

**Agricultural Land Use Code Updates  
DC-18-0003  
Board of County Commissioners**

December 13, 2018

## Agenda

- Staff presentation and Board of County Commissioners clarifying questions
- Public hearing
- Board of County Commissioners deliberation and decision

## Overview of Staff Presentation

- **Background, objectives, and scope of Land Use Code update**
- Summary of proposed Code changes
- Referral feedback and responses
- Planning Commission feedback
- Recommendation

## Agriculture Outreach Project

- Staff worked with the community to identify and address potential issues.
- Seek to better position farmers and growers to succeed and thrive in Boulder County, consistent with Boulder County Comprehensive Plan policies.
- Staff team: Land Use, Public Health, Parks & Open Space, and CSU Extension.
- Revisit the ag community's needs, continue progress made in 2012 ag-related Code updates.



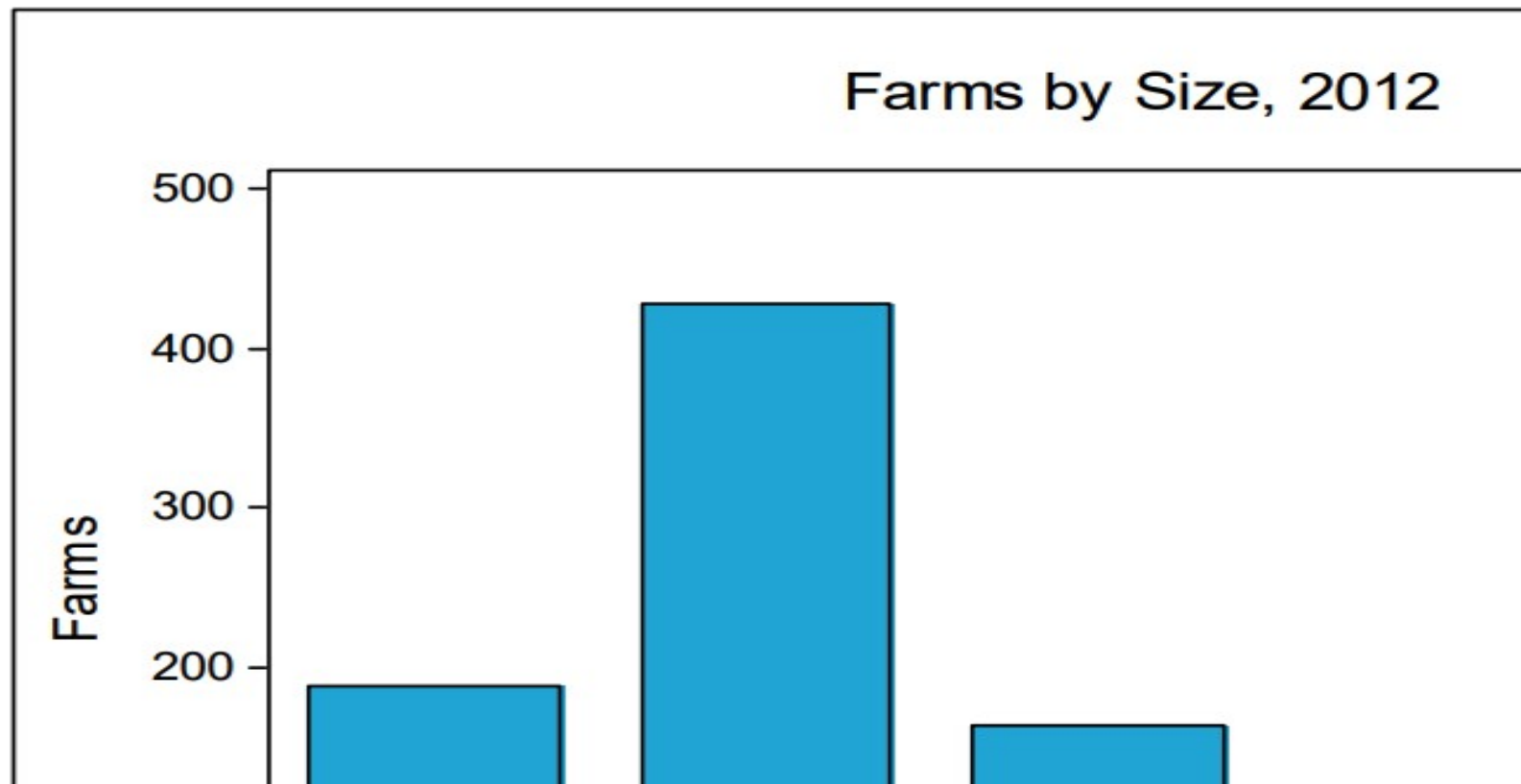
## Land Use Code Update – Objectives & Scope

- Objectives:
  - Simplify structure
  - Clarify language
  - Better match review processes with intensity of uses and land use impacts
  - Require only the amount of review necessary to ensure public safety and sound land use planning to facilitate success of producing farms
- Scope:
  - Farm sales
  - Farm events
  - Demonstration farm and farm camps
  - Hoop houses and greenhouses (Season-Extending Agricultural Structures)
  - Streamlining of Land Use Code processes for producing farms

## Summary of Activity to Date

Activity	Timeframe (2018)
Open House and written comments	January
Topic-focused public meetings	March
Survey to hone priorities and understand needs	May
Develop concepts for Code changes, PC Study Session	June – August (PC Aug 15)
Literature review and additional research	January – August
Farm visits by staff and Planning Commission	June – August
Draft proposed Code changes, public referral comments	September – October
Planning Commission hearing and decision	November 28
BOCC hearing and decision	December 13

# Agriculture in Boulder County: 2012 USDA Census



Agricultural Code Updates

Source: [USDA National Agricultural Statistics Service](http://www.nass.usda.gov)



## Agriculture in Boulder County: 2012 USDA Census

Farms by Value of Sales	# of Farms
Less than \$1,000	367
\$1,000 - \$2,499	116
\$2,500 - \$4,999	86
\$5,000 - \$9,999	91
\$10,000 - \$24,999	86
\$25,000 - \$49,999	36
\$50,000 - \$99,999	23
\$100,000 - \$249,999	19
\$250,000 - \$499,999	16
Greater than \$500,000	15

Agricultural Code Updates

Source: [USDA National Agricultural Statistics Service](#)





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# Verified Established Farm Use

## New Concept: Streamline Processes for Farms Contributing Substantially to Ag Economy

Reduce costs and regulatory requirements for farms contributing most to county's ag production

Don't put lower-revenue farms at a disadvantage

- Properties meeting criteria eligible for streamlined processes and allowances.
- Seeks to better match process requirements with impacts and facilitate a diverse and sustainable agricultural economy.
- Active farmers are expected to have knowledge and experience to minimize land use impacts.

## Define Verified Established Farm Use (VEFU)

A demonstrated production farm use verified by the Land Use Department to meet the following criteria:

- a) **The principal use of the property** is production of crops, livestock, or other agricultural products (with the exception of hay and forestry products) either *for sale by a for-profit business, or for use by a certified 501(c)3 non-profit organization*; OR
- b) **Annual revenue** from sales of agricultural products (with the exception of hay and forestry products) produced by the farm or ranch (i.e., by an agricultural business operating on the property) is *greater than \$15,000*, as demonstrated by IRS Schedule F or other documentation.

## Separate Provisions Apply for VEFUs

- Allow up to 25 attendees at Demonstration Farm and Farm Camp classes per day (standard is 15)
- Allow up to 200 average daily trips (standard is 150)\*
- Allow occupant load up to 150 (standard is 100)\*
- Agricultural principal use automatically assumed by planners conducting land use reviews to help make review process go more smoothly
- Additional ideas for future consideration (e.g., additional farm worker accessory dwelling units, reduced fees)

*\*Exceeding this would trigger Special Use Review process.*

# Farm Sales

## Streamline Code by Changing Use Categories

- Reduce number of use categories pertaining to agricultural sales from four to two
- Eliminate: Seasonal Farm Stand (P) and Accessory Farm Stand
  - Incorporate seasonal Christmas tree sales into new temporary use: Temporary Christmas Tree and Fireworks Sales
- Keep: Farm Store (P) and Accessory Agricultural Sales
- Remaining two sales-related use categories address all ag sales-related activity

## Uniform Definition for What Can be Sold as “Agricultural Sales”

- Majority (> 50%) of all products must be sourced from Boulder County farms
- $\geq 70\%$  must be agricultural products (as defined in the Code)
- The remainder (up to 30%) of all products sold (based on floor area used for sales) may be craft, artisan, or prepared food products, and may include a nominal amount of other products (e.g., promotional items)
- Food items sold must meet Boulder County Public Health Department requirements



## When and Where Can Ag Products be Sold?

- When can products be sold?
  - **Current:**
    - Seasonal Farm Stand - 42 days
    - Farm Store - more than 42 days
  - **Proposed:** No restrictions on number of days per year
- Where can products be sold?
  - **Current:** Accessory Sales allowed by right in F, A, RR – un-subdivided land, ER, LI, GI, MI; by Limited Impact Special Review in RR (subdivided) unless waived by the Director
  - **Proposed:** Add Business, Commercial, and Transitional zoning districts

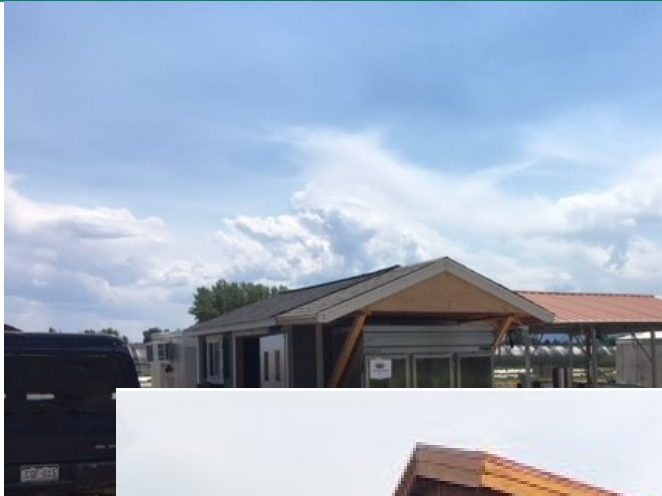
## Define, Apply Separate Process for Sales Structures

- Land use impacts for sales structures differ from other ag structures.
- **Agricultural Sales Structure:** A structure, or portion of a structure, used for sales of agricultural products and adhering to the provisions for the Accessory Agricultural Sales and/or Farm Store uses.
- Allow by right in all districts where Accessory Agricultural Sales use is allowed, and with no SPR if: *(Subject to SPR if it exceeds these parameters)*
  - less than 12 feet in height
  - up to 500 square feet
  - not on a CE property
- VEFU properties with Ag Sales Structures can have up to 200 average daily trips (limit is 150 in other cases).

## New Temporary Christmas Tree and Fireworks Sales Use

- Proposed Code changes would delete the Seasonal Farm Stand principal use, where sales of Christmas trees was previously addressed.
  - Many Christmas trees sold in the county come from out of state so they would not meet the “majority from Boulder County” provision under the new Accessory Agricultural Sales definition.
- Christmas trees can be addressed under a new temporary use: Temporary Christmas Tree and Fireworks Sales.
  - Provisions of the previous Seasonal Farm Stand use would be combined with provisions of the current Temporary Fireworks Stand use.

# Examples



Credit, lower right: <http://www.baltimoresun.com/business/bs-bz-farm-stand-business-20120709-story.html>

## Agricultural Code Updates



# Farm Events

## Increase Number of Events Allowed

- **Current:** 6 allowed by right; 12 allowed by Limited Impact Special Review
  - Considered Reception Hall or Community Meeting Facility if >12
- **Proposed:**
  - Allow 12 by right
  - Allow 24 by Limited Impact Special Review
  - No upper cap if approved by Special Use Review

## Increase Number of People Allowed per Event

- Increase the limit on number of attendees allowed per event from 99 to 150 ***up to 12 times per year***.
  - Occupant load is increased from 100 to 150 for VEFUs (before triggering Special Use Review).
- Events in excess of 99 people require Special Authorization from the Zoning Administrator and will be subject to comment from neighbors within 1,500 feet of the proposed event location.
  - Required to adhere to conditions to mitigate any increased impacts, otherwise a request to increase attendees may be denied.

## Allow Use of Structures (“floor area”) for Events

- **Current:** Farm events are not allowed to use any structures located on the property.
- **Proposed:**
  - Allow use of floor area (such as in existing barns) for events, subject to applicable Building Code requirements.
  - Floor space must be used for agriculture-related uses (e.g., office, equipment storage, general purpose) when not used for events.



# Demonstration Farm and Farm Camps

## Increase Number of Attendees

- Increase the number of attendees allowed by right at camps or classes
  - **Current:** 8 people per day
  - **Proposed:**
    - » Allowed by Right:
      - 15 people per day (standard)
      - 25 people per day for VEFUs
    - » Allowed by Limited Impact Special Review: more than 15 people per day

# Educational Tours

## Add New Temporary Use: Educational Tours

- **Current:** Code lacks guidance on treatment of tours
- **Proposed:**
  - Allow school field trips and other infrequent educational events up to 24 times per year by right
  - Visits may include up to 20 additional vehicle trips per day (allows 10 additional vehicles to travel to/from on day of the educational tour)

# Season-Extending Agricultural Structures (Hoop Houses, High Tunnels)

## Examples around the County



# Examples - Heights

## GrowSpan Round Premium Ven

### FIELDPRO GOTH TUNNEL



12' height for 20 & 24' models  
12'4" for 30' models

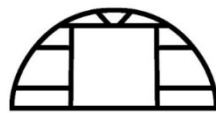


12' height available for numerous length options; "over 12' models also available; 16'5" models sold as "extra tall"

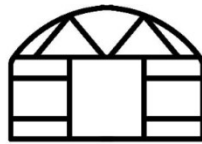
### GrowSpan Series 500 Tall High



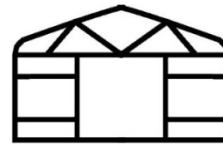
"tall" high tunnel is 15'10" in height; offers better ventilation, more usable space



HOOP



STRAIGHT WALL



GOTHIC

## Add Definition to Improve Clarity

- **Current:** Some ambiguity and lack of consistency exists across use definitions and references in the Building Code and Land Use Code
- **Proposed:**
  - Include a definition that describes the type of structure the ag community told us they need to succeed.
  - ***Season-Extending Agricultural Structure (SEAS)***: A structure designed to extend the growing season. The structure is covered by plastic or shade cloth, has an earthen/dirt floor that may be covered by fabric and/or gravel, and may include utilities.



## Provide Processes Specific to SEAS

- SEAS will have modest land use impacts and are important infrastructure for most farms to succeed. Therefore, the proposed Code has scaled-back process requirements for *ALL* SEAS (not just for VEFUs):
  - No land use process required up to 5,000 cumulative square feet on parcels 5 acres or larger, or up to 3,000 square feet on parcels smaller than 5 acres, except for CE properties, or up to 12' in height.
    - » Building Permit only, if size and scale requires a permit (e.g., > 120 sf and has water and electrical service)

## Provide Processes Specific to SEAS

- SEAS proposed on a vacant parcel don't trigger SPR (if meeting the 3,000/5,000 sf size thresholds)
- SEAS don't count toward SPR trigger for cumulative 1,000 square feet built since September 1998 (if meeting the 3,000/5,000 sf size thresholds)
- The Director may exempt a SEAS on a CE property from triggering SPR if the CE holder allows it
- SEAS don't count toward the 25,000 square foot limit for Ag zoned parcels  $\leq 35$  acres (if meeting the 3,000/5,000 sf size thresholds)

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Referral Comments	Response
<ul style="list-style-type: none"><li>• Overall positive</li><li>• Contrasting comments on farm sales</li><li>• Suggestions included:<ul style="list-style-type: none"><li>• Eliminating distinctions between product types</li><li>• Changing percentages</li><li>• Eliminating all requirements</li><li>• Eliminating stricter approval requirements for ag sales structures</li></ul></li><li>• Request for additional clarity on measurement method, definitions</li></ul>	<ul style="list-style-type: none"><li>• Maintained percentages (at least 70% Agricultural, up to 30% craft or artisan...) but expanded what would be allowed under the 30% that is not Agricultural products<ul style="list-style-type: none"><li>• Now includes “prepared foods” and “nominal amount of other products, (e.g., promotional items)”</li></ul></li><li>• Clarified that product percentages would be measured base on floor area used for sales</li></ul>

## Referral Comments

- Suggestions included:
  - Have cap on # of events be left to farms or property-specific circumstances
  - That those selling >70% products from their farms should have no limit on # of events
  - Allow up to 250 attendees at events
- Concerns that # of events proposed is arbitrary
- Some confusion about how the proposed limits would apply

## Response

- Staff believes the currently proposed values reflect a reasonable balance, allowing for up to 150 attendees up to 12 times per year with Special Authorization
- Proposed values are based on survey feedback and an effort to maintain reasonable limits on potential impacts

## Demonstration Farm and Farm Camps

Referral Comments	Response
<ul style="list-style-type: none"><li>• Several cited 30-35 as an appropriate class size limit</li><li>• Request for explanation of basis for the class size numbers proposed</li><li>• Some confusion about distinction between provisions applying to Demonstration Farms / Camps vs. Educational Tours</li></ul>	<ul style="list-style-type: none"><li>• No changes to class size limits; staff believes the currently proposed values are appropriate, and they reflect survey input</li><li>• Corrected an error from the referral version of the language which included duplication language for Educational Tours</li><li>• Increased additional vehicle trips to 20 (from 10 in referral version) for clarity<ul style="list-style-type: none"><li>• It allows 10 additional vehicles to travel to/from on day of the educational tour</li></ul></li></ul>

## Season Extending Agricultural Structures

### Referral Comments

- Concerns and confusion about previous 3,000 sf threshold
- Suggestions included:
  - Increase the sf threshold (e.g., to 10,000 sf)
  - Include permanent structures in the definition
  - Increase height limit to greater than 12 feet
- County staff suggested minor revisions to “floor area” exclusions; clarity on relationship with floodplain requirements

### Response

- Increased threshold for being exempt from a planning process for parcels 5 acres or larger
  - Was 3,000 sf in referral version, increased to 5,000 sf
  - Matches SPRW eligibility threshold for Ag Accessory Structures on the Plains
- Added 3,000 sf threshold for parcels smaller than 5 acres
- Incorporated “floor area” revisions
- Floodplain topics addressed under separate Code update (DC-18-0005)

## Referral Comments

- Concerns that the proposed changes don't go far enough and do not allow sufficient flexibility for property-specific differences
- Agriculture-related definitions in Code not serving needs of the community
- Suggestions included:
  - Staff person with authority to vary allowances based on property
  - Allow sale of prepared foods
  - Remove hay exemption from VEFU definition
  - Address farm worker housing
- Requests for additional clarity

## Response

- Staff believes the proposed Code updates (with some minor revisions as noted), represents an appropriate balance, and staff does not propose changes in response to several referral comments.
- Farm worker housing is being explored as part of BCCP Housing Element Update currently underway.
- See staff report for more detailed responses.



## Overview of Staff Presentation

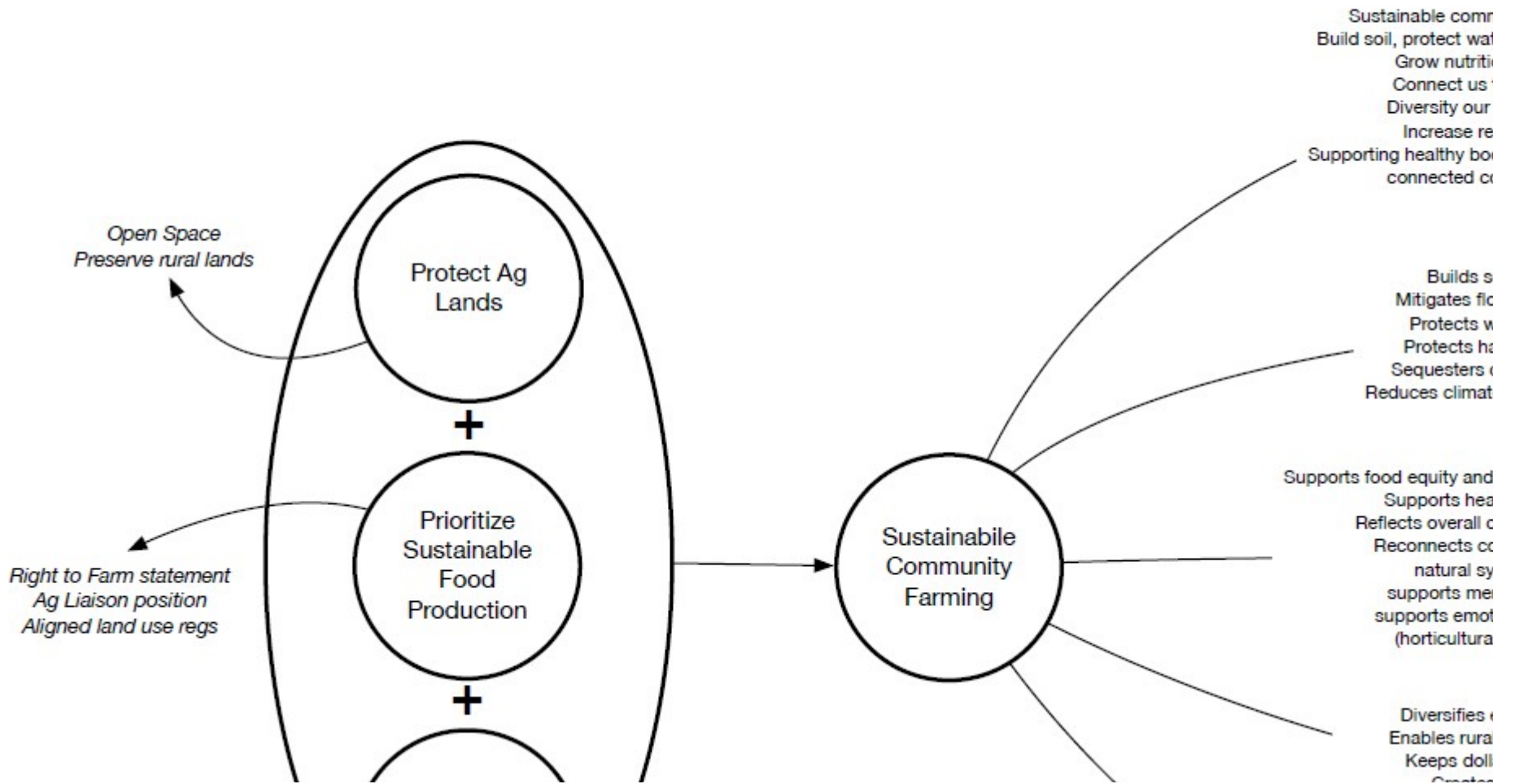
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## Planning Commission Feedback

- PC favored the proposed Code changes, and agreed that there is much more to be done in order to support the county's agricultural community.
- PC requested that staff systematically monitor and report the effects of the Code changes in order to ensure that intended outcomes are being achieved, and that numerical values and thresholds specified in the updated Code are appropriate.

## Planning Commission Feedback

- After the vote, Planning Commissioner Natalie Feinberg Lopez presented broader agricultural policy considerations.
- The policy ideas included:
  - Building soil and habitat quality
  - Piloting carbon sequestration techniques
  - Using the local food system to confront food injustice and inequality
  - Utilizing the knowledge and labor resources of local educational and research institutions
  - Implementing solar and wind energy technologies on farms
  - Setting quantitative goals for local food production
  - Creating a point-based incentive program to reward agricultural producers using innovative sustainable methods
- Other PC members pointed out the role of the Boulder County Comprehensive Plan in guiding agricultural land use policies, as well as the importance of sustainable food and energy policies in light of the latest climate change report.



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## Recommendation

Staff requests that the Board of County Commissioners approve the proposed Land Use Code text amendments to agriculture-related provisions in docket DC-18-0003 as presented in Attachment A of this staff report.