment text is attached to this Technical Staff Report as Exhibit 1 (Petitioner’s Proposed Text).**

## II. EXISTING REGULATIONS

- **Although the Zoning Regulations do not currently permit Farm Breweries, in operation such uses would be almost identical to the currently permitted Farm Wineries, differing mainly in the types of agricultural ingredients used in the processing, the ingredients processing methods, and the types of beverages that would result from the processing.**

**II. EXISTING REGULATIONS**

- **On a related issue, in the new Zoning Regulations approved in the 2013 Comprehensive Zoning Plan, breweries that are more of an industrial level category are now permitted for the first time in certain districts as manufacturing uses.**

Breweries that manufacture less than 22,500 barrels of brewed beverages will now be permitted as a matter of right in the CE (Corridor Employment) and M-1 (Manufacturing: Light) Districts. Breweries that manufacture greater than 22,500 barrels of brewed beverages will now be permitted as a matter of right in the M-2 (Manufacturing: Heavy).

**III. BACKGROUND INFORMATION**

**A. Scope of Proposed Amendments**

- **The number of properties potentially affected by the proposed amendments is greater than 12, because the proposed amendments for Farm Breweries as permitted accessory uses could be applied to many existing farm properties in the RC and RR Districts.**

**IV. EVALUATIONS AND CONCLUSIONS**

- **The proposed amendments are in general concurrence with the *PlanHoward 2030* Resource Conservation Policy No. 4.2 to “Refine the Rural Conservation (RC) and Rural Residential (RR) zoning regulations to provide greater flexibility for the agricultural community”.**

The amendments also fulfill the Implementing Actions of Policy 4.2 to “Examine and amend where appropriate the list of accessory and conditional uses in the RC and RR districts, and refine uses and standards for approval,” and also “Review use designations (permitted by right, by permit, and conditional [use]) in each Rural West zoning district and determine whether amendments are needed to make some uses less or more restrictive.” The proposed amendments are logical extensions to the already permitted Farm Winery – Class 1A use.

**V. RECOMMENDATION: APPROVAL**

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-146 be **APPROVED**.

*Marsha S. McLaughlin*      8/14/13  
 Marsha S. McLaughlin, Director      Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

## EXHIBIT 1 – PETITIONER’S PROPOSED TEXT

### Amendments to Section 103.0: Definitions:

**FARM BREWERY:** AN AGRICULTURAL PROCESSING FACILITY LOCATED ON A FARM WITH EQUIPMENT, COMPONENTS AND SUPPLIES FOR THE PROCESSING, PRODUCTION AND PACKAGING OF BEER, ALE, PORTER, STOUT AND SIMILAR MALT-BASED OR GRAIN-BASED BEVERAGES ON THE PREMISES. FARM BREWERY ACTIVITIES MAY INCLUDE ASSOCIATED COOKING, FERMENTING, BOTTLING, STORAGE, AGING, SHIPPING, RECEIVING, AND MAY ALSO INCLUDE ACCESSORY FACILITIES FOR LABORATORY WORK, MAINTENANCE, AND OFFICE FUNCTIONS.

**FARM BREWERY-CLASS 1A:** A FARM BREWERY WHICH INCLUDES PRODUCT TASTING, PRODUCT SALES, SITE TOURS, AND EDUCATIONAL PROGRAMS.

### Amendment to RC District Accessory Uses Section 104.0.C.15:

15. Farm Winery-Class 1A AND FARM BREWERY-CLASS 1A, subject to the requirements of Section 128.0.O.

### Amendment to RR District Accessory Uses Section 104.0.C.11:

11. Farm Winery-Class 1A AND FARM BREWERY-CLASS 1A, subject to the requirements of Section 128.0.O.

### Amendment to Section 128.0.: Supplementary Zoning District Regulations Contents:

- O. Farm Winery – Class 1A AND FARM BREWERY – CLASS 1A

### Amendments to Section 128.0.O:

- O. **Farm Winery – Class 1A AND FARM BREWERY – CLASS 1A**

1. A Farm Winery – Class 1A ~~[[is]]~~ OR A FARM BREWERY – CLASS 1A ARE permitted as an accessory use to farming in the RC and RR Districts, provided that ~~[[it]]~~ THE USE complies with the following criteria:
  - a. The use is located on a lot or parcel of at least 5 acres. This use is permitted on any such parcel, including parcels with agricultural preservation easements and preservation parcels, excluding cluster preservation parcels in the RR District existing on July 4, 2011 for which easements have not been donated to the Agricultural Land Preservation Program.
  - b. The lot or parcel upon which the ~~[[farm winery]]~~ USE is located shall have frontage on and direct access to:

- (1) A road classified as an arterial or collector public road; or
  - (2) A local road, provided that:
    - (a) Access to an arterial or collector public road right-of-way is not feasible;
    - (b) The access to the local road is safe based on road conditions and accident history;
    - (c) If the local road is internal to a residential cluster subdivision, the subject property adjoins an arterial or collector highway, the local road access point is within 400 feet of its intersection with the arterial or collector highway, and there are no intervening driveways between the arterial or collector highway and the access to the [[winery]] PROPERTY along the local road; and
    - (d) That the use of the local road for access to the [[winery]] PROPERTY will not unduly conflict with other uses that access the local road.
- c. The driveway providing access to the proposed site shall not be shared with other properties; however the Director of Planning and Zoning may waive this criteria if the petitioner provides affidavits from all persons who also share the driveway that they do not object to the use of the driveway for the [[Farm Winery]] USE. If the use of a shared driveway is allowed, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway. The Director of Planning and Zoning shall prescribe appropriate conditions and safeguards to ensure the [[Farm Winery owner's]] PETITIONER'S responsibility for repair of any damage or deterioration of the shared driveway caused by the [[winery]] use.
- d. All [[winery related structures and uses]] STRUCTURES AND USES ASSOCIATED WITH THE PROPOSED USE, excluding cultivation areas, shall be at least 75 feet from all lot lines and where possible minimize the impact on surrounding properties.
- e. [[Planting of]] FOR A FARM WINERY CLASS 1A USE, at least two acres of grapes or other fruit on the property shall be initiated upon approval and successfully established within two years of approval. FOR A FARM BREWERY CLASS 1A USE, AT LEAST TWO ACRES OF A PRIMARY INGREDIENT USED IN THE BREWING OF MALT-BASED OR GRAIN-BASED BEVERAGES ON THE PREMISES SHALL BE INITIATED UPON APPROVAL AND SUCCESSFULLY ESTABLISHED WITHIN ONE YEAR OF APPROVAL.
- f. Appropriate screening of adjoining parcels shall be provided, which may include a solid fence, wall, landscaping or a combination that presents an attractive and effective buffer.

- g. The [[Farm Winery]] USE shall be consistent with and support the farm and its production, shall not interfere with the implementation of soil conservation and water quality best management practices, and shall not impact floodplains, wetlands, stream buffers, steep slopes or other environmental features on the farm winery property.
  - h. The [[Farm Winery]] USE shall be compatible with the rural character of the farm and the surrounding area.
  - i. A Farm Winery may produce, serve and sell food to complement wine tasting in accordance with Article 2B of Maryland State Code.
  - j. [[Any accessory retail sales within the Farm Winery, other than the wine and similar fermented beverages produced at the Farm Winery, are limited to items promoting the same Farm Winery, such as glassware, clothing, and wine-related items such as wine openers. A Farm Winery may sell plants and/or produce grown on-site.]] IN ADDITION TO THE BEVERAGES PRODUCED BY THE USE, THE RETAIL SALE OF PROMOTIONAL ITEMS IDENTIFYING THE SAME WINERY OR BREWERY, SUCH AS GLASSWARE, CLOTHING, BOTTLE OPENERS OR SIMILAR ITEMS, IS PERMITTED AS AN ACCESSORY USE. PLANTS OR PRODUCE GROWN ON-SITE MAY ALSO BE SOLD.
  - k. [[Farm Winery v]] Visitor hours shall be restricted to between 10:00 a.m. and 7:00 p.m., Sunday through Thursday; and 10:00 a.m. and 10:00 p.m., Friday and Saturday. DPZ may reduce the hours for visitors, but shall not increase them. The hours for winery processing and production operations are not limited.
  - l. At any one time, the number of visitors to the winery OR BREWERY shall not exceed 50 visitors.
2. [[The owner of a Farm Winery – Class 1A shall obtain approval of the use by a permit to be issued by DPZ.]] A ZONING PERMIT IS REQUIRED FOR THE USE. As part of the approval process, the owner shall submit a site layout, which includes acreage, screening, parking, and building locations. [[The owner shall also provide documentation to DPZ proving compliance with Section 128.0.O.]] If approved, AFTER THE REQUIRED TWO-YEAR OR ONE-YEAR TIME PERIOD, AS APPLICABLE, the owner shall provide documentation to DPZ proving compliance with THE PLANTING REQUIREMENTS IN Section 128.0.O.1.E and that it remains in compliance with all the other approval criteria. Thereafter, permit renewal is not required unless a violation occurs. It is the responsibility of the [[Farm Winery]] WINERY OR BREWERY owner to obtain any other required Federal, State and County approvals required prior to operating the use.