

Cultivating Local Farm Economies: Planning, Zoning and Emerging Issues in Agritourism

June 14 - Understanding Local Zoning, RTF, and Farm Market GAAMPs



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Office of the Assistant Secretary for Civil Rights
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RTFA – Two Purposes

- Provides affirmative defense to nuisance lawsuits against farmers
 - **But does not prevent lawsuits**
- Provides conditional preemption of certain parts of local ordinances
 - **MDARD does not interpret or enforce local zoning ordinances**



GAAMPs (Generally Accepted Agricultural and Management Practices)

- Manure management and utilization, 1988
- Pesticide utilization and pest control, 1991
- Nutrient utilization, 1993
- Care of farm animals, 1995
- Cranberry production, 1996
- Site selection and odor control for new and expanding livestock production facilities, 2000
- Irrigation water use, 2003
- Farm markets, 2010



Right to Farm: Local Government

- **1st**: Establish jurisdiction
- **2nd**: Determine what is covered in RTFA & GAAMPs
- **3rd**: “GAAMP delegate back”



Generally Accepted Agricultural
and Management Practices for Site
Selection and Odor Control for New and
Expanding Livestock Facilities

January 2021

Michigan Commission of Agriculture & Rural
Development
PO BOX 30017
Lansing, MI 48909



1st: A Four-Part 'Jurisdiction' Test

- Is the activity a “**farm**” or “**farm operation**”?
- Is it producing a “**farm product**”?
- Is it engaged in “**commercial production**”?
- ~~Is it complying with **GAAMPs**?~~
 - Party asserting RTFA as defense bears burden of showing challenged conduct is protected under RTFA.
 - *Lima Twp. v. Bateson* 302 Mich. App. 483 (2013)



2nd: What subjects are off limits for local regulation?

- If it's covered in a **GAAMP**, it's 'off limits' to local regulation
 - type of farm
 - **farm markets**
 - pesticide application
 - manure spreading
 - care of animals
 - acres per animal

AND much, much more!



But if the subject is **NOT** in RTFA or a GAAMP, it's fair game to regulate locally

Again, RTFA is a “shield” not a “sword” for the farmer

- *Sena Scholma Trust v. Ottawa Cnty. Rd. Comm'n*, 303 Mich. App. 12 (2013)



3rd: Delegate Back (category 4 sites)



Kurt Schindler



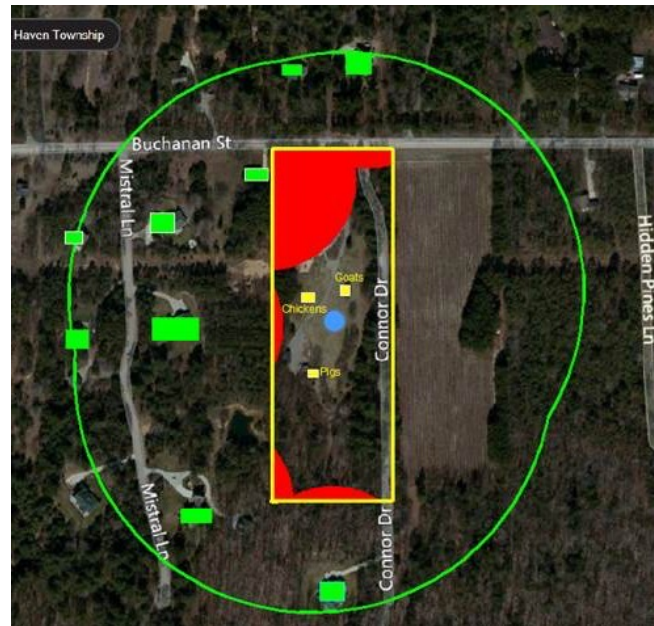
Mary Reilly

- “Site Selection and Odor Control for New and Expanding Livestock Facilities GAAMP”
- ***Added in 2014*** “Category 4 Sites” - Sites **not** acceptable for new or expanding livestock facilities unless regulated by local ordinance.

3rd: Delegate Back (category 4 Sites)

“Primarily residential”

- More than 13 non-farm residences within 1/8 mile of the site **OR**
- Have any non-farm residence within 250 feet of the livestock facility (enclosed fencing).

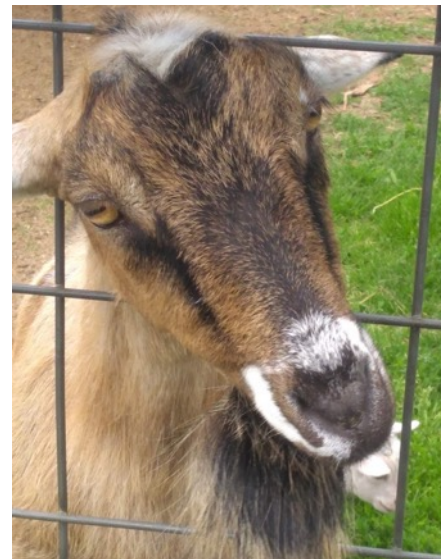


Google Maps and MDARD



Ordinance Check

- Outside "primarily residential" sites, ordinances regulating the number of farm animals per acre or requiring a minimum acreage to keep animals are likely in conflict with RTFA/GAAMPs
 - Unless regulations only apply to "agri-like" activities
 - RTFA only applies to farm operations in commercial production (but remember, the bar is low)!



Kurt Schindler

Consult your Municipal Attorney

GAAMP for Farm Markets



Jim Sluyter

This is a 'Farm Market', not a Farmers Market.

3rd: Delegate back (farm markets)

- Delegates back to local jurisdiction certain physical elements:
 - Structure must comply with State Construction Code
 - Parking, driveways, ingress/egress must comply with state and local regulations
 - One sign subject to local setback, lighting, and size requirements.



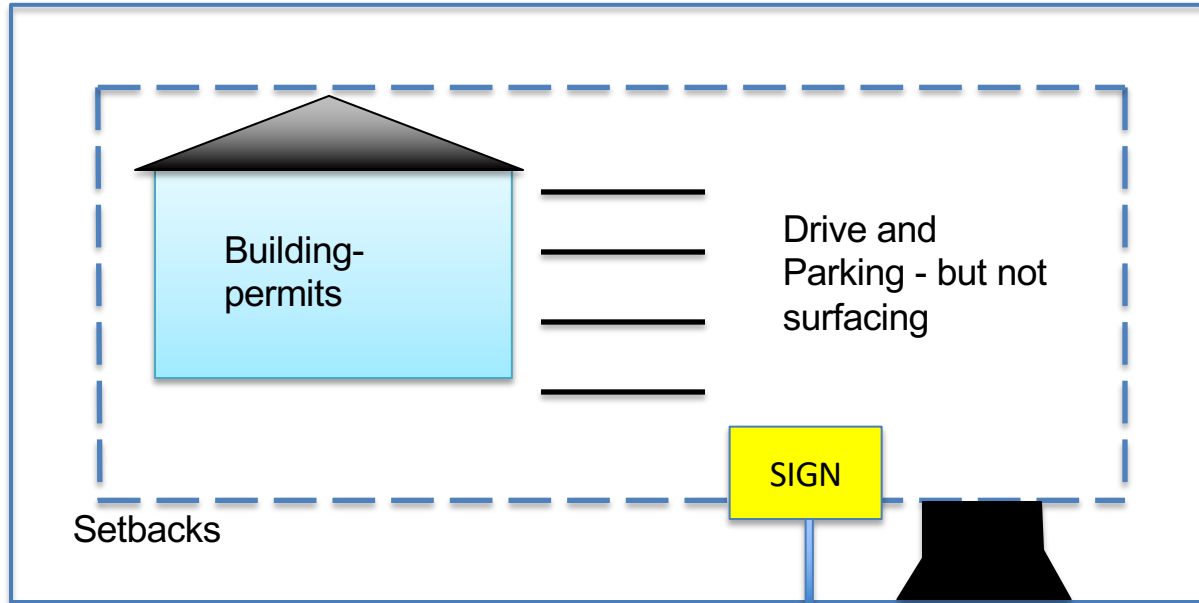
Jill O'Donnell



Kurt Schindler



Farm Markets GAAMP



Farm Markets GAAMP (2021)

- “...the [Right to Farm] Act defines a **“farm operation”** as meaning the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products. **This definition includes, but is not limited to marketing produce at roadside stands or farm markets.**”
- “Although the RTF Act includes farm markets in the definition of a farm operation, **this definition does not define a farm market or describe specific marketing activities.**”



Farm Market - Farm Products

- At least 50% of products offered must be produced on and by the affiliated farm (measured by retail floor space); OR
- At least 50% of average gross sales
 - Fresh as well as processed products
 - At least 50% of a processed products' primary or 'namesake' ingredient must be produced on and by the affiliated farm
 - Apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc.

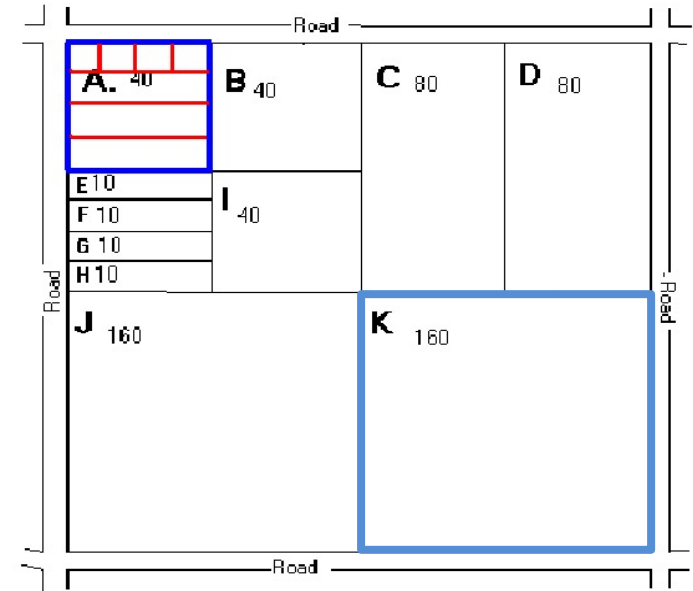


Jae Gerhart



Farm Markets – Important Definitions

- Must be located on property owned or controlled (e.g., leased) by the producer of the products offered for sale.
- Retail space greater than 120 sqft must be 165 ft from all non-farm residences.
- New or expanding farm markets are not authorized on platted lots within a subdivision (but permitted if authorized by association rules or pursuant to a local ordinance).



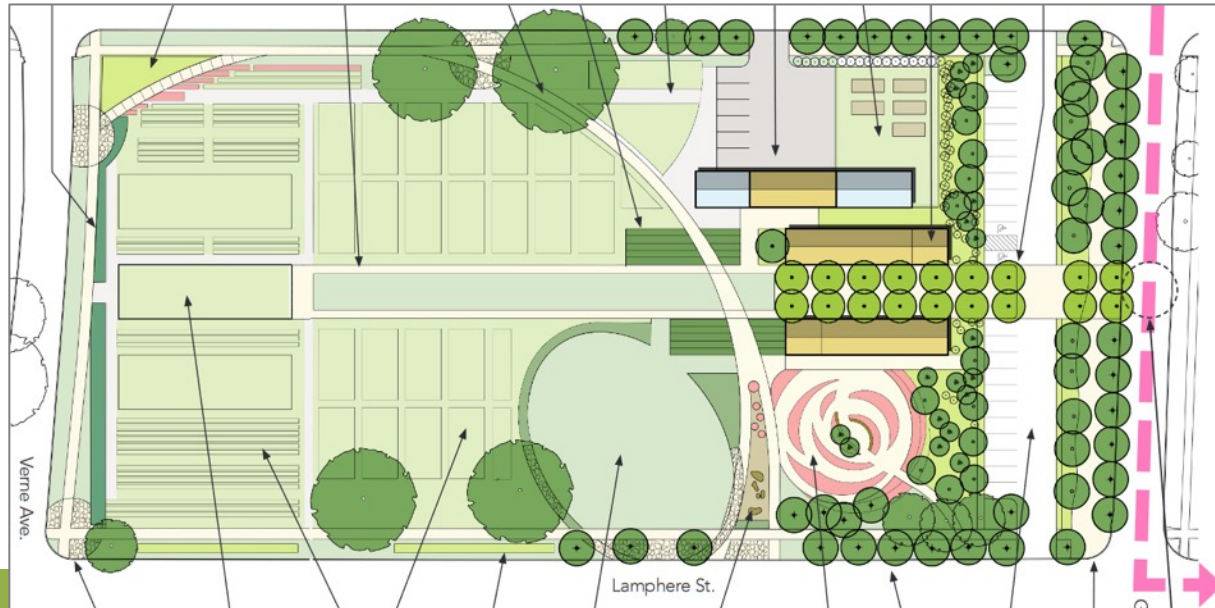
Farm Markets – Important Definitions

- **Affiliated** – A farm under the same ownership or control (e.g., leased) as the farm and does not need to be on the same parcel of land.
- **Marketing** – Promotional and educational activities at the farm market incidental to farm products with the intention of selling more farm products. These activities include, but are not limited to, farm tours (walking or motorized), demonstrations, cooking and other classes utilizing farm products, and farm-to-table dinners.



Site Plans

- A farm market should have a written site plan for potential MDARD review that preempts local government regulations.

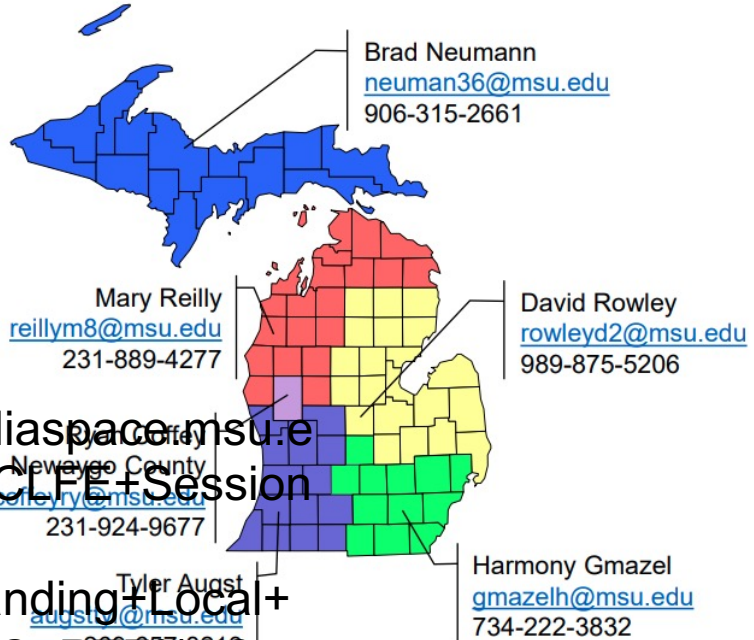


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Questions?

Thank you!



<https://mediaspace.msu.edu/media/CLPE-Session+2+-+Understanding+Local+Zoning%2C+RTP%2C+a+nd+Farm+Market+GAAMP/S/1-n1269n25>

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Farming and Zoning



Evolution – farming has changed

Changes to GAAMPS

Changes in interpretation – Zoning Administrator/ZBA

Complaint resolutions – conflicts/tension

Education is key

Zoning Ordinance Amendments











Generally Accepted Agricultural and Management Practices for Farm Markets

January 2021

Michigan Commission of Agriculture & Rural Development
PO Box 30017
Lansing, MI 48909



Michigan Department of AGRICULTURE & Rural Development

Generally Accepted Agricultural and Management Practices for Farm Markets

January 2012

Michigan Commission of Agriculture & Rural Development
PO Box 30017
Lansing, MI 48909

PH:(517) 373-9797
www.michigan.gov/mda

Challenges





Value-Added





Resources

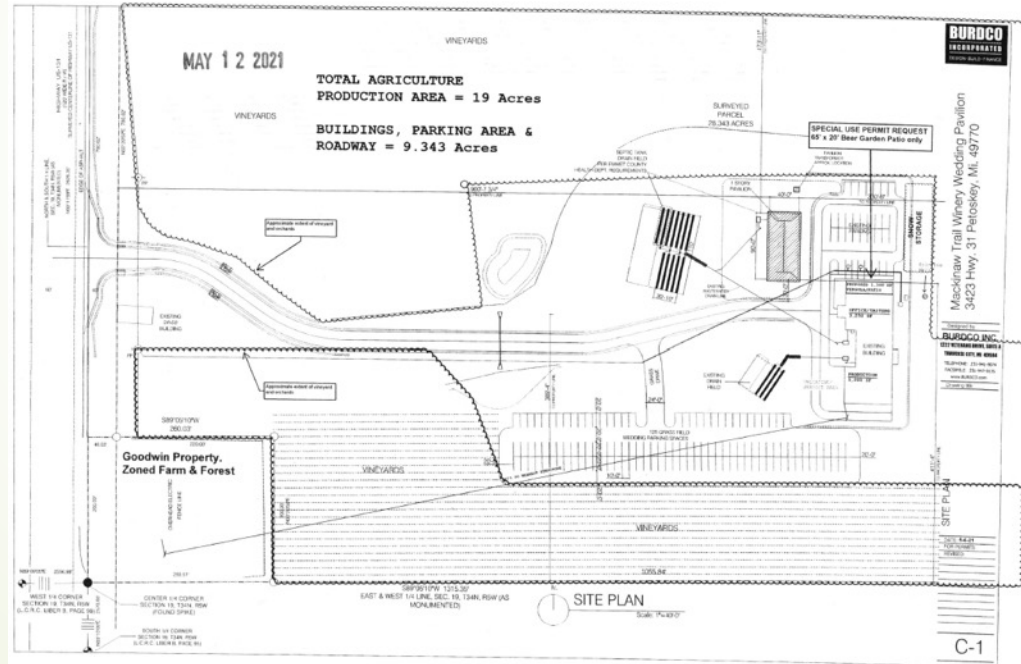


- ▶ MSU Extension/MTA/MAP
 - ▶ Flow Chart
 - ▶ Training programs
 - ▶ Local MSUE agents
- ▶ Michigan Department of Agriculture and Rural Development
 - ▶ RTFA
 - ▶ GAAMPS
 - ▶ Regional staff
- ▶ Active Farming Community
- ▶ Other Zoning Administrators and Planners

Document use

Work Description: Commercial Farm - Pavilion for events.

Stipulations Structure and use is part of the Commercial Farm Operation and is exempt from Zoning under the Michigan Right To Farm Act. All setback standards have been met.





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