

MEMORANDUM

NOVEMBER 14, 2013

TO: BOSTON REDEVELOPMENT AUTHORITY AND
PETER MEADE, DIRECTOR

FROM: KAIROS SHEN, DIRECTOR OF PLANNING
LARA MERIDA, DEPUTY DIRECTOR FOR COMMUNITY PLANNING
TAD READ, SENIOR PLANNER III
MARIE MERCURIO, SENIOR PLANNER I

SUBJECT: ARTICLE 89: URBAN AGRICULTURE

SUMMARY: This Memorandum requests that the Boston Redevelopment Authority (the “BRA”) Board authorize the Director to petition the Boston Zoning Commission to adopt Article 89 (Urban Agriculture) of the Boston Zoning Code (the “Code”).

INTRODUCTION

Staff is requesting that the BRA Board petition the Zoning Commission to adopt a new article to the Zoning Code, Article 89, to support urban agriculture in Boston. The product of intensive community engagement, Article 89 introduces dramatic changes to the way the Zoning Code treats urban farming, paving the way for a significant increase in local food production citywide and, ultimately, a healthier, more vibrant Boston.

BACKGROUND

In January 2012, at the request of Mayor Thomas M. Menino, the Boston Redevelopment Authority (“BRA”) along with the Mayor’s Office of Food Initiatives (“MOFI”) launched a new, citywide initiative to update the Zoning Code to address urban agriculture activities in the City of Boston. Among the stated goals of the initiative were to increase access to affordable and healthy food, promote economic opportunity, and increase education and knowledge around healthy eating and food production.

BRA and MOFI staff spent a year and a half working with the 25-member Urban Agriculture Working Group (“Working Group”) appointed by Mayor Thomas M. Menino to discuss a full range of urban agriculture activities, best practices nationally, and what might be considered for Boston. The Working Group met with BRA and

MOFI staff for 17 public Working Group meetings up through May 2013, and Article 89 was the end result of these meetings.

Under the existing Boston Zoning Code, most agricultural activities are not addressed and are thus forbidden. Article 89 will change this by making possible a wide array of agricultural activities, most notably ground level and roof level farming. At the request of the Working Group, Article 89 only addresses commercial agricultural endeavors; thus, community gardens and backyard gardening are not addressed in Article 89.

In the summer of 2013, the BRA and MOFI presented draft Article 89 to all of the neighborhoods of Boston through eleven (11) community meetings. All of the feedback was collected, assimilated and addressed by the BRA and MOFI. Comments from the neighborhood meetings led staff to propose certain revisions to Article 89 which were taken back to the Mayor's Working Group on September 5, 2013.

Key sections from Article 89 address:

Urban Farms

- Up to 1 acre ground level farms will be allowed in all zoning districts
- Up to 5,000 sf roof level farms will be allowed in all zoning districts
- Rooftop greenhouses will be allowed in institutional, industrial, and large scale commercial zoning districts and conditional in all other districts

Comprehensive Farm Review (CFR)

- CFR is a staff level design review that will be conducted by the BRA Urban Design Department to ensure that urban farms make good neighbors
- Ground-level farms larger than 10,000 sf will require CFR in most instances
- Roof-level farms larger than 5,000 sf will require CFR in most instances
- All roof-level greenhouses will require CFR
- CFR will take up to 45 days; abutters will be notified for comment

Soil Safety

- All urban farms cultivating in soil will need to comply with the Soil Safety Protocol developed by the Boston Public Health Commission (BPHC)

Composting

- Composting will be allowed on all urban farms and may occupy up to 7.5% of the lot area of an urban farm, so long as it is intended only to support onsite operations
- Rooftop composting will be permissible as long as it is contained in bins.

Farmers Markets and Farm Stands

- Farmers' markets will be allowed in any zoning district where retail is allowed by underlying zoning and conditional in all other districts.
- Farm stands will be allowed on any urban farm and also where retail is allowed by underlying zoning

Accessory Keeping of Hens and Bees

- The accessory keeping of hens and bees is already addressed in the existing Zoning Code, and Article 89 will not change the use regulations (that is, whether the use is "allowed", "conditional", or "forbidden")
- Where the keeping of hens and bees is conditional under existing zoning, Article 89 will define the permissible size of beehives and coops, numbers of allowed hens and beehives, and other dimensional and maintenance requirements
- Use regulations for the keeping of hens and bees is a decision left up to individual neighborhoods – that is, individual neighborhoods may petition the BRA to amend existing use regulations for the keeping of hens and bees
- Though not part of Article 89, a number of suggested permitting requirements and best practices for the keeping of hens and bees, largely reflecting the professional judgment of local farmers and beekeepers, were developed through the Working Group process. These are provided in Attachments B and C and may become part of the permitting requirements for the keeping of hens and bees after further coordination with ISD-Health Division.

Aquaculture¹, Aquaponics, Hydroponics, and Freight Containers

- Aquaculture and aquaponics facilities as a primary use will be allowed in all industrial zoning districts, conditional in most other districts, and forbidden in residential districts.
- Aquaculture and aquaponics facilities as an accessory use will be allowed in all zoning districts
- Hydroponics as a primary use will be allowed in all districts except residential districts, where they will be conditional.
- Hydroponics facilities as an accessory use will be allowed in all districts, except when grown in freight containers, in which case they would be allowed in industrial, institutional and large scale commercial districts, conditional in small-scale commercial and forbidden in residential districts

¹Article 89 will not change the use regulations for aquaculture in the East Boston Neighborhood District (Article 53) nor in the South Boston Neighborhood District (Article 68) because the applicable zoning articles for these neighborhoods already address "Aquaculture Facilities". There is an applicability provision in Articles 53 and 68 which states that "where conflicts exist between the provisions of this Article and the remainder of the Code, the provisions of this Article shall govern." Changing the use regulations for Aquaculture Facilities in Articles 53 and 68 to be consistent with the provisions of Article 89 would require zoning amendments to these Articles, respectively.

- Growing in freight containers will be allowed in all industrial, institutional and large-scale commercial districts with BRA design review

In addition to adopting Article 89, BRA staff is producing a user friendly guide, called “Article 89 Made Easy,” to help users understand Article 89 by summarizing its provisions in plain English. At the same time, the Mayor’s Office of Food Initiatives is collaborating with the Harvard Law School Center for Health Law and Policy Innovation to develop a kind of “road map” to help demystify the permitting procedures for urban farms. The intention is to have both documents available to use when Article 89 is enacted.

In summary, Article 89 is a citywide Zoning Code article that has been prepared by the BRA in consultation with the MOFI and the Mayor’s Urban Agriculture Working Group. It reflects the recommendations from a year and half planning process addressing a diverse range of urban agricultural practices for which the demand is increasing in Boston. Article 89 explicitly defines these activities, outlines appropriate use regulations for these activities, and provides dimensional and design review requirements and/or guidelines, thereby dramatically breaking down the barriers to urban agriculture in Boston.

An appropriate vote follows:

VOTED: That the Boston Redevelopment Authority (“BRA”) authorize the Director to petition the Boston Zoning Commission to adopt Article 89 Urban Agriculture of the Boston Zoning Code (the “Code”), in substantial accord, as presented to the BRA at its meeting on November 14, 2013.

Attachments:

- A - Article 89, Urban Agriculture
- B - Permitting Requirements for Accessory Keeping of Hens
- C - Permitting Requirements for Accessory Keeping of Honey Bees