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TO: Penn Township Officials

FROM: URDC, Charlie Schmehl (cschmehl@urdc.com)

SUBJECT: **Zoning Ordinance Summary and Discussion Guide**

This memo summarizes major policies regarding the existing Zoning Districts, and asks some policy questions.

Overview of Zoning

The zoning ordinance primarily regulates: a) the uses of land and buildings, and b) the densities of development. Different types of land uses and different densities are allowed in various zoning districts. A zoning ordinance also regulates: the distance buildings can be placed from streets and lot lines, the heights and sizes of signs, and the amount of parking that must be provided by new development.

Zoning is primarily intended to protect existing residential neighborhoods from incompatible development. However, it also can be used to avoid traffic problems, improve the appearance of new development, preserve historic buildings, preserve agricultural lands, and protect important natural features.

The Pennsylvania Municipalities Planning Code (the “MPC”) provides municipalities with the authority to regulate development. The MPC establishes limits on the ways zoning can be used and requires that certain procedures be followed.

Ways to Address Different Uses

In each zoning district, different uses are allowed or prohibited. There are three different ways that a use can be allowed:

- as a permitted by right use, with the zoning approved by the Zoning Officer,
- as a special exception use, with the zoning approved by the Zoning Hearing Board, and
- as a conditional use, with the zoning approved by the Supervisors.

Intense and potentially controversial uses should only be permitted as special exception or conditional uses. This results in a public meeting that allows public comment. Under these processes, the Zoning Hearing Board or Board of Supervisors can carefully review the application to make sure that it meets Township ordinances. Also, conditions can be placed upon these types of approvals, such as to protect public safety.

- However, a special exception or conditional use is still an “allowed” use. Therefore, under the law, it is difficult to reject a special exception or conditional use if the applicant proves they meet all of the specific requirements of the zoning ordinance. Generally, in such case, the application could only be rejected if an opponent or the Township was able to prove that the application violated a “general” requirement of the Ordinance. For example, it might be possible to prove that a certain type of industrial use would generate a major public safety hazard.

- With a special exception, the Supervisors can provide testimony before the Zoning Hearing Board (ZHB), and the Supervisors can appeal the Board’s decisions.
- Also, the number of conditional/special exception uses should be held to a reasonable minimum. If the process is overused, it becomes a burden in time and expense to both the Township and applicants. Moreover, time-consuming processes can make it harder to attract desirable types of businesses.

Nonconformities

Zoning primarily regulates **new** development, expansions of uses and changes in uses. Under State law, an existing use that was legal when it was first established can continue to operate, regardless of zoning regulations that are later enacted. An existing legal use that would not be permitted to be newly established under current zoning regulations is known as a “nonconforming use.” Generally, nonconforming uses can: a) be sold to a new operator, b) be expanded within certain limits, and c) be changed to a different nonconforming use, as long as the new use is not more intense than the old use.

For example, an auto repair garage may have existed before the Township adopted zoning. It is located in a residential district. It may be changed to a store, which would be less intense. However, it could not be changed to an asphalt plant, which would be more intense.

Likewise, in most cases, existing vacant lots that were legally established may be built upon – even if they do not meet the minimum size requirements of a zoning ordinance. However, any building would still need to meet setback, wetland and floodplain regulations.

However, if a use was not legal when it first started, it has no right to continue. For example, if a house was illegally converted into apartments twenty years ago, it is still illegal, and can be required to be de-converted.

Lot Sizes

Please keep the following lot sizes in mind:

One acre = 43,560 square feet (such as 150 by 290 feet)

One-half acre = approximately 22,000 square feet (such as 125 by 175 feet)

One-quarter acre = approximately 11,000 square feet (such as 80 by 135 feet)

Major Goals and Objectives

What major goals and objectives should drive this process? The following are suggestions based upon the Regional Comprehensive Plan.

- Work to update the Zoning Ordinance to make it easier to understand, easier to use, and to avoid unnecessary obstructions and delays for desirable types of development.
- Encourage the preservation of prime agricultural lands for agricultural purposes, including encouraging additional permanent preservation easements.
- Work to minimize conflicts between intensive agricultural operations and homes, particularly by directing most new homes away from concentrations of agricultural activities.
- Protect important natural features, including creek valleys, steep slopes, mature forests and wetlands.
- Provide opportunities for a variety of housing types to meet the needs of all types of households, including meeting the needs of older persons, and to meet obligations under State law.

- Protect residential neighborhoods from nuisances and hazards from intensive business uses.
- Promote business activity in designated areas to generate tax revenues and wider employment opportunities.
- Encourage the preservation of important historic buildings through incentives, but without obstructing removal of marginal old buildings.

Summary of the Zoning Districts

The following summarizes the existing zoning districts in the Township.

T-1 Conservation District (suggested new name CN Conservation)

The Conservation District includes the wooded Furnace Hills area between the Township's northern border and the PA. Turnpike and Dead End Road. While most of the land is preserved in State Game Lands, there are still some privately owned parcels in the district.

The district mainly allows single family detached houses on 20 acre minimum lots. There also are limits on the numbers of lots that be created.

Agritourism uses are allowed. Wind turbines are limited to accessory uses. With ZHB or Supervisors approval, the district also allows campgrounds, and communications antenna.

T-2 Agricultural District (Suggested new name AG Agricultural District)

The Agricultural district includes most of the undeveloped land in the Township, including most of the land in the northeastern, eastern and southeastern parts of the Township.

The district primarily allows all types of agricultural uses, including intensive livestock and poultry operations. Like many effective agricultural preservation districts in Lancaster County, the Agricultural district carefully limits the numbers of new lots allowed to be created on each "parent tract" of land. The parent tract is based upon the lot size that existed in 1989. For example, only new lot can be created on a tract of 2 acres or more but less than 50 acres, and only 2 new lots can be created on a tract of 50 to 100 acres. The intent is also to place any non-agricultural uses on land that is not prime for crop farming.

A new lot can be created for agricultural purposes, provided both the new and existing lot include at least 20 acres.

Commercial livestock and the most intensive agricultural activities are required to be setback a minimum of 300 feet from a Conservation or Residential district. It may be appropriate to delete the additional setback for the Conservation district, since it includes almost no homes.

In some townships, the most intensive Concentrated Animal Feeding Operations (CAFOs) need special exception approval from the Zoning Hearing Board, instead of being permitted by right.

Single family detached dwellings on one acre minimum lots, but there is also a two acre maximum lot size.

With zoning approval from the Supervisors or ZHB, schools, houses of worship, airports, feed and grain mills, golf courses, bed and breakfast inns, farm occupations, kennels, and temporary farm worker housing are allowed. Roadside agricultural stands, agritourism uses and farmers markets are also currently permitted by right. It is very important to allow farmers to earn supplemental sources of income on their land, which also helps to reuse historic barns that might otherwise be demolished.

Commercial recreation uses are currently not allowed. There may be some low intensity commercial recreation uses that could be appropriate, such as paintball.

There has been discussion about allowing a lot to be created for a small school without it being restricted by the number of new lots. That would particularly be beneficial for the Plain People.

In some other communities, there have been concerns that solar farms and golf courses could result in large amounts of prime agricultural lands being taken out of production. However, there is limited market for a new golf course. It would be valuable to place a limit on the amount of prime agricultural land that could be used for a solar farm, which would help direct any solar farm to marginal hillsides.

T-3 Suburban District (Suggested new name - SR Suburban Residential)

This district includes two areas of existing single family detached houses. One is in the area of Sego Sago Road and Lexington Road, north of Fruitville Pike. The second is south of Doe Run Road, which includes some malfunctioning septic systems. The district mainly allows for single family detached houses on one acre lots.

Although there is little buildable land in this district, it would be desirable to allow a smaller lot size for lots served by central water and central sewage services. Every new lot in any district with a septic system should be required to have a suitable area for a replacement drain field, which must be kept open and uncompacted.

The current district regulations require compliance with the Form Based Code standards, which does not seem appropriate because these areas are standard modern residential subdivisions that are unlikely to change in character.

This is the only district in the Township that allows Manufactured/Mobile Home Parks. This is a housing type that must be allowed in buildable locations in every township, but this district has almost no buildable land. With the proper standards, a Manufactured Home Park with new units at 4 or 5 homes per acre can be a desirable addition to a community.

T4 Village District (New suggested name: V Village District)

This district consists of the village of Penwyn and adjacent homes on Newport Road and E. Meadow Rd. The minimum lot size is 3/4 acre for a single family detached dwelling and one acre for most non-residential uses.

The Township has a long-term goal of providing central sewage service to the denser parts of the Village district. We recommend varying the lot size and lot width based upon utilities, to provide an incentive to provide centralized services. For example, it could be 1 acre with on-lot well and septic, 38,000 sq. ft. with central water and 20,000 sq. ft. with central water and central sewage. The minimum lot width of 40 feet is unusually small for a lot with a septic system. We suggest 150 feet if there is on-lot septic and 80 feet if there is central sewage.

Some municipalities in Lancaster County have provided an incentive of reduced lot sizes and lot widths if a developer installs capped sewers that can later be cost-effectively connected into a public sewage system. Some other municipalities have also encouraged a home to be placed on one side of a lot, so that the lot can later be subdivided to allow a second home if public sewage service would be provided.

This district also offers a Cluster Housing option, if there would be central water and sewage services. The maximum density would be one home per acre, which could be increased up to 4 homes per net acre if transfer of development rights are used (as described below)

This district also offers a Traditional Neighborhood Development option, if there would be central water and sewage services. The maximum density would be one home per acre, which could be increased up to 5 homes per net acre if transfer of development rights are used (as described below). However, 5 units per acre could be inconsistent with the current pattern of development in this area.

It is common to allow some small commercial uses near the center of an older village, such as small offices. However, this entire district allows many commercial uses, such as mini-warehouses, retail sales up to 100,000 square feet of building area and restaurants. One option would be to limit the more intense commercial uses to Newport Road, and to further limit their size.

Traditional Neighborhood Development (TND) and Form Based Codes

The concept of TND involves the creation of new development that recreates the best features of an historic village or an older borough. TND typically allows a mix of housing types. It also typically allows banks, beauty salons, offices, small retail stores and day care centers. TND standards usually promote walkability, provision of front porches, architectural features and other standards to provide a village character. The State Planning Code provides a municipality with the authority to require TND type development in certain areas or to encourage it through incentives.

A “Form Based Code” is a process that is typically designed to result in TND style development. A Form Based Code places more emphasis on the design of development than upon allowed uses, and typically encourages mixtures of uses.

The Form Based Code provisions currently exist in both the Zoning Ordinance and the SALDO. We understand that some Township officials believe the current provisions can be burdensome, particularly for smaller projects. We are very interested in hearing opinions on the matter. Once we understand concerns with the current provisions, we can propose alternatives, or limitations on how the provisions should apply. For example, some of the provisions might be limited to only one or two districts, or only to larger projects. The Township may decide to eliminate other provisions.

The simplest type of form based code provision for businesses is to limit parking between the front of a commercial building and a major road, so that most parking needs to be placed to the side and/or rear of a building. The simplest type of form based code provision for new housing is to limit the amount of a front yard that can be occupied by driveways and parking spaces, and to encourage rear parking or use of alleys where practical.

T-5R Residential TND District (Suggested New Name - RM Medium Density Residential District)

The current T-5R district most modern residential developments in the Township, and most undeveloped lands that have access to public water and sewage services. This includes residential developments north of Stiegel Valley Road, the Brookshire development east of Penryn Road, the Pleasant View Community for seniors, and large areas southeast of Manheim Borough west of Route 772, and north of the Manheim Auto Auction, including homes along the Sun Hill Road corridor and the Sweetbriar Creek development north of Bucknoll Road.

The T-5R district allows all types of housing. The T-5R district also allows boarding houses, which we normally recommend be limited to a commercial district. This district also allows adult uses, which should be restricted to one highway commercial or industrial district.

Within a TND, the T-5R district allows gas stations, drive-through restaurants and funeral homes, which we do not believe are appropriate. Within a TND, the T-5R district allows retail stores of up to 100,000 square feet of building area, which is too large

The current T-5R requirements are complicated. The intent is that smaller tracts can be developed for a few regular single family detached homes, and previously approved projects can be completed as

approved, but other new development must meet the TND standards or be a Multi-family Mixed Use Development.

One option would be to remove some of the larger single family detached developments from this complex multi-use district and put them in a single family detached district.

A Cluster Housing option is currently listed as a conditional use, if there would be central water and sewage services. A maximum density of 4.5 homes per acre is allowed if TDRs are purchased or density bonuses are used. With any Cluster housing option it is critical to make sure that the preserved open space serves a valuable public purpose, and is not just leftover fragments of land that serve little purpose. In most cases, the open space would be owned and maintained by a legally binding homeowner association, but in some cases it might be added to adjacent public lands. Any homeowner association land should require well-landscaped open spaces with trails. Another option should be to have preserved land that serves a valuable agricultural purpose, such as for a horse farm, a hobby farm, a Christmas Tree farm or similar uses. Clustering can also result in a wide open space buffer alongside an adjacent farm, which can reduce conflicts between the homes and the agricultural activities.

This district also offers a Traditional Neighborhood Development option, if there would be central water and sewage services. The maximum density would be up to 9 homes per acre, if a transfer of development rights would be used (as described below).

Density bonuses make sense for any type of housing development that is limited to persons age 55 and older, with no residents under age 18. Age-restricted housing is popular among municipalities because it has a very positive financial impact upon the school district. Age-restricted housing bonuses can also be justified because statistically it generates less traffic, less need for parking, less water use, less sewage use and less crime than other types of housing.

The standards that apply to a large Continuing Care Retirement Community, including Pleasant View, were recently updated. They allow a mix of housing types and institutional uses, with some support business uses, provided that the residents meet minimum age requirements. The provisions now allow some venues that include a limited number of events open to the general public.

Standards should be reviewed for townhouses. The goal is to avoid the construction of new townhouses in which almost the entire front facade consists of garage doors and almost the entire front yard consists of driveways. That arrangement is not only unattractive, but it also leaves no room for on-street parking. Incentives can also be used to promote use of rear garages, while keeping front yards green and sidewalks free of turning cars. For new construction, we recommend an emphasis on a usable rear yard, while minimizing the width of front yards.

The widths of townhouses are important. We recommend varying the townhouse widths by whether there will be parking and garage doors in the front yard. For example, if there are garage doors for 2 vehicles in the front, then the minimum width should be 24 feet. If there is no parking or garage doors in the front, then the minimum width could be 18 feet. We recommend encouraging use of rear alleys (maintained by homeowner associations) to allow rear garages or parking courts.

All residential districts allow a single family detached house to be converted to have an accessory dwelling unit. The T-4 and T-5R districts also allow a home to be converted into two housing units. While these options promote affordable housing, over time, they could result in a reduced rate of owner occupied housing, because the housing becomes more attractive to investors who rent the two units. Over time, that could reduce the level of maintenance of housing.

Transfer of Development Rights (TDR) Option

A TDR option involves an ability for a developer to pay a landowner of farmland or forest land in specified districts to permanently preserve their land. In return, the developer can take the number of

homes that would have otherwise been allowed on the preserved land, and use it to increase the density on a development tract. The areas that are encouraged to be preserved are known as Sending Areas, and the areas where the additional density is allowed are known as Receiving Areas.

The developer and the landowner privately negotiate the price of the easement.

A TDR system also typically includes a bonus incentive system. For example, if 10 homes would have been allowed on the preserved parcel, the developer might be allowed to transfer 15 homes to the development site. A TDR system is unlikely to be successful without some incentive system, especially because so few homes are currently allowed in the Agricultural district. One of the benefits of a TDR system is that the conservation easement is permanent, vs. the zoning could be changed in the future.

TDR greatly reduces the amount of land that is consumed by each home. This is because it typically involves transferring development from an area that would have larger lots with on-lot septic systems and wells, to smaller lots that have central water and sewage services.

TDR can also be used to provide incentives for business development. For example, for every acre of land that would be permanently preserved in the Agricultural district, the developer could develop an additional 5,000 square feet of impervious coverage in a business development.

The Township has also mentioned the concept of using TDR incentives or density bonuses to encourage developers to complete stormwater improvements beyond what is otherwise required. The intent is to meet obligations under federal MS4 requirements to improve stormwater quality and also to help resolve existing stormwater flooding problems.

The current Zoning Ordinance allows TDRs. We recommend a simplified system of TDRs that only allows transfers to occur at the time of a development approval. On the same date that a development receives final approval to have an increased in density, the sending tract must have an effective conservation easement that prevents further subdivision and that limits construction on the land. This simplified system also avoids controversies as ordinance requirements change over time.

T-5C Commercial TND District (Suggested new name COM Commercial District)

This district includes most of the Route 72 corridor southeast of Manheim Borough. This district currently allows apartments, apartments above commercial uses, and most types of commercial uses. The more intensive types of commercial uses need zoning approval by the Supervisors or ZHB, such as gas stations, auto repair, drive-through restaurants, vehicle sales, car washes, mini-warehouses and nightclubs. There is a strong demand for auto related uses that are connected in some way to activity at the Manheim Auto Auction.

A question is whether high density apartments are compatible with high intensity commercial uses, particularly uses that may be 24 hour operations. Usually new apartments are only recommended in areas that are limited to neighborhood-oriented commercial uses.

Many communities have a Neighborhood Commercial and a General Commercial district. The General Commercial district is the location where the heaviest commercial uses are allowed, but where housing is not allowed. The goal of a Neighborhood Commercial district is typically to only allow types of commercial uses that would be good neighbors for nearby residents. The district allows banks, many types of retail sales, offices, personal service uses, day care, and restaurants without drive-through service.

This district allows most types of manufacturing and warehousing as special exception uses. Those uses are not typically allowed in commercial districts, particularly districts that also allow housing. In general, housing should not be mixed with industrial uses because of the potential conflicts from trucking activities, 24 hour operations and hazardous materials.

It includes an area of homes near Manheim Borough that might be more appropriate in a residential district.

T-5MU Mixed Use District (Suggested new name - MU Mixed Use district)

This district includes a commercial area along Doe Run Road adjacent to Manheim Borough and undeveloped land along Hostetter Road. This district allows a variety of residential, commercial and industrial uses. We do not recommend mixing residential and industrial uses in the same district.

There has been strong demand in the region for very large warehouse/distribution buildings. These projects can generate tremendous amounts of tractor-trailer traffic over 24 hours a day. Warehouses are currently allowed by special exception in this district. It may be appropriate to place a size limitation on them.

D-1 Limited Commercial District (Suggested new name - HC Highway Commercial district)

This district includes the Manheim Auto Auction along Auction Road. The district allows a range of commercial uses, including many intensive commercial uses, such as shopping centers and vehicle repair and sales.

D-2 Quarry District (Suggested new name - Q Quarry district)

This district on Lititz Road east of Fruitville Pike includes an existing quarry. The district mainly allows quarrying. Most quarry districts in other townships allow other types of manufacturing and commercial uses, including uses to occupy reclaimed land.

There have been many legal challenges in Pennsylvania claiming that municipalities do not provide sufficient land for mining activities. It may be logical to consider whether a modest expansion should be considered to the Quarry District to meet local needs and to put the Township in a more defensible position to avoid a new quarry in an inappropriate location.

Although currently gas and oil wells are not being developed in Lancaster County, the technologies may change over time. Therefore, we recommend they be allowed with special exception approval and additional setbacks in one business district.

D-3 Industrial District (Suggested new name - I Industrial District)

This district includes one site along Lexington Road near the railroad. It allows a range of industrial uses.

Historic Building Provisions

There are some concerns that an excessive number of buildings are required to need Township approval before they can be demolished. Should these provisions be completely eliminated, or should the number of buildings that have protection be much more limited?

Flood-prone Areas

The 100-year floodplain includes land areas expected to be flooded during the worst storm in an average 100-year period. Penn Township has zoning regulations that meet the minimum federal and state regulations on development in the 100-year floodplain. The “floodway” is the main channel that carries the deepest flood waters. The rest of the floodplain is known as the “flood-fringe” and may be covered by less deep flood waters. These areas function as “overlays” to the regular zoning districts, which means they apply more restrictive provisions for certain matters.

Please contact us if there are any questions or comments.