

The Peach Bottom Township Planning Commission met on December 18, 2008 at 7:00 p.m. in the Recreation Center. Members present D. Arnold, W. Carter, B. Tenney, S. McConnell, B. Hushon, W. Manifold and D. Stewart.

A **motion** was made to accept the minutes as presented by B. Tenney and 2<sup>nd</sup> by D. Arnold vote 7/0

**Scarborough** – Map BP Parcels 40A & C, 7 lots originally, now only 5 lots in the final plan. Revised plan was reviewed. Lots 1 & 2 are from the original Scarborough Subdivision Lot 3A, 5A, & 6A will be added to the original lots 3, 5, & 6. 4A has been eliminated Lot 7 is the only new lot created, lot 7A was eliminated. A merger agreement will be signed by the Supervisors. **Motion** to sign the plans made by D. Arnold and 2<sup>nd</sup> by B. Hushon vote 7/0

**Myers-** White Hawk Lane & Ailes Road. Map BP Parcels 77 A, 77D, & 77E  
Dividing off 1 lot and adding land to 2 existing lots. Road & Merger Agreements have been approved and signed by the Supervisors.

**Motion** to sign the plans made by W. Carter and 2<sup>nd</sup> by D. Arnold vote 7/0

**Peach Bottom Crossing** Preliminary Subdivision – Map AP Parcel 47Z

Chris Venarchick, representing this project, gave an update. This 100 acre parcel at the intersection of Atom and Pikes Peak Road proposes 136 single family homes with open space maintained by a home owners association. They will have public water and sewer with on lot storm water infiltration systems. The Conectiv sound easement is being used for the well protection. A temporary exit will be on Pikes Peak, but will be moved in phase 3 connecting with another development to the north. The Township engineer's comments have been completed and are being addressed. Land to the north east could be given to the Township connecting it to their existing recreation land and the school district could receive a parcel connecting to the elementary school. At the April Supervisors meeting a motion was made stating that the Supervisors have no objection with the development having a sewer line separate from Conectiv and running the line through the Recreation ground connecting in the area of manhole 47.

The discussion moved into the sewer and water lines for both **Conectiv** and Peach Bottom Crossing. Conectiv will run private lines and have a maintenance agreement when the time comes, but Peach Bottom Crossing's lines will be dedicated to the Borough Authority. The proposed location is behind the Elementary school running along the Township property line. The Township engineer would approve the design and location of the lines. The Subdivision will need a construction and maintenance easement of 40 foot and Conectiv a 30 foot easement. Conectiv and Peach Bottom Crossing are fully prepared to compensate the Township for this easement.

The lack of sidewalks was noted, since this would create more traffic in the area of the elementary school. Atom Road is a state road and most traffic will exit onto Lay Rd. Pedestrian trails are included in the proposed subdivision; there is an existing pedestrian trail from Quarry Rd to the Elementary school entrance.

A bond will be posted before final approval to insure road, water and sewer improvements for this subdivision will be completed.

A **motion** was made to recommend that the Supervisors approve the option A going behind the school with a 40' easement for Conectiv water & sewer line connection to the Borough by W. Carter and 2<sup>nd</sup> by B. Hushon vote 7/0

## **Wurzbacher - Map BO Parcel 21**

2 parcels were previously subdivided in 2002. The original parcel was 50.2 acres prior to the 1<sup>st</sup> subdivision, 3 rights with 3 bonus rights. It was requested to subdivide a parcel in the wooded area. This property is grandfathered on bonus rights, but now you have to use the soils maps to determine new lot location and that lot must be placed on poor quality soil. The only qualifying location is in a wet land type area, so currently they do not have the ability to subdivide another lot.

## **Ordinances**

Zoning Ordinance amendments to Sections 201.1, 201.2, 201.3, 202.1, 202.2, 202.9, 203.1, 203.2, 204.1, 204.2, 205.1, 205.2, 302, 323, 324, 330, 333, 336, 353, 501 have been reviewed by the York County Planning Commission. Proposed amendments to the SDLDO Section 602 L and 719 were discussed and revisited as proposed last month. The Chairman read section 719.

A. Cooper noted that there are different standards for manure with DEP. Can you put manure with other pollutants? This is handled under the nutrient management act and act 38.

The Subdivision & Land Development Ordinance was set aside and the commission went into the proposed Zoning Ordinance amendments.

The Chairman read the zoning and planning series, special exceptions and special uses he also noted that the Supervisors are not required to follow the Planning Commission recommendations.

B. Tenney read the reason for a residential zone from the Township Zoning Ordinance.

The attorney explained the reasons for the change to Section 201.1, adding CAFO to uses in a residential zone.

The Chairman questioned if a legal opinion statement from the attorney general on cafos in the residential zone was ever received. To our knowledge neither the YCPC nor the Supervisors ever received such an opinion.

The zoning officer stated that every business is not allowed in every zone. "The legislation does not require it to be in every zone". The reason we have special rules is because of the problems these special uses could create. The purpose of zoning is to control the way properties are used. More of the Township is zoned agricultural than any other type of zoning use. A preexisting non conforming use in any zone has the right to continue that use. Every time the owner wants to change that use, they must go before the ZHB for that change. Why are these changes required to apply to the ZHB, but not a use as concentrated and impactful as a Cafo?

The attorney read what prompted him to create the addition. Municipal Planning Code 603.h, second sentence, "Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present, unless the agricultural operation will have a direct adverse effect on the public health and safety."

R. Ammons stated that in the residential zone if it is not a farm at this time it should not be allowed to have a cafo.

M. Payan feels that the testimony proved this will be a detriment to the community and that the Township is rushing into this change.

L. Yanney went up to YCPC, listened to the officials and discussed the discrepancies between Act 38 and the MPC. This committee has been active for 5 years to come up with recommendation to advise municipalities. Questions were submitted to the attorney general for

legal advice on June 24<sup>th</sup> and as of this last YCPC no response has been received. A copy of these questions was submitted to the Supervisors.

B. Tenney stated we need to clean-up these ordinances and make them easier to understand. We have a cafo issue; let's make a separate section just for cafos.

S. McConnell asked how many farms are in the R zone. The zoning officer informed that several parcels are currently being farmed in the residential zone.

D. Gemmill mentioned that Susquehanna Trails was a farm at one time and was rezoned residential. Residential is being dedicated next to agricultural land. These farms have been here for hundreds of years. This is a state regulated facility.

M. Payan informed that the state took 3 weeks to respond to her complaint.

A. Cooper advised that any farm can be a potential conflict to the residential zone; we cannot distinguish a farm from a cafo, because a cafo is defined as a normal farming operation. We can take cafo out of the residential zone as a permitted use as long as the existing farms are grandfathered. Special conditions can be imposed by the state when they deem that a facility would have a potential threat on the public.

The zoning officer gave a history of Susquehanna Trails. It was bought from farmers willing to sell and the lots were created. The first section was started in 1954, the last in 1972 which was prior to zoning. That is how it became a residential zone, this is planning, to control the use of the area and avoid conflicts. To add cafo to this zone is foolish, every use should be in its appropriate place. The existing farms should be grandfathered, but this land has been zoned residential since the early 70's.

The attorney suggested that the following – “If in the Residential Zone or Residential II Zone, this use is permitted only if located on a parcel of land a portion of which has been devoted to commercial agriculture use at some time during the past five (5) years.”

S. McConnell redirected, as it stands now we have an ordinance that violates act 38, because numbers have changed. We list 50 acres as a farm and they allow a cafo on 10 acres, the setback requirements are now 300 feet where we require 400 feet. We have the right as a municipality to enact ordinances to protect health and safety. We have an ordinance in place that only needs distance changes.

Commission member Dave Arnold departed at 9:40 p.m.

It was my understanding that when Act 38, was being created it was to be a discretionary law, stated L. Yanney. What does that mean to the Township?

Attorney Malone finds that law mandated not discretionary. We may parallel the state regulations, but not be more stringent than the law.

W. Carter observed act 38 already says that a cafo is allowed, farm=cafo according to Act 38, why do we need to edit it. I recommend striking that, it is already in farm.

Attorney replied, “How do you impose regulations on cafos of any kind?”

Zoning officer suggested, “why not put it as a special exception in the residential zone.”

Attorney,” You either meet the requirements of the state or not. Do we need a special exception to do that, go through the hearings?”

A. Cooper, the special exception is used and works in other townships. You go down through the list of what the state requires. The problem is how the special exception was carried out in this township.

A discussion ensued on the Cafo special exception hearing and how it should have been handled. The attorney suggested that everyone review their copy of the proposed ordinance be prepared for the next meeting.

J. Johnson noted that the entire application was turned down based on poor quality ground. The immediacy is to remove the poor ground from the ordinance. “When all the smoked cleared, that was the only thing that the application was turned down for.” The assistant attorney general and the YCPC said that was wrong, that dep determines the location of such facilities.

The attorney replied that we can change the poor quality ground issue and then go back to working on the other proposed ordinance changes.

B. Poole reminded that he came to the Supervisors to address that, “it gives you plenty of time to be deliberate in your changes.”

More discussion on how to handle the amendment change discussion during meetings.

D. Gemmill asked, “If this good quality ground is overturned does that mean that we have to go back to the Zoning Hearing Board or before the Supervisors.”

B. Poole, the ZHB attorney during his hearing replied, “That could be an abbreviated process, you reconstitute the same board you had, and you present the same application, adopt everything you heard before and open for anything new that has not been offered and make your decision.”

Attorney Malone stated that he thinks that is right, you could enter all the evidence as record and you would not have to enter new testimony, if you have the same board.

J. Johnson asked if the commission would act on the 202.2 low quality ground so the Supervisors can send this to the YCPC for review.

More discussion on poor quality ground and pushing this ordinance amendment to enactment.

**Motion** made by B. Tenney not to address this issue tonight and 2<sup>nd</sup> by W. Manifold

**Motion** made by B. Hushon to address this issue tonight and 2<sup>nd</sup> by D. Stewart

Both motions did not carry for lack of unanimous vote.

**Motion** made by B. Tenney to have a special meeting on December 30<sup>th</sup> to address the ordinances we did not address tonight 2<sup>nd</sup> by, motion died for the lack of decision and second.

### Zoning Officer Report

Letters requested

Sullivan- Map 4 Parcel 422, 85 Hilltop Rd – property transfer without a septic inspection

Vardy–Map 3 Parcel 128, 29 Cottonwood Rd, OLM violation, submitted check w/o scheduling.

Grafton – Map AP Parcel 47D, 15 Quarry Rd, OLM violation, submitted check w/o scheduling

**Motions** to recommend the Supervisors have the attorney send the requested letters made by B. Tenney and 2<sup>nd</sup> by B. Hushon vote 6/0

A **motion** was made to have the Planning Commission reorganizational meeting on January 15<sup>th</sup> starting at 7:00 p.m. by B. Hushon and 2<sup>nd</sup> by B. Tenney vote 6/0

**Motion** to adjourn at 10:33 p.m. was made by W. Carter and 2<sup>nd</sup> by B. Tenney vote 6/0