



Jesse Arreguín
Councilmember, District 4

CONSENT CALENDAR
October 19, 2010

To: Honorable Mayor and Members of the City Council
From: Councilmember Jesse Arreguín
Subject: Refer to the Planning Commission: Home and Community Garden Zoning

RECOMMENDATION:

Refer to the Planning Commission the proposed Zoning amendments to allow home-based garden-grown edibles businesses in Berkeley’s residential areas and request that the Planning Commission review the proposal and make a recommendation to City Council.

BACKGROUND:

As a City, we should encourage urban agriculture as a means to meet our Climate Action Plan and to support the consumption of locally grown produce. Our current zoning laws do not contemplate the sharing, trading or sale of home-grown produce –defining the associated home-based economic activity by default as a “moderate impact home occupation.” This category of activity requires costly and time consuming permits which act as a virtual bar.

For our community to be able to fully embrace urban agriculture in an economically viable manner, we propose a small amendment to the Zoning Code – enabling those who seek compensation for their small, usually low- or no-profit “edibles businesses” to obtain permits with greater ease and lower cost.

The proposed legislation mirrors an existing exception to the Moderate Impact Home Occupation permitting requirements - for Teaching Related Home Occupations. Permits are still required, but the cost and time burdens are greatly reduced to facilitate and support highly valued, low impact economic activity consistent with residential uses.

CONTACT PERSON:

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Attachments:

1. Proposed Changes
2. NY Times Article “Urban Farming for Cash Gains a Toehold in San Francisco”

Amend Zoning Code 23C.16.030 Moderate Impact Home Occupations Subject to Use Permit to add the following as new subsection B and re-designate subsequent subsections accordingly:

23C.16.030 B

Home occupations involving the sale of fruits, vegetables and other non-processed edibles, other than marijuana/cannabis, grown on the premises, which meet all of the following conditions, shall be allowed subject to issuance of an Administrative Use Permit and subject to payment of Gross Receipts Tax, pursuant to the City's Business License Tax Ordinance, as set forth in Chapter 9.04.

1. Such Home Occupations must:
 - a. Occupy less than 400 square feet and less than 20% of the dwelling unit or group living accommodation room
 - b. Operate within the hours of 8 am and 10 pm
 - c. Be conducted entirely within the dwelling unit or group living accommodation room
2. Such Home Occupations may not:
 - a. Involve more than 4 customer visits per hour
 - b. Involve storage, service, repair, handling or transport of any goods or products on or at the subject premises, except that fruits, vegetables and other non-processed edibles, other than marijuana/cannabis, grown on the premises, may be stored, handled and transported on or at the subject premises incidental to sales.
 - c. Involve hazardous materials or processes; or
 - d. Create offensive or objectionable noise, vibration, odors, heat, dirt or electrical disturbance perceptible by the average person beyond that lot line or party walls of multi unit buildings, or the subject premises.

Also add to AUP Fee Schedule to charge same as Teaching Related Home Occupation:

Fruit, Vegetable and Non Processed Edible Sales Home Occupation (Moderate Impact) - \$185.75

August 13, 2010

Urban Farming for Cash Gains a Toehold in San Francisco

By ZUSHA ELINSON

Brooke Budner and Caitlyn Galloway are a common sight on the streets of the Mission district — covered in dirt and carrying baskets of salad mix from their backyard farm to Bar Tartine, a stylish upscale restaurant.

“We’re fairly scrappy ladies and often pretty dirty,” said Ms. Galloway, 29, a part-time sign painter who founded [Little City Gardens](#) with Ms. Budner, 29, last year.

But their new piece of land — three-quarters of an acre on a quiet residential block in the outer Mission — is now mostly quiet and overgrown with weeds and without much sign of the lettuce, kale, arugula, purslane, lemon balm and other greens for which the women are known.

The problem is the legality of selling vegetables grown in San Francisco without a special permit, an expensive and time-consuming requirement for a small, low-profit business.

Even as the hype around [urban agriculture](#) and the local-food movement has exploded, laws governing land use are still stuck in another era, one that frowned on farming in the city, especially in residential areas, experts in urban planning say.

“There was an effort to zone agriculture out; it wasn’t seen as the highest and best use of the land,” said Jennifer Wolch, dean of the College of Environmental Design at the [University of California, Berkeley](#). “Culturally, there was a shift in the postwar period where it was unacceptable.”

A changing attitude and new ventures like Little City Gardens are now prompting city planners to consider revising zoning laws.

San Francisco is set to roll out significant changes this fall, following cities like Detroit, Kansas City, Mo., and Seattle. The new rules would let city farmers sell their produce without the old roadblocks and enshrine 21st-century urban agriculture in the books.

AnMarie Rodgers, a San Francisco city planner and the daughter of an Iowa pig farmer, is circulating a draft zoning change — one that has not been made public — that she hopes will be introduced in mid-September. It has the support of Mayor [Gavin Newsom](#), who last year ordered the city to increase healthy and sustainable food.

“There are beginning to be relatively small-scale gardening operations that are running up against the constraints of the current code,” Ms. Rodgers wrote in a recent memo to city officials. “This is an issue that cities around the country are grappling with, and many big cities are revising or considering revising their zoning codes to support at least small-scale urban agriculture.”

San Francisco, Oakland and Berkeley are full of gardens in backyards and schoolyards and on rooftops and vacant lots. From the chef [Alice Waters](#)’s famed edible schoolyard at [Martin Luther King Jr. Elementary School](#) in Berkeley to City Slicker Farms and the People’s Grocery, which are trying to bring fresh produce to West Oakland, the Bay Area’s innovative horticultural endeavors are widely known.

But when vegetables are exchanged for cash, it’s a different story.

Sophie Hahn, a Berkeley community activist and stay-at-home mother, is growing enough vegetables for six families in her backyard. Wanting to recoup some of her investment from neighbors to whom she has been giving the vegetables, Ms. Hahn looked into getting the right paperwork from the city. She found that obtaining a permit for home businesses like teaching piano, tutoring and even growing medical [marijuana](#) was easy, without public hearings or great expense. A backyard “community supported agriculture” venture was a different story.

“It’s actually easier in Berkeley to have a pot collective than to have a vegetable collective,” said Ms. Hahn, a former candidate for City Council who is putting together a legislative solution she plans to take to the Council.

For now, Ms. Hahn gives away the beets, basil, beans and everything else that grows in her North Berkeley yard.

Little City Gardens started out small, with 2,500 square feet of donated land near 18th and Guerrero Streets. But Ms. Budner, a part-time illustrator, and Ms. Galloway decided they wanted to make an experiment of their venture: Could they — or anyone for that matter — actually make a living as urban farmers?

“In the last couple of years, there’s been huge jazz around urban agriculture,” Ms. Galloway said this week. “A lot of projects seem symbolic or temporary, and I’m excited about celebrating those, but we wanted to do something that makes farming a permanent part of the city.”

They found the larger plot, a vacant lot covered with weeds behind a chain-link fence, and signed a lease this spring for a year and a half. They raised \$20,394 for their startup costs on the Web site [Kickstarter](#), which calls itself a [financing platform for ideas and endeavors](#).

They got an informal go-ahead from the San Francisco Planning Department, but a complaint from a neighbor in May brought scrutiny. The verdict was that Little City Gardens must get a conditional-use permit, which can cost up to \$3,000 and take three to five months to complete, if they wanted to sell their produce.

Ms. Galloway and Ms. Budner saw that decision as a barrier to entry for farmers on small budgets and smaller plots. So instead of paying, they decided to fight. Citing Mayor Newsom's edict for more healthy food in the city, they sought a change in the law.

Ms. Rodgers, the city planner, agreed. "What we found," she said, "is the requirement for a conditional-use permit is a bit of a barrier."

Now in draft form, the changes in San Francisco would allow backyard gardeners to sell their produce to their neighbors any way they liked.

Market gardens like Little City Gardens would also be permitted in all areas of the city, whether in a residential or industrial area, if they were less than an acre. Operations of more than an acre would be allowed in areas zoned for industrial use. The new permit would cost a bit over \$300.

There are two primary conditions, Ms. Rodgers said: No marijuana, and farms must abide by certain rules, like locating compost away from neighbors and limiting use of heavy machinery. Pesticides and herbicides permitted by the federal government would be allowed.

Ms. Rodgers said the trigger for a more extensive permitting process would now be the farm's impact on the neighborhood, rather than just the sale of vegetables.

The proposal and the push for it are not without critics. Some are wary of overregulation. Others do not think that clearing the way for urban farming as a business in San Francisco — with its high land prices and slivers of vacant land — will benefit anyone except food enthusiasts with money to burn at fancy restaurants.

"Any public investment, even in changing the zoning code, has to be mindful of public benefit," said Mary Beth Pudup, a professor of community studies at the [University of California, Santa Cruz](#). "A lot of the urban-food movement can kind of skew to the high end."

Not-for-profit-farmers are watching with great interest.

"In the Bay Area, I am really interested to see if people can make a profit because land is so valuable and how much can you really produce," said Barbara Finnin, executive director at [City Slicker Farm](#), a nonprofit in West Oakland.

Meanwhile, Ms. Budner and Ms. Galloway have cleared part of their parcel, built a greenhouse, even tilled a small section and hauled in horse manure. But with the changes in the zoning code working their way through the system, they have yet to plant much. They did put in a short row of sunflowers near the entrance of the property, just behind a chain-link fence, which they water with their water bottles. The flowers are now about knee high.

Ms. Galloway said they had wanted to plant at least something while they waited.

“We planted the sunflowers out of desperation,” she said.

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