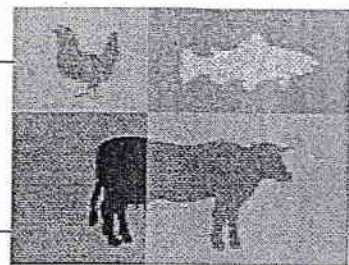


PA Agricultural Ombudsman Program
"Agriculture/Public Liaison"
Farmers * Agribusiness * Municipalities
Conservation Districts



October 11, 2005

WS

Dear Board of Supervisors,

Thank you for allowing me to make comments on the Joint Zoning Ordinance for Heidelberg and North Heidelberg Townships, and Robesonia and Womelsdorf Boroughs.

I serve as an Agriculture/Public Liaison for Pennsylvania. My position is funded through a grant from the Pennsylvania Department of Agriculture. I deal with public relations, education and conflict management, related to agriculture. One of the responsibilities of the Agriculture/Public Liaison is to provide educational input about agricultural trends and to try to educate others about the effects that ordinances can have on the future of agriculture. I also strive to be sure that farmers are complying with the regulations that govern them, and that the municipalities deal with all residents in a reasonable and fair way.

As I offer this educational input, please be aware that I advocate for agriculture and for the *viable future* of agriculture, no matter what the size (large, medium or small), management style (organic or non-organic) or animal type (cows, swine, sheep, horses, poultry, etc.) raised at the operation, provided the farmer is following the legitimate rules and regulations that govern the operation. I offer a professional opinion, NOT a legal opinion. In that light, please allow me to make the following comments.

Definition of Livestock or Poultry, Raising Of

I read the definition of "Livestock or Poultry, Raising Of" on pg. 2-12. This seems very vague to me. What exactly does "*beyond what is customarily incidental to the principal 'crop farming' use*" mean? Many farmers who raise animals also crop farm. They may or may not use their crops to feed their animals.

The whole definition seems open to interpretation to me, and could be arbitrarily applied to various operations and individuals, based on varying interpretations as officials or solicitors change. Hopefully, it would never be interpreted based on if the municipality "likes" a person, or not. It also indicates that this does not include "...a stockyard used for the housing of animals awaiting slaughter". Do you mean beef animals which are raised for many months before heading "to market" do not fall under this definition?

It seems to me, this definition could mean the residents can keep horses; bees; pheasants or similar birds, unless being released for hunting purposes would be considered "awaiting slaughter"; poultry for egg purposes, but not for meat purposes; milk cows; a beef cow/calf operation, but not a steer operation; and camelids (alpacas, llamas, emus, etc.) which would be used for egg or fiber production but not meat production. And how many can they keep?

Definition of Livestock or Poultry, Intensive Raising Of

As I read this definition on pg. 2-12 of the Joint Ordinance, I believe A.1 is attempting to indicate that 2 or more animal equivalent units of livestock or poultry is considered "intensive". I'm guessing this is based on the Nutrient Management Act (NMA) definitions of an Animal Equivalent Unit (AEU) and a Concentrated Animal Operation (CAO). The NMA regulations state that an AEU is "one thousand pounds of live animal weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit." Likewise, the NMA regulations state that an 'AEU per acre' is "An AEU per acre of cropland or acre of land suitable for application of animal manure".

The official definition for a CAO is "an agricultural operation where the animal density exceeds two AEU's per acre on an annualized basis". However, the NMA regulations assume that the animal density is based on the available *owned and rented* acreage on which manure can suitably be spread. I see in "C" of this definition, that the Joint Zoning Ordinance only considers what acreage is owned by the operation. This determination of an "intensive" operation under this ordinance does not seem to be consistent with the NMA definitions or calculations to determine what is an AEU or a CAO.

In A.2, I read that any operation over 300 animal equivalent units on one lot is considered "intensive" regardless of acreage. I am guessing this is loosely based on the federal Concentrated Animal Feeding Operations (CAFO) regulations that list AEU's for animals but do not take acreage into account, when labeling an operation as a CAFO. In PA, any operation that is 300-1000 AEU's *and also* a CAO, is considered a CAFO. Likewise, any operation that has over 1000 AEU's, even if they are not a CAO, is also considered a CAFO. When the new CAFO regulations go into effect, there will *also* be straight animal numbers used, not AEU's, to determine what is classified in PA as a CAFO.

I think there would be animal operations in these municipalities that would not be a CAO or a CAFO, or "intensive" as defined on page 2-12, but, depending on the interpretation of the "Livestock or Poultry, Raising Of" definition, wouldn't fall under that category either.

I would recommend that if the township feels that they have to label something "intensive" they would at least use standard definitions that are already established under other regulations, for consistency with enforced regulations throughout PA.

306. Types of Uses

I read the allowed uses for the AP and AP(M) sections, and I salute the Joint Zoning Ordinance for creating an area that is pretty much exclusively for agriculture, and residences associated with the agriculture. The concern I have is that "intensive" raising of livestock in a primarily agriculturally zoned area is not a "permit by right" but rather a "special exemption". I will address this later in this letter.

308.A. Purposes

I read that the purpose of having AP and AP(M) districts are to protect and promote the continuation of ag, and to strengthen and preserve ag as a strong part of the economy, and to minimize conflicts, etc. I am pleased that the Joint Ordinance declares that they want to do those things. However, when I read some of the setback requirements, coverage requirements, and the water study requirements, I have some concerns with the ability of the farmers to remain viable as the years go by.

308.B.1 Lot Requirements

With some exceptions, the minimum lot size is 50 acres or 40 acres, depending on the township. What is the reason for requiring 40-50 acres? What science is that based on? A well-managed farm does not need 40 or 50 acres to provide for the housing and care of animals. If a farmer chooses to purchase some feed for the animals, instead of growing all the feed on their operation, that is a common and normal agricultural practice, which eliminates the need for large amounts of acreage. If this Joint Ordinance is concerned about the application of manure for the operation, the statewide NMA regulations do not require animal operations to own adequate acreage to dispose of the manure, but it does require the operations to account for where the manure goes if it cannot all be handled on that operation.

308.B.2.

If I am understanding these statements correctly, a house that goes in *after* a livestock or poultry building is constructed, must not be built within 250 feet of the animal building? But, if an animal housing facility is built *after* the house is already constructed, that animal facility does *not* need to stay back 250 feet? Really? That seems to favor the agricultural operation. It is rare that I see that as I review ordinances throughout PA.

308.B.3

I see that there is a limit of 10% of the lot size can be covered with buildings. I question what the reason is for this limit? Limitations like this could seriously limit how much an operation chooses to expand in the future. In 308.A.7, the Ordinance reads, "*To encourage farmers to make continual investments in their operations, with the knowledge that development of neighboring properties will be controlled.*" It doesn't seem like an operation would be encouraged to make investments in their operation, or would be encouraged to expand their operation, if they can only have buildings covering 10% of the land mass. Now, if a farmer owns 1500 acres, 10% should be more than adequate. But, if a farmer owns 40 acres, 4 acres of buildings may not be adequate. Purchasing more land may not be available or feasible for a farmer to do, in order to have more acreage to increase the 10% of the acreage. It seems to me an individual farming operation and possibly their banker, should make the call as to how many buildings they can afford to build, and how many animal houses it will take for the operation to remain economically viable in the future. What is the farmer expected to do with the other 90% of the land? Must they grow crops? Not all farmers choose to grow crops. Some farmers specialize in animal genetics and animal husbandry. Their management style may be based on maximizing the milk, meat or fiber production from the animals, and not spending time on planting and harvesting equipment.

Also, as there are increasing demands for food to feed the world, yet less and less acreage available to accommodate agriculture in the United States, and fewer and fewer people who understand agriculture or are sympathetic to the nature of the business, setting limits by how much a business can expand, or requiring that 90% of the owned acreage be in crops, doesn't seem fair. This type of regulation could ultimately doom the future of agriculture in Berks County, Pennsylvania, and the U. S, in my opinion.

308.B.4

Likewise, if an operation can only have 15% maximum impervious coverage, what is the reason? As long as the operation has an adequate stormwater management plan, what is the purpose for not allowing more of the operation to be covered? I certainly understand the value and need for impervious surfaces for groundwater recharge, but, again, this seems to me that the operation is then forced to make sure 85% of the acreage is in crops or pasture.