

March 20, 2015

Susan Bucknum
Senior Deputy Attorney General
Litigation Section
ATTN: ACRE 15th Floor Strawberry Square
Harrisburg, PA 17120

RECEIVED

MAR 25 2015

Office of Attorney General
Litigation Section

RECEIVED

RE: ACRE Review Request-Maxatawny Township Zoning Ordinance

APR 16 2015
SR-64990-BDRV
Office of Attorney General
Litigation Section

Dear Ms. Bucknum,

Red Barn Consulting, Inc. (RBC) represents [REDACTED], an agricultural client who lives and farms in Maxatawny Township, Berks County Pennsylvania. [REDACTED] contacted us to assist him with the agricultural permitting, land development, erosion and sediment control and stormwater planning of his proposed poultry operation.

Our first step in the process was to verify zoning compliance with the Maxatawny Township Zoning Ordinance of 2012. RBC developed a sketch plan and determined animal density calculations for the project. Our review of the project and zoning ordinance concluded that [REDACTED] project is classified as permitted Agricultural Use by Right (400.2.a), meeting the definition of 'Agriculture' of the zoning ordinance.

Below is a summary of the correspondence between the Maxatawny Township Board of Supervisors, the zoning officer, and RBC between October 28th, 2014 and December 18th, 2014.

1. On October 28th, 2014, Red Barn Consulting, Inc. (RBC) submitted a sketch plan to the Maxatawny Township Board of Supervisors as well as an application for a Zoning permit and a fee for this review. RBC clearly outlined how the operation is a permitted use by Right per the zoning ordinance.
2. On November 18th, 2012 we received a letter from the township zoning officer determining that the project is 'Intensive Agriculture' in part because the operation is required to obtain a Nutrient Management Plan prior to operating and is required to go through a conditional use hearing, as well as comply with Section 513 and 501.10 of the zoning ordinance.
3. On December 18th I had additional correspondence via email with the zoning officer to request clarification regarding his zoning determination to which no clarification was provided.

After several attempt by myself to try to clear up these zoning issues with the township, this project was referred to [REDACTED] of [REDACTED] who also attempted to resolve the issues with the township solicitor. Although we did not believe

that a Conditional Use application was required we were assured and believe that it would be the easiest path forward for our client, as those at the township assured [REDACTED] that it would not be a problem.

Below is a summary of the Conditional Use Application and correspondence from the township zoning office and township engineer regarding this application.

1. On February 18th, 2015 a Conditional Use Application was submitted by [REDACTED]
 - a. Before submitting the Conditional Use Application, [REDACTED] had developed a Nutrient Management Plan for his operation and had acquired enough land that he is no longer classified as a CAO. This plan has been deemed administratively complete and is scheduled for approval at the Berks County Conservation District. A copy of this plan and the administratively complete letter is enclosed.
 - b. The Conditional Use application provided updated animal numbers per the newly developed NMP which demonstrated Animal Equivalent Units per Acre of 1.8.
2. On March 19th, 2015 the Township zoning officer and township engineer offered comments on the Conditional Use Application which further reinforce the need for the Conditional Use as well as Variances of Section 513.
 - a. The zoning office also made reference to Section 500.1 which does not allow multiple uses on a property, as well as compliance with Sections 501.10, 508, and 513.
 - b. The township engineer made the determination that the operation was not general agricultural and was subject to the intensive agricultural standards.
 - c. The township engineer made the determination that the Nutrient Management Plan notes on the sketch plan were incorrect and should be removed from the plan.
 - d. The township engineer and zoning officer referenced 19 items under Section 501.10 that must be addressed with the conditional use application. Some of these items include things like
 - i. Air Management
 - ii. Liquid Waste or sewage (there is none with this operation)
 - iii. Solid Waste Management (conflicts with NMP)
 - iv. Outdoor storage
 - v. Noise and Vibrations
 - vi. Visual and Heat
 - vii. Groundwater and hydrologic study
 - viii. Electromagnetic and radioactive radiation
 - ix. DEP regulations
 - x. Buffer strips
 - xi. Utility management
 - xii. Erosion and Sediment Control
 - xiii. Stormwater Management
 - xiv. Steep slopes
 - xv. Wooded areas

xvi. Impact studies

- e. The township engineer stated that the application for conditional use is required to develop a Land Development Plan in accordance with the SALDO, a stormwater management plan in accordance with the stormwater management ordinance, submit the land development plan to the Berks County Planning Department, as well as develop an Erosion and Sediment Control Plan and NPDES stormwater permit **ALL BEFORE KNOWING IF THE PROJECT EVEN HAS ZONING APPROVAL!**

Based upon the Township zoning officer's and township engineer's letters date March 19th, 2015, and our previous attempts to offer the township zoning officer good advice on their application of their zoning ordinance, we no longer believe that a conditional use application is the clearest path forward to resolve the township ordinance issues and the township.

On behalf of my client, [REDACTED], we are asking for you to review the Maxatawny Zoning Ordinance, as well as the Maxatawny Subdivision and Land Development Ordinance for compliance with the ACRE Law.

I have enclosed numerous documents to help give the history of the case and would be available at any time convenient to you to answer any questions with regards to this matter. Your attention is much appreciated.

With regards,



Molly H. Hughes, ME. PE
Vice President
Red Barn Consulting, Inc.

Enclosures

cc.
[REDACTED]
[REDACTED]