

HARRIS TOWNSHIP
BOARD OF SUPERVISORS
Minutes of March 24, 2021
Held Via Zoom

A meeting of the Harris Township Board of Supervisors was called to order on March 24, 2021 at 7:30 PM on Zoom by Chairman Dennis Hameister. In attendance were Vice Chairman Bruce Lord, Supervisor Nigel Wilson, Supervisor Charles Graham and Supervisor Franklin Harden.

Also in attendance were Harris Township Manager Amy Farkas; Harris Township Zoning Officer Todd Shea; Centre Region Planner Mark Boeckel; Planning Commission Chairman Chris Gamble; Planning Commission members Bob Igo, Amy Lorek, George Harrigan, Jeff Duerr, Kent Baker and Rich Manning.

Members of the public in attendance were Tom Songer, Scott Yocum, the Wassons, Helene Monthley, Harvey Hanlen, Michael Immel and Paul Rittenhouse.

Call To Order

The meeting was called to order at 7:30 PM.

Approval of Minutes

There were no minutes to approve.

Citizens Comments

There were no citizens comments.

Proposed Ordinance 348: Rural District Zoning Update

Ms. Farkas explained the protocol for tonight's meeting. She said Mr. Boeckel would make a presentation on the rural district zoning update and would pause for questions from the Board and the Planning Commission during the presentation. Members of the public who wish to speak will do so at the end of the presentation.

Ms. Farkas also discussed the timeline for the ordinance. She said if the Board feels the ordinance is ready to move forward this evening, it will be sent to the Centre Region Planning Commission for discussion at their April and May meetings. Staff will complete the required posting of the properties in accordance with the regulations in the Pennsylvania Municipal Planning Code. The earliest the ordinance could be ready for public hearing would be May.

Mr. Boeckel started his presentation with a brief overview of the four zoning districts being created under the rural zoning update. He then explained agricultural rights. He said the goal of the rural zoning update was to make sure the Township's regulations were consistent with state law and the Pennsylvania Right to Farm Law. He said that no farming rights were being eliminated and no agricultural non conformities are being created under the new ordinance.

He said that farming rights will be expanded as a result of the zoning update. He also noted that horticultural uses will now be allowed on properties that are 5 acres or larger.

Supervisor Harden asked if what is permitted in the agricultural zone today is also permitted in the rural residential zone going forward, minus the agritainment and agricultural retail businesses. Mr. Boeckel said that was correct. He said that agritainment, agricultural retail businesses, farm wineries and landscape contractor businesses would not be permitted in the rural residential district.

Supervisor Harden asked if a riding stable was allowed in the rural residential district. Mr. Boeckel said riding stables are allowed in any of our rural districts. He said that farm animals can only be kept on lots that are 10 acres or larger.

Supervisor Graham asked about maximum lot coverage. Mr. Boeckel said that lot coverage refers to buildings on a lot.

Mr. Boeckel discussed agriculture-related uses and how they would be impacted by the proposed ordinance. He said farm wineries would be limited to the natural areas and the agricultural districts. Under the Township's farm winery ordinance, a property has to have two acres of planted fruit. There are no requirements for the percentage of the property that must be grown on site.

Mr. Boeckel said wineries are permitted in the rural residential district, as long as half of what is produced on site is sold on site. These regulations come from the state's Right to Farm law.

He next discussed agricultural retail sales businesses. He said this accessory use permits the sale of agricultural commodities that are consistent with Pennsylvania's Right to Farm Law. Properties that have direct access to an arterial street would be allowed to sell a limited amount of non-agricultural commodities. Staff is recommending that the definition be modified to reflect the intent to permit the sale of non-agricultural commodities in limited areas.

Supervisor Harden said he was confused about where this use is located. He asked if it was allowed in the rural residential zoning district. Mr. Boeckel explained that properties in the rural residential district can have agricultural businesses, in accordance with the Right to Farm regulations. Agricultural retail sales businesses are permitted to sell non-agricultural commodities on properties in the Agricultural zoning district with direct access to an arterial street.

Mr. Boeckel reviewed the proposed agritainment regulations. He said agritainment enterprises are considered an accessory use to an active agricultural operation, that they combine agriculture with recreation, entertainment, education and tourism and that they include uses such as hayrides, corn mazes, livestock petting zoos, farm tours and demonstrations and sleigh rides.

He said that the ordinance limits agritainment enterprises to properties that are in the agricultural district, are 10 acres in size and have direct access to an arterial street. The Planning

Commission was concerned about the traffic associated with these uses and how that may impact the more rural parts of the Township. They also did not want these uses allowed in rural area that are developed with single family homes.

Chairman Hameister asked if Brush Valley and Linden Hall Roads were arterial streets. Mr. Boeckel said they were collector streets.

Supervisor Harden asked if we were limiting farms that weren't in the agricultural district by not allowing them to hold educational activities on their property. Mr. Igo said the concern was creating congestion with a larger activity.

Mr. Shea said Staff has talked about approaching the Solicitor to see if we can limit the hours for educational activities to typical school hours. Mr. Boeckel said it can be challenging legally to separate out the educational activities from the agritainment use.

Mr. Baker asked if the educational activities could be allowed under agritainment with additional conditions. Supervisor Harden suggested that they have to be connected with a school program.

Mr. Igo asked if someone in the rural residential district wanted to do an event could that be done under the special events ordinance. Mr. Shea said the special events ordinance isn't set up that way.

Supervisor Graham asked if the lot coverage regulations in the ordinance would protect the Township from concentrated animal feeding operations (CAFO). Mr. Boeckel said he wasn't sure what kind of lot coverage a CAFO would need. He also said he thought that municipalities were prohibited from regulating CAFOs.

Mr. Boeckel explained the methodology that was used for the rural district zoning update. He said the Planning Commission had three goals with the project: to protect the natural and environmental resources, to promote the sustainability of the agricultural industry and to zone similar land uses consistently. He said their analysis found that ridges and steep slopes should be protected from development, that agricultural uses are primarily located outside of the Regional Growth Boundary and that there are several areas that primarily consist of large lot residential development. The recommendations from the project were that future residential developments in Agricultural areas should result in meaningful preservation of open space that is usable and that four zoning districts should be created to regulate rural development.

Mr. Boeckel reviewed the rural residential district. He said the intent of the district is to promote a continuation of the rural character of the area, to allow for a mix of agricultural uses, open space areas and low density single family residential development and to buffer densely developed portions of the Township from agricultural activities.

He noted that the district includes lands that were developed with large lot residential under the open space-rural clustering regulations. He said there is limited potential for new large scale development within the district. The new district will not create any non-conforming uses.

Mr. Boeckel said the rural residential district is almost a mirror of the current agricultural district, except that the following uses are not allowed: farm wineries, landscape contractors and public and private conservation areas. He said residential uses must comply with the open space-rural clustering requirements.

Chairman Hameister asked what a landscape contractor business is. Mr. Boeckel said the best example of that is Green Horizon Landscaping, which is located on Route 45 West.

Supervisor Harden asked for clarification on what a conservation area is. Mr. Boeckel said that if a person wants to conserve their land through a conservation easement, that is fine. He said if someone wants to create an environmental education center, that's problematic. Ms. Farkas said it sounds like a new term or a definition was needed to further clarify this.

Supervisor Graham asked if Shingletown and Linden Hall were the only two rural centers. Mr. Boeckel said they were.

Mr. Boeckel reviewed the Yocum properties. He said they were subdivided in 2001 under the Township's open space-rural clustering regulations. That subdivision created three parcels - a 17.4 acres open space lot, a 5.3 acres residential lot and a 3.4 acres residential lot. He noted that the property cannot be further subdivided. Access to the property is provided via a private street. No direct access to Route 322 is permitted.

Mr. Boeckel said this property was included in the rural residential zoning district because it is an open space-rural clustering development and it is adjacent to other large lot residential developments. He also said that the property is located in the Regional Growth Boundary. He noted that the existing uses on the property are permitted in the new zoning district.

Chairman Hameister asked what the green lot was on the map. Mr. Boeckel said that is the open space lot and stormwater basin for the Huntridge Manor development. He said it is owned by the Huntridge Manor Homeowner's Association and cannot be dedicated to the Township.

Supervisor Harden asked if a property in the rural residential district can still be in the Township's Ag Security Area. Mr. Boeckel said it could.

Mr. Igo said the Planning Commission was looking for consistency when it recommended that this property be rezoned rural residential. He said the property would be an outlier if it remains in the agricultural zoning district.

Mr. Boeckel reviewed the conservation design subdivision regulations. He noted that these regulations will apply to residential development within the agricultural district. He said the regulations are similar to the existing open space-rural clustering regulations. The goal of the new regulations is to ensure that valued open space and rural resources are preserved. Mr. Boeckel discussed the development options available under the proposed regulations, as well as the density bonuses available.

Supervisor Graham asked how a developer decides which option to use. Mr. Boeckel said that it is up to the property owner and how many lots they want to get out of the property.

Supervisor Graham asked how this relates to Rockey Ridge. Mr. Boeckel said it doesn't, as Rockey Ridge was developed under the open space-rural clustering regulations. Supervisor Graham also asked if these regulations were an improvement over what we currently have. Mr. Boeckel said that it is, as it gives more options to the property owners and also provides more options to conserve land.

Harvey Hanlen, representing the Huntridge Manor Homeowners Association, asked what the purpose was for rezoning their open space lot from agricultural to rural residential. He requested that the land be left in the agricultural zoning district. Mr. Boeckel said they wanted to keep the entire development in the same zoning district, if possible. He noted that the Township did not want to spot zone any land. Mr. Hanlen said if you kept the properties on Route 322 zoned agricultural, it wouldn't be spot zoning.

Paul Rittenhouse asked if the Pennsylvania Right to Farm Law included solar farming. Mr. Boeckel said the law is related to agricultural commodities only.

Mr. Rittenhouse suggested that the language for selling farm products that requires direct access to an arterial street should say "and/or." Mr. Boeckel said direct access was only required for farms that are also selling non-agricultural commodities.

Michael Immel, the potential buyer of the Yocum farm, spoke at length about why the farm shouldn't be rezoned. He noted that the property includes historic properties and the headwaters of Spring Creek. He asked the Board to consider more than mapping when making the decision.

Scott Yocum requested that his three parcels stay in the agricultural zone. He noted that if his properties, plus the Dreibelbis farm and the open space lots for Huntridge Manor stay in the agricultural zone, that's 45 acres of contiguous land.

Mr. Immel questioned what the difference is between a private/public conservation area and a public park. Mr. Boeckel and Mr. Shea explained that parks are generally owned by the Township and that we only get the land for new parks through the subdivision and land development process.

Mr. Immel asked if you could do conservation activities, including educational activities, using the features of the land. Ms. Farkas said that what we heard this evening was that we don't want the intensive uses in a conservation area, like an environmental education center. She said we do want to see the ability for people to conserve the land. She said this is a discussion point for the Board.

Mr. Immel asked if historic property tours would be allowed under the new ordinance. Mr. Boeckel said that one of the things to keep in mind is that the property that contains the

historic structures is the open space lot for the original subdivision. He said the uses that are allowed on that piece under the open space-rural clustering regulations are fairly limited.

Mr. Immel asked if retail sales could be done on the property. Mr. Boeckel said if it was related to the farming operation, that is allowed under the Right to Farm law.

Mr. Immel asked if he could do a winery on the property. Mr. Boeckel said a winery could be done under the Right to Farm law, as long as half of what is being used to make the wine is grown on the property.

Ms. Farkas reviewed the list of items that the Board had questions on. They include: CAFOs and how our ordinance relates to them; splitting out agricultural education from agritainment activities; public and private conservation areas needing a better definition to clarify we don't want to allow intensive environmental education centers; and clearing up the confusion between ag business and ag retail sales businesses.

She noted the boundary was the other unresolved issue. She asked the Board if they wanted to discuss the boundaries tonight or if they wanted to wait until their April meeting, when Staff has the answers to the other issues on the list.

Supervisor Graham said he is satisfied with the ordinance and noted that a lot of work was spent on the ordinance. He discussed the agricultural area. He said its anomaly that someone is coming to the Township and being asked to be removed from a growth area. He said as he thought about this, we've lost 4 or 5 farms to development since he's been on the Board. He said that if a person wants to keep their property in farm land, that should happen.

Mr. Boeckel clarified that if the property stays agricultural, it isn't coming out of the growth boundary. Mr. Shea added that changing the zoning from agricultural to rural residential doesn't change what uses can be done on the property. He said the reason we want to rezone it is that it is consistent with the other properties that are being put into rural residential. He said if the Board wants to reconsider that, we will need to reevaluate that entire zoning district. Mr. Shea said we create the possibility for a legal challenge to the ordinance if we keep the properties agriculture.

Ms. Farkas suggested that the Board explore the option of if the Township is setting itself up for a legal challenge if we choose to keep these properties in the agricultural zoning district. She suggested we ask the Solicitor for an opinion on this.

Supervisor Harden thanked Mr. Boeckel for his presentation. He said it cleared up a lot of his questions and clarified that the farm that is on the Yocum property now can continue with its use if it moves to rural residential. He questioned why we are worried about changing this to rural residential. He also questioned if we are setting ourselves up for a legal challenge from the property owners if we do rezone it.

Supervisor Wilson said the explanation about putting the property in rural residential makes total sense because of where it is located within the Regional Growth Boundary and

Sewer Service Area. He said he thought that changing it to rural residential doesn't do anything negative to the property. He also mentioned spot zoning concerns if we leave the property in the agricultural zoning district. He said he doesn't understand why the owners and buyers aren't satisfied with being moved to rural residential. He said he also likes the whole concept of the ordinance and the way it's broken down,

Supervisor Lord said he likes the ordinance as it is written. He said the issue is where do we put the boundaries.

Chairman Hameister said the flexibility of rural residential and the ability to continue doing farming is a selling point. He sees no point in changing it.

Mr. Baker said he is pretty impressed with the work that was done on this. He said its unique for the Centre Region. He said he likes the way the mapping has been done. He thinks there is logic behind that and the boundary definitions in the Yocum area. He said he is open to the legal challenge issue being investigated by Staff. He said if we did decide to redo the agricultural boundary, the retention pond for Huntridge Manor should be kept in the rural residential district with the rest of the development.

Mr. Harrigan said he sees good reason to pass this issue by the Solicitor. He noted he is worried about the spot zoning issue. He said its almost semantics at this point, except from the legal perspective.

Mr. Igo agreed that it would be good to see what the Solicitor says.

Ms. Farkas said that Staff will reach out to the Solicitor for an opinion on the spot zoning issue. She said this item will be included on the Board's April 12th agenda for further discussion. Chairman Hameister suggested using the Planning Commission's meeting as a possible joint meeting, if further discussion is needed.

There being no further business, the meeting adjourned at 9:40 PM.

Respectfully Submitted,

Amy Farkas
Township Manager