

A Special Public Hearing was held September 15, 2005 at the Heidelberg Township Municipal Building and was called to order at 7:30 PM by Chairman Harry Rodgers.

Harry Rodgers, Larry Sterner, Tim Hansen, Tim Staub, Paul VanNoord, Steve McKonly and Chuck Zeleski.

Others present were Bob Stine, Robert, Elvin & Irene Molison, Jim Watson and Christine Kristofic of The Evening Sun.

The purpose of the hearing was to inform and obtain public comments in regard to an Ordinance to amend certain sections of the Heidelberg Township Zoning Ordinance.

Chuck Zeleski, legal counsel summarized the proposed amended ordinance.

Tim Staub, from RETTEW, explained the proposed changes will be consistant with the new Township Comprehensive Plan and also York County's Comprehensive Plan.

SECTION 1: Definitions of Agribusiness, Animal Equivalent Unit, Antique Business, Bed and Breakfast Inn, Club Room, Club Grounds, Meeting Hall. Horticulture, Nature Preserved and Wildlife Sanctuaries, Production Saw Mill and Riding Schools & Horse Boarding Stables.

SECTION 2: Agricultural District of the township zoning ordinance shall be deleted in its entirety and replaced with proposed changes. This would require development allotments to use a sliding-scale system, nuisance disclaimer, setback requirements and location criteria.

SECTION 3: Part II, Section 204.3.7 shall be added - Production Saw Mill.

SECTION 4: Part VI Standards for Special Exception Uses of the zoning ordinance shall be deleted in their entirety and be replaced as presented. SECTION 613 House of Worship, SECTION 625 Accessory Sawmill, SECTION 628 Communication, Television & Radio transmitting and receiving Towers antenna, towers and equipment.

SECTION 5: Part VI Standards for Special Exceptions Uses shall be amended to include; Section 629 Agribusiness, Section 630, Antique Business, Section 631 Bed & Breakfast Inn and Section 632 Production Saw Mill.

SECTION 6: All remaining aspects of the township Zoning Ordinance shall remain in effect as heretofore enacted.

QUESTIONS

- * Robert Molison questioned the sliding scale and what could be subdivided from a parent tract.
- * Christina Kristofic asked how many acres is currently agricultural in the township, she was told approx. 3,500 acres.
- * Elvin Molison questioned when the Conservation District would change to Agricultural. He was told there is not a time line on that at this time but all property owners will be notified by mail when it happens. Would also require a

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public hearing to do so.

* Irene Molison asked if the Board considered the age of most of the farmers within the township. Irene stated that they have been trying to get their land into the York County Preservation District.

Tim Hansen explained as Supervisors they are trying to preserve the farm land and feels this is the best method to do so.

Tim Hansen reviewed the comments from York County Planning Commission.

(SEE ATTACHMENT 1)

- Comment 1 - No
- Comment 2 - No
- Comment 3 - Require a Special Exception
- Comment 4 - OK
- Comment 5 - OK
- Comment 6 - remove wor fence or fences
- Comment 7 - As directed by Department of Agriculture - Act 38
- Comment 8 - editing of text

COMMENTS

- * Bob Stine - Great plan, good for the community
- * Elvin Molison - Mixed emotions - both ways, farming for 68 years but concerned about costs of nursing homes
- * Irene Molison - Feels like they are between a rock and a hard place, desires to preserves, but what if they need the money
- * Robert Molison - Puts stregent limits on farmers to develop, but understands what is going on
- * Jim Watson - S & A Homes, Not from area, feels this decreases the farmers land value

Special Hearing adjourned at 8:24 PM.

A Special Meeting was called to order by Chairman Harry Rodgers at 8:24 PM September 15, 2005 to take action on an Ordinance to Amend Certain Sections of the Heidelberg Township Zoning Ordinance.

Tim Hansen made a motion to adopt **ORDINANCE 05-02** to amend the Zoning Ordinance as proposed at Public Hearing. Larry Sterner seconded and Harry Rodgers concurred.

Meeting adjourned at 8:28 PM.

Norma Markle, Sec.

COMMENTS AND RECOMMENDATIONS

The staff of the York County Planning Commission commends Heidelberg Township officials in their efforts to protect agricultural lands and uses. The revised draft of the amendments is improved from the original submission. However, the YCPC staff recommends that Township officials consider the following comments, making appropriate revisions as necessary to the Zoning Ordinance and/or Subdivision and Land Development Ordinance prior to adoption or in future amendments:

1. Section 205.7. contains a number of requirements for subdivision and land development plans which should be placed in the Township's Subdivision and Land Development Ordinance, which should be amended concurrent to the amendment of the Zoning Ordinance. Further, Section 205.7.2. - Location Criteria requires that "All lots previously approved in accordance with section 205.4." be shown. This information should accompany all applications for subdivisions and land developments. Township officials should add a provision in the Subdivision and Land Development Ordinance which requires a table or statement on subdivision and land development plans stating the total acreage of the parcel to be subdivided/developed as of the date the amendment was enacted, the total number of lots permitted as of the date the amendment was enacted, the number of approved lots to date, the number of lots proposed on the plan submitted, and the number of lots allocated to the parent parcel which remain unused and to which lots remaining rights are assigned. Requiring a statement of that information is essential to record keeping and enforcement.
2. In Section 205.4. the maximum lot size restrictions apply only to residential uses. Is that the intent of the regulations? The "sliding scale" applies to all permitted uses. Although the greatest number of development applications will undoubtedly involve residential uses, Township officials should consider the potential impacts and areas which other permitted uses, particularly special exception uses, might involve.
3. "Public utility building" and "Public building and facility" are currently special exception uses which have been deleted in the proposed Ordinance amendment to Section 205 - Agricultural District. Are these changes intended? "Public utility building" and Public building and facility" are permitted by right and/or permitted by special exception in all the other zones.
4. Township officials should amend the Subdivision and Land Development Ordinance to require the Agricultural Nuisance Disclaimer statement in Section 205.5. be placed on subdivision and land development plans which involve lands in the Agricultural Zone.
5. Section 629.a) - Agribusiness states that "...Where a lot is comprised of more than one tract the owner of such tracts shall combine them under a single deed, which will preclude individual tracts being placed in separate ownership without processing a subdivision plan...." However, even if placed on one deed, if described separately, the Pennsylvania Commonwealth Court has ruled that in certain specific instances tracts can be separated

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- without subdivision approval. [Springfield Twp. v. Halderman, 840 A.2d 528 (Pa. Commw. 2004)] Township officials should confer with the Township Solicitor in this matter prior to enactment of this amendment.
6. Section 205.6. requires that *"On any separate non-farm parcel, no shrub shall be planted, and no accessory residential structures or fences shall be placed within ten feet (10') of any land used for agricultural purposes. Similarly, no tree shall be planted within thirty feet (30') of any land uses for agricultural purposes."* This appears to be inordinately restrictive for neighboring property owners. It also creates a maintenance issue if the non-agricultural neighboring property owner wants to erect a fence, and can not use, but still has to maintain the entire lot. This is an issue on which Township officials may wish to confer with the Township Solicitor before enactment.
 7. Those sections of the Ordinance which refer to the regulations of the Pennsylvania Nutrient Management Act, Act 6 of 1993, should be changed as that Act has been repealed. In July of this year Governor Rendell signed into law Act 38, know as ACRE (Agriculture, Communities, and the Rural Environment). Although the provisions of the Nutrient Management Act have been incorporated within Act 38, all references in this and other ordinances should be reviewed and revised to refer to Act 38. Further information regarding Act 38 can be obtained by contacting the Pennsylvania Department of Environmental Protection, the Pennsylvania Department of Agriculture, or by visiting the ACRE website at www.acre.state.pa.us.
 8. A number of minor errors in the text will require editing. For example, in the fourth line of the definition of Club Room, Club Grounds, Meeting Hall, the word "area" should be replaced with the word are. Such changes are minor, but add to the clarity of the Ordinance. Another example of questionable word usage, in this instance involving consistency, is in Subsection 205.4.4.f). The term "yard" is used, while in all of the preceding subsections the term "setback" is used.. This may not appear to be a significant matter as the existing definitions in the Ordinance for setback and yard actually describe the same area of a lot. However, consistency is important in zoning regulations. Further, many zoning ordinances describe and define yards and setbacks differently. This is a distinction worth considering as setbacks and yards may involve separate and distinct areas of a lot. If a principal structure is built at a distance on the lot from a street or property line which is greater than the setback requirement, the yard would be a greater depth and include more area than the setback area in and of itself. Township officials should decide whether the intent of the regulation is being satisfied in such instances.

* * Please be advised that Section 609.(g) of the Pennsylvania Municipalities Planning Code requires that a copy of any adopted amendment be forwarded to the County Planning Commission within 30 days following its enactment.

* The preceding comments were prepared by the staff of the York County Planning Commission and constitute a professional planning review, not a legal opinion.