

ISSUE IDENTIFICATION TEMPLATE

The worksheets included in this document will follow this general template.

Land Use Code – current regulations

The current regulations for this topic will be described here. (There may not currently be regulations for the topic...) References to the Land Use Code are included throughout the worksheets. The Code can be found online: <http://www.bouldercounty.org/property/build/pages/lucode.aspx> Most of the Code citations in this document can be found in Article 4.

Purpose of the current regulations

The Land Use Code regulations are a means to implement the Boulder County Comprehensive Plan (BCCP). The Boulder Valley Comprehensive Plan (BVCP), Intergovernmental Agreements (IGAs), and perhaps the Building Code may also help explain or indicate the purpose of the regulations.

Why consider changes to the Code?

Ideas in this section come from county staff and discussions with the public.

These are the stated goals for the project:

- *Modernize and modify use classifications including adding or deleting use classifications where necessary.*
- *Consider agriculturally-based activities that supplement and support farming.*
- *Consider expanding options for local food production at a residential scale while maintaining neighborhood character.*
- *Consider local food production, sales, marketing, and production of value-added products while continuing to remain compatible with rural character.*
- *Encourage energy efficient and modern farming practices such as passive solar greenhouses while continuing to remain compatible with rural character.*
- *Consider the appropriate scale of rural and agricultural development including structure numbers and size.*

Land Use Code – potential strategies for revision

More strategies will undoubtedly come forward during the public process. This is simply a starting point for discussion. Ideas in this section come from county staff as well as discussions with the public. It should include strategies that consider cumulative impacts of different types of uses.

Transportation

Include current existing regulations and strategies that address the issue. Highlight potential areas for improvement within this department's purview.

Building Code

Include current existing regulations and strategies that address the issue. Highlight potential areas for improvement within this department's purview.

Public Health

Include current existing regulations and strategies that address the issue. Highlight potential areas for improvement within this department's purview.

Parks and Open Space

Include current existing regulations and strategies that address the issue. Highlight potential areas for improvement within this department's purview.

State

What existing regulations, gaps in the review process, etc., should we be thinking about or aware of as we consider changes to the Land Use Code?

Other Concerns within this Issue

Issues or ideas worth mentioning that don't seem to fit in other categories will be located in this section.

Special Events

Land Use Code – current regulations

Weddings are allowed on Ag-zoned property as a Reception Hall or Community Meeting Facility (Article 4-504.G.) use through Special Use approval. We do not have regulations to specifically address “farm-to-table” dinners.

Purpose of the current regulations

The Land Use Department has historically viewed places where people gather as an urban-type use. The purpose of the current regulations is to maintain the rural character by directing urban uses to urban areas. We require a high level of review in the unincorporated areas for these uses because the unincorporated areas (generally speaking) do not have the infrastructure necessary to serve large gatherings. Roads are narrow and perhaps unpaved, water is provided through domestic wells, sanitation is provided by onsite wastewater (septic) systems, and many emergency services are provided by volunteer fire departments. In addition, the County has agreed, through our Intergovernmental Agreements, it will not compete with neighboring municipalities for commercial businesses or additional households.

There are some uses, however, that can only occur in a rural setting. There should be a way to allow these types of uses on a limited basis or through careful consideration to ensure the other goals of the Plan are not compromised.

Why consider changes to the Code?

Through the outreach meetings and in talking with individuals, a few reasons have been given for amending the Code to allow special events:

- These events supplement and help diversify the farmer’s income
- There is tremendous demand for these types of events from the public
- There is not use classification for farm-to-table dinners (although they have been occurring with no zoning complaints)
- These types of events can be an introduction to the local food network and helps to support it
- Bed and Breakfasts (B&B’s) are allowed in the Ag zone but farm-to-table dinners, special events (weddings), and other types of events that are sometimes associated with B&Bs are not explicitly permitted
- The Home Events use (4-516.K.) allows group gatherings for commercial purposes with specific limitations. A farm-to-table dinner could also be considered another type of “commercial entertainment... where a fee or financial donation is requested from attendees to pay for the event.”
- Based on what we’ve seen so far, these events are fairly low-impact from an infrastructure perspective. Most events take place in tents or in open fields as opposed to permanent structures. Or, if they do take place in structures it is within existing structures. Farmers have a particular interest in protecting their most valuable asset (the land), and are judicious in where they allow events, parked cars, port-a-potties, etc.
- Requiring a Special Use review process causes a greater investment on the part of the applicant (studies, engineering, site improvements, etc.) which then leads to requests for increased usage in order to recoup those costs. Allowing a certain number of events to occur in temporary, existing, or without structures would (perhaps) support County goals of minimizing impacts in the rural areas.

- Are Community Supported Agriculture (CSA)-member events considered Special Events or are they large private parties?

Land Use Code – potential strategies for revision

- Amend Home Events to explicitly include this use?
- Create a Farm Events use similar to Home Events?
 - Intent would be to support the farm and allow the farm to diversify while not become an event venue
 - Require demonstration of the farm use?
 - Majority of food served must come from that farm (75%? 90%?)
 - Is this measured by cost, volume, or menu (soup, salad, main dish made with ingredients from the farm, dessert is not)? OR we could require the majority of the food to come from Boulder County sources?
 - Based on the outreach meetings with stakeholders, those participants seemed to support 5-10 smaller events per year (25-75 people), 2-3 large events per year (250 people max). Supported a Temporary Use permit for large events. Note: The definition of Group Gathering (4-517.C.) does not meet the characteristics of the large events described by the stakeholders.
 - Consider the events on a per farm basis (Farm needs to be defined) so that multiple parcels or ownerships do not host events per parcel
 - Amend Group Gathering to include events that happen for shorter durations; develop submittal requirements and review standards
 - Establish a minimum parcel size to minimize impacts on neighbors? Establish a minimum setback from private property lines to minimize impacts on neighbors?

Transportation

The following existing tools may be helpful in reviewing special event uses:

- TSIA guidelines (Article 4 of the Transportation Standards) evaluate traffic impacts and provides ideas for mitigating any adverse impacts;
- Parcel access design standards (Section 5.5 of the Transportation Standards) and Access permit and Access permit standards ensure appropriate and safe access;
- Parking requirements (Article 4 of the Land Use Code) and Parking lot design standards (Section 5.6 of the Transportation Standards) ensure appropriate parking is provided for the use;
- Sign Code (Article 13 of the Land Use Code) provides guidance for signing in and outside of the right-of-way; and
- Special event regulations have been used in the past to mitigate and manage unique events that have short-term (usually a duration of one day or less) but high impact to the right-of-way, regardless of whether the event actually occurs on the right-of-way or not.

There are some limits as to how helpful the tools listed above may be due primarily to the seasonal and off-peak nature of special events. At this time, the available tools do not reflect a strong methodology for reviewing seasonal, off-peak, weekend traffic volume or seasonal and/or infrequent parking needs. Consequently, the transportation issues identified for special events include those concerns as well as ensuring appropriate access to sites and placement of signs in the ROW.

Building Code

- It is most likely that events will be held outside. If the event moves inside in inclement weather, will the existing building need to be retrofitted? Or should we state the events cannot take place inside a structure unless that structure meets the occupancy requirements?
 - Trigger for that change in occupancy/non-residential occupancy is 50 people
- The building code does not regulate large tents – this is done by the local fire districts through the fire code.
 - Perhaps we would want to add a tent provision to the Building Code in order to standardize the requirement and remove the regulatory burden from the (largely) volunteer fire departments?

Public Health

- Food providers must be licensed caterers. Food must be prepared in a certified (commercial) kitchen either off site, onsite, or with a certified mobile catering unit.
- Potable water and chemical toilets would be brought in for special events – is this OK? Does it matter if the events are in existing structures or in tents or in open air?

Parks and Open Space

- On Conservation Easements (CE), the CE language is unique to each of the county's nearly 800 CEs. Generally, special events that follow Land Use regulations for private properties are permissible but may be further limited by the specific CE language, e.g., if the language limits the property's use to Agricultural uses only.
- On county-owned property that is leased for farming, any events would need specific county approval and would need to meet the guidelines for county-owned properties related to alcohol (3.2% or less...)

State

Other Concerns within this Issue

- Scale? Could these events proliferate? Want to ensure that it is an accessory use of the farm and not a Reception Hall/Community Meeting Facility with a garden
- Will there be an increase structure number and size to store chairs/tables/etc or to serve as a shelter from inclement weather. If so, would we consider these residential or non-residential floor area?

Ex) from to regulate agritourism in Mariposa County, California:

<http://ca-mariposacounty.civicplus.com/DocumentView.aspx?DID=3930>

- *They limit area used for special events/agritourism (infrastructure) to 10% of total acreage, w/ a 5 acre maximum*
- *Limit full time employees to 1 per acre of development potential for agritourism (above)*
- *Daily use or activity limited to no more than an average of 10 persons per day w/ a max of 75 in any given week (excludes employees)*
- *No more than 12 days of organized "special events" per calendar year, no event shall exceed 3 days in length*
- *The above uses are permitted by right in the agriculture exclusive zone, are other uses at a larger scale that require an "administrative use permit", see above link for details*
- *Owner or designated family member must be present during special event*

Farm Stands

Land Use Code – current regulations

The farm stand use can be found under three different use classifications:

- Farm Stand (4-502.C.) – allows sales for more than 42 days/year; products do not need to be grown onsite; No more than 10% of sales can be nonagricultural or nonhorticultural
- Accessory Agricultural Sales (4-516.A.) – allows retail and wholesale sales of products grown onsite; No more than 10% of sales can be nonagricultural, nonhorticultural, AND not grown onsite. For purposes of this use, grown “onsite” means grown on parcels under the same ownership, control, or lease as the sales location. (CSAs are considered Accessory Agricultural Sales)
- Temporary Farm Stand (4-517.G.) – allows sales for 42 days OR LESS; No more than 10% of sales can be nonagricultural, nonhorticultural, AND not grown onsite. Allows “agriculturally based recreation activities.”

Purpose of the current regulations

The purpose of these regulations is to support the agricultural economy by providing markets for the farms’ products while, at the same time, protecting the rural character of the unincorporated county.

Why consider changes to the Code?

These three uses consistently cause confusion to the public. In addition, the regulations encourage every farm to have their own farm stand when, perhaps, it would be better to allow neighboring farmers to share in the responsibilities of a farm stand.

Land Use Code – potential strategies for revision

- Allow farmers to join forces in establishing and manning their farm stands, if they desire to do so through a smaller/shorter process than Limited Impact Special Review
 - Some farmers do not have convenient locations to capture passersby
 - Some farms may not have the desire to man a farm stand either due to limited products, limited time, or other limitations
- We could require 90% of the products to come from a specific limited geography (Within 5 miles? Boulder County? State of Colorado?)
 - This would still support Boulder County farmers while limiting outside sources so as to support the local ag economy
- Boulder County could establish one or more pre-approved structures that could be allowed on private or public land. It would minimize processing time, standardize a “look” for Boulder County farm stands, and create an easy path for farmers who don’t have the time or energy to work with a builder to design a farm stand from scratch. Needs to have options for electricity and refrigeration for produce.
- We could group Christmas tree sales and pumpkin sales with fireworks sales as part of a temporary seasonal sales use classification since they have similar characteristics (assuming the pumpkins and Christmas trees are not grown on site).

Transportation

- There are some limits as to how helpful the existing tools may be due primarily to the seasonal and off-peak nature of farm stands. At this time, our tools do not reflect a strong methodology for reviewing seasonal, off-peak, weekend traffic volume or seasonal and/or infrequent parking

needs. Consequently, the transportation issues identified for farm stands include those concerns as well as ensuring appropriate access to sites and placement of signs in the ROW.

- Farm stands cannot be within the right-of-way – they need to meet setbacks.

Building Code

- The Building Code views an enclosed structure where shoppers are inside as a commercial building. The building would need to be constructed to all commercial standards. A walk-up farm stand where customers approach the structure would not need to meet commercial occupancy standards but the structure would still need to meet wind and snow loads and would require a building permit.
- Perhaps we should distinguish the structures as either a Farm Store or a Field Stand?

Public Health

- Farm stands do not require restrooms provided they only sell fresh produce (no prepared foods) and do not provide a seating area. However, if a restroom is provided for the public, the water flowing from the tap must be from a public water supply because there is a chance that someone could assume the water from the tap is potable and to the same standards of any other retail facility. Or, a toilet without a sink could be offered for public use with hand sanitizer provided.
- Value-added food products, even those products sourced entirely from the subject property must be prepared in a certified commercial kitchen. A retail food license is required to sell anything other than whole (uncut, unprocessed) agricultural products.

Parks and Open Space

- Parks and Open Space may be interested in standardizing a simple farm stand design which could be easily approved for building on CE or fee-owned land that is leased for farming.

State

- Monitor HB-12-1027 – to allow “non-potentially hazardous foods” to be produced at a “home kitchen”, (excludes canned food).
 - As of 5/1/12 passed the House and assigned to committee in Senate; postponed indefinitely
- SB-12-048 “Colorado Cottage Food Act” (would allow “nonpotentially hazardous” foods such as jams/jellies, baked goods, etc.) signed by the Governor on 3/15/12
 - Exempts small producers from requirements placed on retail food establishments
 - Sales limited to (net) \$5,000/year
 - Exempts sellers of 250 dozen eggs/mo or less from licensing requirements
 - Requires labeling

Other Concerns within this Issue

- Does the 90%/10% split make sense? The feedback staff heard at the stakeholder meetings was “no” – farmers who participated in the stakeholder meeting thought the range should be 60-90% instead so they could sell other farmers’ eggs or produce, West Slope fruits, etc.

Agricultural Structures

Land Use Code – current regulations

We see a variety of agricultural structures used for a variety of purposes including but not limited to: hoophouses, greenhouses, barns for animals, barns for hay storage, barns for equipment storage and/or workshop space, chicken coops, indoor riding arenas, farm stands, loafing sheds, and more. Some of these structures require building permits and some do not. Site Plan Review may be triggered in certain circumstances even though a building permit is not required (see Art. 4-802 for a complete list). All utilities (or *service systems*) require building permits including heating, fans, lighting, or plumbing regardless of whether the structure requires a building permit. If structures requiring building permits are proposed for vacant property, site plan review will be required. And all structures, regardless of whether a building permit is required, must meet setbacks for their zone district.

	Building Permit?	Planning Review?
Hoophouse	No unless there are service systems	Depends on location ¹
Greenhouse	Yes	Depends on size ²
Barn	Yes	Depends on size ²
Chicken coop	No if less than 120 sq ft	Depends on location ¹
Indoor Riding Arena	Yes	Depends on size ²
Farm Stand	Yes	Depends on size ² , Depends on sales ³
Loafing Shed	No if less than 200 sq ft	Depends on location ¹
Shed	No ⁴ if less than 120 sq ft	Depends on location ¹

¹ Structures proposed to be built in the floodplain or on conservation easements trigger SPR.

² Accessory structures less than 1,000 sq ft do not require SPR provided not more than 1,000 sq ft of structure has been added to the parcel since 9/8/98. Some structures may qualify for the expedited SPR process (SPRW).

³ Farm stands located on the same site where at least 90% of the products are grown does not require a planning review for the use (although it might require review for the structure). If less than 90% of the sales are from products grown onsite, Limited Impact Special Review is required.

⁴ Depending on the number of sheds and the size of a parcel, a building permit may be required. See 17-300.A.

Hoophouses in particular are not specifically mentioned in the Land Use Code or Building Code. The Building Code, however, specifically exempts, “Shade cloth structure constructed for nursery or agricultural purposes, and not including service systems” from requiring building permit and staff has interpreted this to include hoophouses.

Purpose of the current regulations

The Boulder County Comprehensive Plan supports agriculture and protecting agricultural land. In addition, Section 9 of the Boulder Valley Comprehensive Plan encourages and supports local food production in the City of Boulder and the unincorporated Boulder Valley. In the Boulder County Land Use Code, there are, generally, fewer specific limitations for agricultural structures as compared to residential structures. Agricultural structures are not subject to the site plan review neighborhood size compatibility standard although neighborhood character and siting are reviewed and considered as part of the review process. Transferrable Development Credits (TDCs) are not required for agricultural square footage like they are for residential square footage.

Why consider changes to the Code?

Hoophouses. Hoophouses are an inexpensive way to extend the growing season in a cold climate. Being clearer on the review process and the building code requirements will help the public and reduce confusion at the staff level. Creating a definition and regulations for hoophouses (and perhaps all agricultural structures) will create a better understanding of what these structures are and what they are not, will safeguard against the potential for them to proliferate to unacceptable levels, and will increase predictability for landowners. We also should clarify whether hoophouses and/or greenhouses are Residential Floor Area if they are accessory to a residence (where the principal use of the property is not a farm). There may be concerns from decision-makers, staff, or members of the public regarding increased coverage of agricultural lands with either temporary or permanent structures.

Other Agricultural Structures. Currently, there are challenges with reviewing agricultural structures for compatibility with neighborhood character. In addition, Land Use staff (and the Board of County Commissioners on appeal) has approved a few controversial agricultural structures in the last few years which left some neighbors dissatisfied with the review criteria. The SPR regulations are very clear in defining what is considered residential floor area and how it should be compared with the rest of the neighborhood for compatibility, but agricultural structures are not defined and do not have their own considerations. In addition, since defining residential floor area and adding the compatibility standards in 2008, staff is seeing applications for barns and agricultural structures that don't seem to be associated with an agricultural use or the scale of the proposed structures does not seem to fit the associated use. We do not have means to evaluate the agricultural use or to relate the scale of the proposed structure to the scale of the agricultural operation in the Land Use Code.

Land Use Code – potential strategies for revision

- Develop pre-approved model and/or size of hoophouse that could be incorporated into a handout? Property owners would then build to specifications that the Building Division has determined will be safe considering the use of the structure
- Relate the size of ag structures to the scale of the ag use? Take “usable agricultural area” into consideration in order to determine the appropriate or compatible size?
 - How do applicants demonstrate the agricultural use? What if they are in the process of establishing the agricultural use?
- Relate size/quantity/lot coverage of agricultural structures to parcel size (usable agricultural area?) such as the regulations for Community and Lodging Uses (see 4-602.C.)?
- Should we consider commercial applications of hoophouses and greenhouses differently than residential applications?
 - If either type of structure is used for non-commercial purposes, does it count as residential floor area? Should we exempt a certain square footage of either type of structure from RFA? Should there be a demonstrated agricultural use to be exempt from RFA? How would that be demonstrated?
- Consider additional definitions or clarification to existing definitions of agricultural structures?
 - Include provisions for residential and non-residential applications?
 - Limitation to the % of the parcel under coverage?
 - Add definition of barn? What makes a barn ag? What differentiates it from a garage?
- Consider how any changes would relate to the 25,000 sq ft of agricultural structure trigger (triggers Limited Impact Special Review)

Transportation

Site Plan Review is triggered if a structure is proposed to be built in a floodplain, even if the structure does not require a building permit. Agricultural structures can meet the standards for a floodplain development permit. Property owners need to work with the Floodplain Manager in the Transportation Department.

Building Code

- Establish a clear distinction between hoophouses, shade structures, and greenhouses?
- There isn't an agricultural occupancy type. Should we do a better job educating property owners about the triggers for commercial occupancy vs. residential occupancy?
- Should we exempt a certain square footage of hoophouse from BP requirements but require BPs once a certain threshold is met?
 - Building Division concerned that more hoophouses would lead to more employees inside those structures and they could become more commercial in nature.
- Is it possible (or reasonable?) to establish alternative specifications for hoophouses? This may include wind/snow load, foundation requirements, etc.

Public Health

All standard Public Health requirements apply if water and/or sanitation are proposed for the agricultural structure.

Parks and Open Space

The Parks and Open Space Department generally depends on Land Use to determine whether a human-made edifice is a "structure" and whether it requires a building permit or a planning process for County-owned fee open space properties. For County-held CE properties, the CE language may define what is a "structure", but where it doesn't, the Land Use definition is applied.

State

Other Concerns within this Issue

Definitions provided by a farmer during the Greenhouse/Hoophouse meeting (2/7/12)

Greenhouse – a permanent structure with installed heating, ventilation, and possibly cooling systems. It may have a permanent foundation and rigid covering, or it may consist of steel hoops covered with an inflated double layer of poly film. Plants may be grown in ground beds or in containers on a concrete, gravel, or landscape-cloth floor or on tables.

Hoophouse – also known as a high tunnel, is a less permanent structure erected in the field to protect crops and extend the growing season. In general, hoophouses rely on doors, vents, and roll-up sidewalls for ventilation. Heating systems may be used to keep the temperature inside the enclosure above freezing but not to warm the building to the same degree as a greenhouse. Hoophouses could be covered by a single or two-ply layer of clear/translucent plastic sheeting. If two-ply, small fans will likely be used to inflate a pocket of air between the layers which will act as an insulator.

Agricultural Worker Housing

Land Use Code – current regulations

The ag accessory dwelling unit (ADU) must be occupied by an agricultural worker or family whose help is required to support or conduct an agricultural principal use on the subject property. It is only allowed on A or RR unsubdivided properties and on legal building lots. Limited Impact Special Review (LISR) is required.

Additional Provisions for agricultural accessory dwelling units (see 4-516.D.6.)

- a. The applicant shall adequately demonstrate that the property size and nature of the agricultural work on the property requires a second household for labor on site.
- b. The applicant shall adequately demonstrate that the worker is substantially employed in farming the property.
- c. The applicant shall adequately demonstrate that the unit is necessary for operating the farm.
- d. The accessory dwelling may be detached from the principal dwelling, provided it is either closely clustered with the principal structure or located where appropriate for the agricultural operation with which it is associated.
- e. The accessory dwelling is limited to 1,800 square feet. The Board may approve covered porches to proposed accessory dwellings which exceed these specified square footage limitations, provided that no other portion of the floor area of the proposed dwelling exceeds the specified limitation, and provided that the Board approves the additional covered porch area in accordance with the special use criteria. In no event shall any such approved covered porch area ever be enclosed.
- f. The property owner or a member of the owner's immediate family must work and live on the property.
- g. The owner must submit an annual report to the Land Use Department indicating that the purpose for which the accessory unit was approved has not changed, and that the unit continues to be occupied in accordance with the approval. Any impermissible change in use of the unit can result in termination of the right to occupy or use the unit.
- h. A notice of these provisions will be recorded in the real property records of the Clerk and Recorder's Office.
- i. Agricultural accessory dwellings approved by Boulder County or legally nonconforming prior to October 19, 1994 shall be permitted to be repaired, remodeled or replaced, provided the new structure is in the same general location and does not exceed 1,800 square feet.

4-507-B-1c. Lodging Uses - Overnight camping limited to 14 days

Definition of Dwelling (18-137)

A. A building or portion thereof used exclusively for residential occupancy, including one-family dwellings and multiple-family dwellings, but not including hotels, motels, tents, seasonal vacation cabins, camper trailers, or other structures designed or used primarily for temporary occupancy.

B. A dwelling shall also include the following types of residential buildings which are factory made and not constructed on site:

1. Manufactured homes which are not less than 24 feet in width and 35 feet in length, which are installed on an engineered permanent foundation in accordance with all applicable County requirements, and which have a brick, wood, or cosmetically equivalent exterior siding and a pitched roof, pursuant to C.R.S. 30-28-115(3)(a), as amended; and

2. Factory built modular housing which is certified by the State of Colorado to meet Uniform Building Code requirements pursuant to the Colorado Housing Act of 1970, C.R.S. 24-32-701, et seq., as amended.

Purpose of the current regulations

All accessory dwelling units require greater scrutiny than the principal dwelling. The number of dwelling units is limited due to our commitment to direct growth to the municipalities (where urban services exist) and to limit growth in the unincorporated county as described in our intergovernmental agreements with the municipalities. The additional provisions for Ag Worker Units are in place so that farm owners know which when an additional dwelling unit is permissible. Some of the provisions are also in place to safeguard against potential misuse.

Why consider changes to the Code?

- Growing fruits and vegetables is more labor intensive than the traditional crops we've seen in Boulder County such as wheat, sugar beets, and hay. This shift has increased the demand for ag worker housing.
- There is interest in learning how to establish and work a market farm and there is interest from current farmers to allow interns to work and live on the farm. Farmers say this provides the worker with a richer experience while providing an amenity in addition to the wages provided.
- The Land Use Code requires ag worker housing to meet the definition of "dwelling." In addition, the inhabitants would need to meet the definition of "family." Permanent, expensive new dwellings would increase the likelihood that the additional unit of density would continue to be utilized whether or not the agricultural use still exists. It would also be difficult and resource consumptive to remove. It might be preferable to allow simpler, less permanent structures such as mobile homes (allowed if it meets the definition of dwelling), bunkhouses, or yurts which are less expensive and less permanent.
- The annual reporting requirement is problematic – property owners who have received approval for accessory dwellings rarely submit these reports and Land Use rarely requests them. Also, it is not clear how the property owner is expected to demonstrate the continued need for the accessory dwelling.
- Additional provision "c" (The applicant shall adequately demonstrate that the unit is necessary for operating the farm) and "f" (The property owner or a member of the owner's immediate family must *work and live* on the property) are somewhat problematic. Some property owners may work in a traditional job in a city but they want their land to be farmed. In this instance, would the accessory ag dwelling for the farm manager not be allowed because the owner of the land doesn't work on the property? What if the owner worked on the property but that work was a non-farming home occupation? What if the owner lives on the property but is no longer willing or able to work on the farm but wants the farming to continue? It is not clear whether the regulations would allow or oppose an accessory ag dwelling in these situations.

Land Use Code – potential strategies for revision

- Could Accessory Ag Dwellings retain the additional provisions but go through a Site Plan Review process instead of Limited Impact? The SPR regulations are more appropriate for the siting of a new dwelling or accessory structure than the special use criteria.
- Is there any way to allow yurts or other semi-temporary structures through the Building Code?
- Would it be possible to develop a pre-approved design for Ag ADUs?
- Perhaps we should require zoning affidavits for ag ADUs instead of annual reports?

Transportation

Transportation and engineering issues for worker housing would be reviewed using the same tools and review criteria as other residential structures.

Building Code

- I haven't found a local government yet that allows yurts, tipis, or camping as an acceptable dwelling for more than 2 weeks to 6 months, depending on the local government. Farmers seeking to utilize these types of structures are looking at using them for 8-9 months of the year (March-Oct/Nov).
- The Building Code exempts federally- and state-certified manufactured homes from meeting BuildSmart.
- Factory-built modular homes can be built to meet Boulder County's snow and wind load requirements; federally-approved (aka HUD-standard) mobile homes cannot meet our wind and snow loads.

Public Health

- Water and sanitation must be approved and sized for the number of dwellings and bedrooms on the parcel. Composting toilets are ok but need to be approved by Public Health. Graywater must be disposed of in an OWS – cannot be used to water plants.

Parks and Open Space

- Parks and Open Space does not allow tenant farmers or their employees to live on County-owned land with the exception of existing housing which is occasionally leased with the land.
- For CE properties, CE language limits the number of residences on the property, typically to one single-family residence, so tenant housing is not allowed.

State

The Wage and Hour Division of the US Department of Labor regulates farm worker housing – if the farmer provides housing, it needs to meet standards provided for in the Migrant and Seasonal Agricultural Protection Act

Other Concerns within this Issue

Resources regarding yurts and building codes:

<http://www.yurtinfo.org/buildingcodes.php>

<http://www.networkearth.org/naturalbuilding/codes.html>

<http://www.postindependent.com/article/20070801/VALLEYNEWS/108010035>

http://www.denverpost.com/ci_6683497

<http://www.coloradoyurt.com/big-bad-wolf-proof/>

Wineries

Land Use Code – current regulations

- Wineries are considered Light Industrial (4-506.C.) which includes the use “food or beverage processing”
- Wine, mead, or cider are not considered Agricultural Products because they are processed; the definition of Agricultural Products states “products intended for direct human or animal consumption” (18-105)

Purpose of the current regulations

The regulations included in the Land Use Code implement the Boulder County Comprehensive Plan (BCCP). The BCCP calls for keeping rural areas rural, directing urban uses to urban areas, maintaining a visual separation between the municipalities, and supporting the municipalities’ economic development programs through the support of existing and new industries. The Land use Code and the BCCP do not distinguish in scale of production facilities – they assume industries/businesses belong in either the municipalities or in the more-intense zone districts (GI, LI, C, B, T).

Why consider changes to the Code?

Wineries and meaderies are part of the changing face of agriculture. Allowing the value added product of honey (mead) will support bee keeping as well as other agricultural crops that depend on bees for pollination. In Colorado, there are a few regions where wine varietal grapes grow but they tend to be far away from the population centers although local growers are experimenting with local grapes. Wine production is limited to the fall when grapes are ripe. Production of both types of products would provide another revenue option for diversified farms, would help prevent rural decay, would support local agritourism in the unincorporated county as well as the cities, and would create another option for an agricultural activity as opposed to the conversion of Ag zoned property to large lot residential development. If we consider the scale of these types of facilities, we can honor the intent of the existing regulations while providing for more options for agricultural land in the unincorporated areas.

In addition, we have a provision that states, “On-site means agricultural and horticultural products that are grown on parcels under the same ownership, lease or contract as the parcel on which the Accessory Agricultural Sale use is located” (4-516.A.5.a). The intent of this provision is to allow someone who leases POS land to sell ag products on private land they also own. It is good because it allows us to consider the total farm as one unit regardless of ownership or parcel patterns. It is not good because it doesn’t say the “other lands” need to be in Boulder County. It might be vegetables in Brighton or a vineyard in Mesa County, CO, or ag products from out of state (this is a correction we should make).

Land Use Code – potential strategies for revision based on stakeholder meeting

- Propose allowing wineries on a small scale in A (perhaps unsubdivided RR) through SU as an Agri-Business use
- Require that grapes must be from Colorado
- Require that some grapes/fruit/bees come from the parcel where the production is occurring? (This would serve as a demonstration of the growing and perhaps development of locally-grown inputs)
- Establish a maximum floor area for storage, tasting room, wine production (2,000 sq ft?); establish minimum parcel size (10 acres?)

- Encourage retrofit of existing agricultural structures (perhaps allow through LISR if no new structures are proposed – only interior retrofit)
- Allow Special Events at the same level farms are allowed to host large special events (assuming we decide to allow this), more events or larger numbers could be allowed through the review process
- Allow as a home occupation provided:
 - Tasting rooms prohibited; OR tasting rooms allowed if it would generate fewer than 16 ADT, AND
 - No retail sales from the property unless it is in conjunction with a Farm (new use classification TBD) and accessory agricultural sales
- What about growing potatoes and setting up a vodka distillery?
- What about growing agave and setting up a tequila distillery or nectar refinery?
- How would this relate to allowing value-added food production on other ag parcels – needs to all be grown on-site? In Boulder County? Would adding Winery open all value-added food production in the unincorporated county so long as the ingredients were grown in Colorado?

Transportation

- While tasting rooms would likely have the greatest effect on the traffic volume associated with wineries, the off-peak nature of winery hours of operation present some challenges to effectively evaluating the impact of the traffic generated. Consequently, the transportation issues identified for wineries include this concern as well as ensuring appropriate access to sites and placement of signs in the ROW.
- Wineries interested in signage – TODS: tourist oriented directional signs. The Standards allow for MUTCD-approved signs in the ROW. There are recreational/directional signs in the MUTCD that could note the location of wineries but not advertise for a specific winery.
- County staff supports requiring a process (SU or LISR) for this use which would require a Transportation System Impact Analysis as described in the Transportation Standards.

Building Code

- Wineries/tasting rooms would require commercial occupancy (right?) which may trigger expensive retrofits to existing structures.

Public Health

- Tasting rooms do not typically serve food. But if they do serve food for special events it would need to be catered by a licensed caterer or prepared in a licensed facility.
- Water utilized in the processing must be from a *public water source* as defined by CDPHE. Public water systems such as Left Hand or a municipal water provider qualifies as a public water source. So does well water that has been tested, treated, and certified. If the well is a *domestic* well (as defined by the State Engineer), it will need to be converted to a *commercial* well. In Boulder County, this conversion requires an augmentation plan.
- What type/size OWS is needed? Are there cut-offs for numbers of visitors/day the Code should specify that would align with existing size thresholds (2,000 gpd)? Would it always require a Class V injection well because it is a commercial use?

Parks and Open Space

CE language typically allows only uses in the Agricultural category (4-502), and sometimes specifically limits uses to Open Ag uses. Uses in the Agri-Business category (4-501) are not typically allowable.

State

- The Department of Agriculture has definitions for wine/mead/cider and “limited winery.” May have regulations for tasting rooms as well.
- There is a difference between producing wine and producing beer – Abby to contact Doug Caskey with the Dept of Ag, Colorado Wine Industry Development Board

Other Concerns within this Issue

Agricultural Processing

Land Use Code – current regulations

Two types of agricultural processing are described in the Land Use Code as a principal use – processing of plants and processing of animals. Agricultural Products Processing and Storage (4-501.A.) is defined as, “The processing and storage of agricultural products *brought to the site* [emphasis added], including but not limited to cleaning, sorting, grading, packaging milling, or storing of products which are intended for direct human or animal consumption or use.” This doesn’t allow the creation of, for example, value-added food products but rather is meant for preparing whole fruit, vegetable, and grain products for market. One example of the use is the Miller/Coors/Molson granary facility north of Longmont. Special use is required for these facilities in the Ag zone; it is a use by right in the Light Industrial or General Industrial zones.

Custom Meat or Poultry Processing Facility (4-501.C.) is defined as, “A facility for the processing of meat and poultry for individuals, not intended for resale on the premises, including but not limited to the butchering, cutting, dressing, and packaging of meat and poultry products.” It is allowed in the Ag and GI zones and the process is scaled to the intensity of the use: lower scaled processing is allowed through LISR instead of SU provided it doesn’t exceed specified thresholds.

Purpose of the current regulations

The Land Use Code implements the goals and policies of the Boulder County Comprehensive Plan. The comprehensive plan supports agricultural uses and the agricultural economy while also directing intense uses into urban areas. This explains why these uses are allowed in limited areas (GI or LI zones) and through a planning process (either special use review or limited impact special use review) in the Agricultural zone district. The processing of food or value-added products is considered to be a Light Industrial Use (4-506.C.) and is allowed as a use by right in the GI and LI zones.

Why consider changes to the Code?

There have not been many requests for either of these as principal uses and staff does not find that either use needs a major overhaul. However, there is room for improvement.

- Agricultural Products Processing and Storage is for ag products brought to the site. It is assumed that processing and storage of ag products that were raised on the farm is an acceptable customary and incidental use in association with the farm.
- This use does not allow the manufacturing of value-added food products. Perhaps the use classification should be more explicit and should direct the reader to the Light Industrial use (4-506.C.) which allows food processing. Or perhaps we should amend the Code to allow the production of value-added food if all (or the majority) of the ingredients come from the same farm.

Land Use Code – potential strategies for revision

- Allow value-added products to be created on the farm provided all (?) of the ingredients come from the farm? [Or perhaps this idea should not be included within Agricultural Products Processing and Storage but rather with Farm or Open Ag in the discussion of acceptable accessory uses.]

Transportation

Transportation and engineering issues for agricultural processing would be reviewed using the same tools and review criteria as any other commercial use.

Building Code

Are structures used for processing considered ag or commercial from a building code standpoint?

Public Health

- Commercial (or “certified”) kitchens are not required to clean raw/uncut produce to deliver them to market.
- Certified kitchens are required to process raw agricultural products into food products. Certified kitchens can’t be certified unless they have a public water system (for example, Left Hand or municipal water). Wells that have been tested, treated, and certified can become public water supplies (as defined by the Colorado Department of Public Health and Environment). If the well is a *domestic* well (as defined by the State Engineer), it will need to be converted to a *commercial* well if it is used as a public water supply. In Boulder County, this conversion requires an augmentation plan.
- Meat and poultry processing must also meet public health’s standards (right?) as well as the USDA standards if the meat will be offered for retail sales to the general public.

Parks and Open Space

- Demonstration farms are allowed on CE-encumbered properties because they are Agricultural uses.

State

- The Colorado State Legislature approved a bill this session that allows individuals to make jams and jellies and other non-potentially hazardous food products to be produced using home kitchens rather than commercial kitchens under limited circumstances.
- CDPHE requires a public water supply for certified kitchens
- State Engineer requires commercial wells for public water supplies

Other Concerns within this Issue

- Are structures used for processing considered agricultural or commercial from the Assessor’s standpoint? (this would make a difference for property tax purposes... something we may want to advise property owners)

Demonstration Farm

Land Use Code – current regulations

4-516-I lists Demonstration Farms as an accessory use to open agriculture through Limited Impact but only in A and unsubdivided RR zones

- A related educational facility, including a kitchen for food prep may be approved as part of this use
- This use does not include commercial, institutional, lodging, or recreational uses such as hay rides, petting zoos, corn mazes, day-care centers, or summer camps.

Purpose of the current regulations

Demonstration Farm was added to the code in 2006 (DC-05-002b). From the staff recommendation to the BOCC:

“One tool for current producers to test new technologies, train new producers and increase the market for their products is a demonstration farm. The current Code has no provision for this type of facility as an accessory use to the agricultural use of a property. In order to meet this need, Staff has proposed to allow demonstration farms as an accessory use to Open Agriculture Uses and approved through limited impact special review.”

The docket file for DC-05-002b does not indicate why the use excluded day camps, lodging, and entertainment type uses but staff’s recollection was that staff and farmers at the time wanted to exclude petting zoos and bouncy castles because they are not ag. This additional provision (5.b.) seems to intend to exclude children’s programs from demonstration farms. This use is also limited to the A and RR (unsub.) zones, perhaps because these are the zone districts where we would expect to see a Farm and, as such, able to demonstrate farming, ranching, and agricultural practices?

Why consider changes to the Code?

- Clarifications are certainly warranted. For example:
 - If school kids, CSA members, or someone interested in farming wants to take a tour/field trip, is this a demonstration farm use or is this a typical (customary and incidental) occurrence on a farm? Does it matter if there is a fee associated with the tour?
 - If kids are taking classes that include learning about animals as well as arts and crafts projects, is it considered a day camp or day care or demonstration farm?
 - Are CSA-member volunteer days part of a demonstration farm use, or are they volunteer employees which would be allowed by right?
- Demonstration Farm is currently only allowed as accessory to Open Agriculture, not to other ag operations. Perhaps it should be allowed accessory to any operation that is a farm or where farming income (other than classes) is derived?
- Should LISR always be required or is there a minimal level of classes that could occur as a use by right? (for example, if the number of people/trips didn’t trigger the Home Occupation Requirements?)

Land Use Code – potential strategies for revision

- Include mechanisms that consider the cumulative impacts of the diversified farm model.
- Allow demonstration farm in other zone districts?
- Allow some educational use/tours as a use by right?
 - What will be the acceptable cutoffs? Parcel size a factor? Acceptance of fee a factor?

- Could classes be considered a home occupation if they are taught outside?
- Allow demonstration farm as an accessory use to other ag (agribusiness or intensive ag)?
- Process – is Limited Impact Special Review the best process or are there a certain number/size classes that could be allowed as a use by right? (for instance, if the vehicle trips or number of people were comparable to the Home Occupation level?)
- Do we need to better explain types of classes that are allowed and which would not be allowed?
Existing classes found on farms in the county include (but probably are not limited to):
permaculture, growing from seed, soil health, backyard chickens, canning and preserving, wool spinning and dyeing, cooking, herbs and their medicinal uses, growing food at high altitudes, aquaculture, plein air (painting) classes, democracy school, cheese making, building your own backyard wood-fired oven, worm composting, cooking, beekeeping, mead-making, yoga retreats, corporate retreats, butchery, and there are probably more...

Transportation

Concerns from the public and farmers may include:

- Increased vehicle trips on rural roads (traffic, dust)
- Vehicle studies may be required from property owners
- Are there certain areas where this use will never be appropriate (think in terms of parcel configuration, site distance, roadway classification, etc.)?
- Is it OK to park in the right-of-way? Under which circumstances?

The answers to these questions are largely determined by how the County would prefer parking to occur for land uses. Generally speaking, parking is allowed in County ROW unless it is expressly prohibited (with “no parking” signs) or parking out of the travelled way cannot be achieved. However, the LUC generally requires that parking spaces be located on site or at another site as managed by a parking agreement. Transportation Department staff is in the process of developing a ROW agreement process and policy that could possibly include parking for land uses. Staff thinking around this possibility includes:

- the need to evaluate/change either/both LUC or Standards to allow safe use of ROW for periodic ag uses when insufficient on-site parking exists, and when only periodically occurs;
- the possibility of site specific agreements documented through either the LU permit, ROW use permit, access or special event permits could work to ensure flexibility and safety; and
- allowing this application when sufficient ROW exists off the paved shoulders.

There are some limits as to how helpful the existing evaluation tools may be due primarily to the seasonal and off-peak nature of demonstration farms. At this time, our tools do not reflect a strong methodology for reviewing seasonal, off-peak, weekend traffic volume. Consequently, the transportation issues identified for demonstration farms include this concern as well as ensuring appropriate access to sites and placement of signs in the ROW.

Building Code

- Is there a higher standard for buildings if the public is inside of them?
 - Is there are threshold? Fewer than 50 people in the building = no change in occupancy?

Public Health

- A commercial kitchen is required to create value-added agricultural products such as canned or pickled vegetables, salsas, cheese, etc. Commercial kitchens also require a *public water source* as defined by CDPHE. Public water systems such as Left Hand or a municipal water provider qualifies. So does well water that has been tested, treated, and certified. If the well is a *domestic* well (as defined by the State Engineer), it will need to be converted to a *commercial* well. This conversion requires an augmentation plan in Boulder County.
- More than 25 people per day for more than 60 days per year triggers the requirement for a public water source. (See above.)

Parks and Open Space

- Demonstration farms are allowed on CE-encumbered properties because they are considered agricultural uses.
 - Does the use “Demo Farm” need to remain as an Ag or Open Ag use to comply with the terms of most CEs?
- Does POS allow demonstration farms on land leased from POS? How do tours fit?

State

- Colorado Cottage Food Act (SB-12-048) signed by the Governor – see Farm Stand worksheet

Other Concerns within this Issue

- How will the land/structures be assessed? There a big tax difference if the assessor sees the use as commercial rather than ag – we should make the public aware of this so they can consider all of the costs and benefits before establishing.

Farm Camps

Land Use Code – current regulations

- Currently no definition for *farm camp*, specifically.
- 4-504: Camp is found under Community Uses
 - Definition: A facility for registered participants to engage in organized group activities oriented toward nature and the outdoors. This use includes the provision of meals and lodging for participants but not for the general public. If customarily incidental to the use, camps may also be used for temporary meeting, recreation, education, or social facilities for associations or groups.
 - For camps existing after 11/4/10 allowed by special use review in A, for camps existing (legal nonconforming) before 11/4/10 permitted by right in A
- 4-516-I: Demonstration Farm specifically prohibits summer camp use
- 18-104: Definition of Agriculture specifically prohibits summer camp use

Purpose of the current regulations

To keep the rural unincorporated areas of the county rural with the recognition that camps occur in rural areas and may vary in scale.

- Camp use added to Land Use code in 2010
- Demonstration Farm added in 2006 – camps are prohibited from being associated with a demonstration farm use, perhaps because of concern that this use could become an “agritainment” use(?)

Why consider changes to the Code?

There is an argument made by farmers that introducing kids to farms develops a connection or appreciation with farming practices and an understanding of where food comes from. This is an agriculturally-based activity that supplements/supports farming and there seems to be a desire from consumers for farms to provide these types of opportunities. Currently, there is no use category for farm camp and it could be argued that the definition for Camp excludes farm camps and does not explicitly describe day camps (just overnight camp).

Land Use Code – potential strategies for revision

- Potentially allow multiple principal uses for summer camp and farms to co-exist?
- Allow camps as an accessory use to farms (need to define) or incorporate into the definition for Demonstration Farm?
- Create definition of “diversified farm” that allows camp as a by-right use?
- Establish a minimum parcel size for this use?
- Require that farmer/applicants demonstrate how farming is the principal use of the property?
 - This could be through a new use classification for Farm which would have its own definition...
- Require that camp be ag-focused. Since this typically involves children, there would probably need to be a certain level of fun time permitted...
- Prohibit overnight stays?
- Require license with the State or a letter from the State stating the camp is exempt

Transportation

- This use would generate multiple vehicle trips per day which would likely trigger a Transportation Impact Analysis

There are some limits as to how helpful the existing evaluation tools may be due primarily to the seasonal and off-peak nature of farm camps. At this time, our tools do not reflect a strong methodology for reviewing seasonal, off-peak, weekend traffic volume. Consequently, the transportation issues identified for farm camps include this concern as well as ensuring appropriate access to sites and placement of signs in the ROW.

Building Code

- Would a shed or barn or house used for a summer camp need to meet additional occupancy regulations? If so, is there a limited number of children who could participate without triggering those requirements – perhaps if the program is exempt from licensure from the state?

Public Health

- Licensed child care facilities require public water sources. Public water systems such as Left Hand or a municipal water provider qualifies. So does well water that has been tested, treated, and certified. If the well is a *domestic* well (as defined by the State Engineer), it will need to be converted to a *commercial* well. This conversion requires an augmentation plan in Boulder County. Do child care facilities that are exempt from the Child Care Facility regulations require a public water source?
- What other concerns does Public Health have with water, food prep, commercial kitchens, OWS, etc?

Parks and Open Space

Summer camps are not currently permitted by the Land Use Code under the definition of Agriculture or Demonstration Farm therefore they are not allowed on CE-encumbered properties which allow only Agricultural uses.

State

A day camp is considered a Child Care Facility and must be licensed with the Colorado Department of Human Services, Division of Childcare as such (<http://www.colorado.gov/oed/industry-license/27IndDetail.html>) or they must receive an exemption letter from the state declaring that the program is exempt from the state requirements.

Other Concerns within this Issue

- Could be adult camps or family camps that may not be specifically for children.
- Perhaps there is a concern that these might become large, commercial operations?
- How will the Assessor look at these uses?

Definition in Article 18 Related to Agriculture

Land Use Code – current definitions

18-104 Agriculture

Uses involving the cultivation of land, production of crops, raising, breeding, and keeping of livestock, and the buying and selling of crops, products or livestock associated with the agricultural operation. Agriculture specifically does not include commercial, institutional, lodging, or recreational uses such as petting zoos, day-care centers, or summer camps.

18-105 Agricultural Products

Products intended for direct human or animal consumption such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay, bedding plants and wool.

18-149 Farm

A parcel of land use for agricultural purposes.

Purpose of the current regulations

Why consider changes to the Code?

Land Use Code – potential strategies for revision

- Clarify (or add) definition of value-added products and where they can be sold/how much needs to come from farm/imported. Examples: jams/jellies, applesauce, wine, soap, candles, etc?
- Create clearer distinction between Open Ag (4-502.E.) and Intensive Ag (4-502D.)
- Add or revise definitions for agricultural uses including (but not limited to?):
 - Barn
 - Farm
 - Greenhouse
 - High Tunnel or Hoophouse
 - Residential Agriculture

Transportation

Building Code

Public Health

Parks and Open Space

Parks and Open Space suggests a clarification to the definition of Agriculture:

18-104 Agriculture

Uses involving the cultivation of land, production of crops, raising, breeding, and keeping of livestock, and the buying and selling of crops, products or livestock associated with the agricultural operation. Agriculture specifically ~~does not~~ **only** include **specific uses defined in Section 4-502 of the Code, and does not include any other uses, such as agri-business,** commercial, institutional, lodging, or recreational uses such as petting zoos, day-care centers, or summer camps.

State

Potential concern with having a conflicting definition of some uses as the state? Are any of these definitions found in the Colorado Revised Statutes?

Other Concerns within this Issue

What about ag uses in the Forestry zone district?

Some Definitions of Farm

USDA: Any operation that sells at least one thousand dollars of agricultural commodities or that would have sold that amount of produce under normal circumstances.

Internal Revenue Code Section 2032A(e)(4) relative to estate tax valuation: The term “farm” includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands.

State of Oregon (this is a partial definition, it goes on to describe what a farm is not)

<http://www.oregonlaws.org/ors/308A.056>: Farm use means the current employment of land for the primary purpose of obtaining a profit in money by:

- a) Raising, harvesting and selling crops.
- b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof.
- c) Dairying and selling dairy products.
- d) Stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows.
- e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.
- f) On-site constructing and maintaining equipment and facilities used for the activities described in this subsection.
- g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products raised for human or animal use on land described in this section.
- h) Implementing a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located.
- i) Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof.

Sec. 39-1-102, CRS (Article 39 is the Taxation section): “Farm” means a parcel of land which is used to produce agricultural products that originate from the land’s productivity for the primary purpose of obtaining a monetary profit.