

Willig, Robert A.

From: ACRE Shared Mailbox
Sent: Friday, March 7, 2025 9:52 AM
To: Willig, Robert A.
Subject: FW: FW: [EXTERNAL] Re: Request for ACRE Review of Land Development Issues in Clarion County

Robert A. Willig
Senior Deputy Attorney General
1251 Waterfront Place
Mezzanine Level
Pittsburgh, PA 15222
[REDACTED]

From: [REDACTED]
Sent: Friday, March 7, 2025 7:45 AM
To: ACRE Shared Mailbox <acre@attorneygeneral.gov>
Cc: [REDACTED]
Subject: Re: FW: [EXTERNAL] Re: Request for ACRE Review of Land Development Issues in Clarion County

Dear Mr. Willig,

I hope this email finds you well!

I recently reviewed Clarion County's response to my ACRE complaint and noticed that while their exhibits have been posted, **my submitted exhibits and supporting documentation are still missing** from the public posting. This is a significant issue because the County's response **changes key aspects of their original position**, which risks misrepresenting my complaint.

Specifically, I would like to highlight two critical discrepancies:

1. **Clarion County originally required stormwater management for my entire project, but their response now appears to suggest an exemption for my existing structures.** This shift in position is not reflected in my complaint as posted, making it appear as though I misrepresented their initial stance. My exhibits contain documentation proving their original requirement.
2. **The land development plot the County included in their response was not part of my initial request.** It was created **after** the County required me to enter the land development process, and I was instructed to **plan for the largest potential build-out within the next five years.** The County's use of this document, without the proper context provided in my exhibits, could mislead the review process and create the false impression that I was always seeking land development approval on this scale from the start.

Given the significant impact of these omissions, I respectfully request that my **exhibits be posted alongside my complaint** as soon as possible. Without them, my position is not accurately represented, and the County's shifting stance is left unchallenged in the public record.

Please let me know if any further action is required on my end to ensure this is corrected. I appreciate your attention to this matter and look forward to your response.

Best regards,

[REDACTED]

[REDACTED]

On Thu, Jan 16, 2025 at 12:43 PM [REDACTED] wrote:

That's my final version. That's my ACRE complaint.

Please let me know the next steps. Thank you!

[REDACTED]

On Thu, Jan 16, 2025 at 10:12 AM ACRE Shared Mailbox <acre@attorneygeneral.gov> wrote:

So this is the final version? This is your ACRE complaint?

Robert A. Willig

Senior Deputy Attorney General

1251 Waterfront Place

Mezzanine Level

Pittsburgh, PA 15222

[REDACTED]

January 16, 2025

Dear Mr. Willig,

I am writing to formally request an ACRE review of the issues I am experiencing with Clarion County regarding land development and stormwater requirements for my agricultural operations. Despite my efforts to work collaboratively with the County and respect their processes, their actions appear to conflict with state laws protecting agricultural operations and have caused significant hardship for my business and family

Overview of the Property and Operations

On December 19, 2024, I purchased two contiguous parcels totaling 40 acres at [REDACTED] in Knox, PA. The property has historically been a working farm used for beef production, chicken farming, and growing nuts, berries, fruit, hay, corn, and vegetables. My plan is to add high tunnels (greenhouses) for horticultural production to support my startup, [REDACTED], which operates as an online nursery.

The high tunnels are **Act 15 of 2018-compliant**, meaning they are moveable, lack permanent foundations, and are designed specifically for agricultural production. They will not have public access or be used for on-site retail purposes; their sole function is to support agricultural production and storage.

These high tunnels are not new to my operation. I am relocating four 96' x 30' high tunnels from my current 5-acre farmette in Tulpehocken Township, Berks County, to my new 40-acre farm in Clarion County. These structures have been in use since 2019 and have never required stormwater management plans or land development approval in Berks County. Their relocation further underscores their nature as **temporary structures** and raises a critical question:

Why should I now be required to provide stormwater management on a 40-acre farm in Clarion County when these same structures did not require it on a significantly smaller property within a more developed area?

Issues Experienced

1. Initial Due Diligence and County's Imposition of Land Development:

During my due diligence prior to purchasing the property, I consulted with Ashland Township officials, who explicitly informed me that my high tunnels would be classified as agricultural structures and would not require land development approval. Based on this assurance, I moved forward with my plans to purchase the property.

However, weeks later and shortly before I closed on the property, Clarion County intervened (see Exhibit A), ultimately stating on a recorded conversation that I would need to go through

the land development process because I was adding horticultural production to the property. This decision was based on the County's classification of my structures and operations as "commercial agricultural." Despite my efforts to comply and work with the County, this requirement has created unnecessary delays and financial burdens.

Initially, I submitted an ACRE request regarding the County's imposition of land development but placed it on hold because my wife, [REDACTED] the primary owner of our agribusiness, believed that working with the County would demonstrate respect and good faith toward our new home county. Unfortunately, it has become clear that Clarion County does not share this quest for mutual respect, as they continue to impose unnecessary barriers with little clarity or communication.

2. Stormwater Management Requirement and Act 15 Interpretation:

On January 10, 2025, I was informed that stormwater management would be required for my high tunnels and hoop houses (see Exhibit B), despite their compliance with Act 15 of 2018. The County has argued that because one of my parcels—a 30-acre parcel with 20 contiguous acres—across the street from my house and another 10 acres on the same side—has no existing structures, it cannot qualify for the "25% of all structures" exemption under Act 15.

- **Misinterpretation of Act 15:**

Act 15 of 2018 was designed to provide exemptions for temporary, moveable agricultural structures like high tunnels and hoop houses to ensure regulatory flexibility for farmers. Many crops, especially those requiring controlled environments or protection from frost, wind, or excessive rain, rely heavily on the use of high tunnels and hoop houses. These structures are essential for sustainable production in diverse climates and growing conditions.

The County's interpretation of Act 15 fails to balance temporary versus permanent structure coverage logically. It also ignores the realities of farming, where high tunnel and hoop house usage often exceeds other impervious surfaces without requiring stormwater management. This misinterpretation undermines the agricultural benefits Act 15 was intended to promote.

- **Comparisons with Other Townships:**

While some municipalities, such as Lower Chanceford Township, have interpreted Act 15 to allow up to 25% coverage based on "all structures" as impervious surfaces, Tulpehocken Township has taken a different approach. At my previous location [REDACTED], the interpretation has been that as long as total impervious surface coverage does not exceed 25% of the parcel, stormwater management is not required.

For example, under Tulpehocken Township's interpretation:

- On an 8-acre parcel, if 0.5 acres of impervious surfaces (including all structures, driveways, and other impervious areas) already existed, I would still be permitted to construct 1.5 acres of high tunnels and/or hoop houses without requiring a stormwater management plan. This approach allows for logical agricultural expansion while managing runoff responsibly, aligning with the intent of Act 15.

- My existing high tunnels in Tulpehocken Township did not require stormwater management even though their total square footage exceeded that of all other structures on the property. This practical and balanced interpretation of Act 15 highlights the flaws in Clarion County's restrictive and counterproductive approach.
- **Encouraging Absurd Outcomes:**
The County's interpretation incentivizes building unnecessary permanent structures to meet their arbitrary requirement. Furthermore, under their logic, I could incrementally add high tunnels over time and theoretically cover the entire parcel (excluding setbacks) without triggering stormwater requirements. Such a scenario contradicts responsible land-use principles and creates an illogical paradox that's understandably often challenged in the court system due to its absurdity.
- **Unified Agricultural Use:**
Both parcels are part of a single agricultural operation. Treating them separately for exemption purposes disregards their unified use and fails to consider the holistic nature of farming operations

3. Lack of Communication and Clarity:

Communication with Clarion County has been inconsistent and often non-existent (see Exhibit A). Many of my emails have gone unanswered, leaving me unable to plan or proceed due to a lack of clarity. This lack of responsiveness has created a frustrating and untenable situation where I am unsure of how to move forward with my operations.

This raises a broader concern: why would any new business want to establish itself in Clarion County when the Planning Department provides such poor service and a lack of clarity? The County's actions not only harm existing agricultural businesses but also risk deterring future investments in the area.

4. Harmful Precedent and Broader Implications: Clarion County's Violation of MPC §603(h):

Under MPC §603(h), zoning ordinances in Pennsylvania are required to encourage agricultural operations, promote the continuation of agriculture, and avoid imposing undue restrictions on normal agricultural activities. Clarion County's actions, however, directly contradict these goals in several ways:

- **Creating Barriers Instead of Encouraging Agriculture:**
The County has imposed restrictive requirements, including land development and stormwater management plans for my high tunnels. These additional regulatory hurdles not only create unnecessary financial and operational burdens but also directly undermine the spirit of MPC §603(h), which seeks to facilitate agricultural activity rather than obstruct it.
- **Conflict with Legislative Intent of Act 15:**
Act 15 of 2018 was specifically designed to exempt temporary, moveable agricultural structures like high tunnels from burdensome stormwater requirements. This law was

created to complement MPC §603(h) by ensuring that agricultural operations, particularly those requiring high tunnels for crop production, could operate with minimal regulatory interference. Clarion County's interpretation of Act 15 introduces unnecessary restrictions, contradicting its legislative intent and imposing barriers that discourage agricultural growth.

- **Tulpehocken Township's Interpretation Encourages Agriculture:**

My prior experience in Tulpehocken Township demonstrates how a more practical interpretation of Act 15 better aligns with the goals of MPC §603(h). Tulpehocken Township interprets Act 15 in a way that prioritizes agricultural flexibility while maintaining responsible stormwater management. For example, their approach allows for up to 25% total impervious surface coverage on a parcel, including high tunnels, without triggering stormwater management requirements.

- By contrast, Clarion County's restrictive interpretation fails to offer this balance, creating unnecessary barriers and discouraging agricultural operations. Adopting Tulpehocken Township's interpretation would provide greater alignment with the goals of MPC §603(h), as it actively supports agricultural productivity while addressing environmental concerns responsibly.

- **Penalizing Agricultural Expansion:**

My relocation from Berks County to Clarion County reflects clear agricultural growth, as I sought a larger parcel of land to expand my operations. Instead of supporting this growth, the County has actively discouraged it by imposing unnecessary regulatory barriers without explanation or clarity. Their restrictive interpretation of Act 15 disproportionately impacts rural, undeveloped parcels, effectively penalizing farmers who aim to use these areas for agricultural production.

- **Setting Harmful Precedents:**

Clarion County's restrictive interpretation, if left unchecked, could further embolden other municipalities to impose similar arbitrary burdens on agriculture. This creates a ripple effect that undermines statewide protections for agricultural operations and disincentivizes farmers from expanding or relocating to rural areas.

- **Aligning Interpretation with Agricultural Outcomes:**

Given the ambiguity in Act 15's language, the most logical interpretation is one that maximizes support for farmers and minimizes unnecessary regulatory burdens. A restrictive interpretation, like Clarion County's, serves only to hinder agricultural growth and contradicts the intent of MPC §603(h). In contrast, interpretations like that of Tulpehocken Township demonstrate how Act 15 can be applied in a way that encourages agricultural operations while still addressing valid environmental concerns.

In summary, Clarion County's actions not only fail to encourage agricultural operations but actively discourage them through restrictive interpretations and inconsistent enforcement. A clear and farmer-supportive interpretation of Act 15, such as that demonstrated by Tulpehocken Township, would better align with the goals of MPC §603(h) and provide much-needed clarity and support for agricultural operators statewide.

5. Unequal Treatment and Equal Protection Concerns:

I have been informed by numerous local individuals that other high tunnels, hoop houses, and agricultural accessory structures in the area have not been required to go through land development or provide stormwater management plans. This apparent selective enforcement raises serious concerns about unequal treatment and the County's inconsistent application of regulations.

Clarion County's actions unfairly burden my operation while seemingly exempting other similarly situated agricultural businesses. This discrepancy suggests a failure to provide consistent and fair treatment under the law, which is particularly troubling in light of the following:

1. Unequal Application of Land Development Requirements:

Other agricultural operations in the area with similar structures reportedly have not been required to undergo land development. This raises the question: why is my operation being treated differently? There has been no clear explanation from the County to justify this apparent discrepancy, leaving me to conclude that the treatment of my operation is arbitrary and not grounded in a consistent application of their own ordinances or state law.

2. Unequal Application of Stormwater Management Plans:

The County's requirement for a stormwater management plan for my high tunnels is inconsistent with how similar structures have been treated in the area. It is particularly concerning that my high tunnels, which are Act 15-compliant, are being subjected to additional regulatory burdens while others are not. This inconsistent enforcement undermines the intent of Act 15 to streamline agricultural operations and raises the specter of selective enforcement. It's also important to note that a local engineer told me that even if I end up needing stormwater, it won't be hard as long as the structures are classified as agricultural; however, the County has not given me a clear interpretation of how they classify our operations.

3. Selective Enforcement Discourages Agricultural Development:

Selective enforcement creates uncertainty and discourages new agricultural investments in the area. As a business relocating from Berks County, where my high tunnels never required stormwater management or land development approval, I was hopeful that Clarion County would support agricultural growth. Instead, I have encountered barriers that make it difficult to trust the County's ability to support future agricultural endeavors.

4. Principles of Equal Protection:

While Pennsylvania's zoning and agricultural laws are designed to encourage and protect agricultural operations, the County's actions suggest a lack of adherence to these principles. Unequal treatment of similarly situated businesses and farms violates fundamental notions of fairness and contradicts the state's commitment to promoting agriculture as an essential industry.

This selective enforcement not only creates a significant financial and operational burden on my business but also sets a harmful precedent. Farmers and agricultural businesses should be able to rely on consistent interpretations and applications of regulations, especially when state laws like Act 15 and MPC §603(h) are explicitly designed to protect agricultural operations from undue restrictions.

Request for ACRE Review

Given these issues, I respectfully request that the Attorney General's office conduct an ACRE review to determine:

1. Whether the County's classification of my structures and operations aligns with state law.
2. Whether the County's requirement for land development approval conflicts with the exemptions provided under their SALDO and state law.
3. Whether the County's decision to require stormwater management for my high tunnels violates Act 15 of 2018.
4. Whether the County's actions align with MPC §603(h), which mandates that zoning provisions encourage agricultural operations.
5. Whether the County's interpretation of Act 15 is consistent with the intent of the law.
6. Whether the County is legally permitted to impose land development requirements even though the Township is not requiring it and has stated I do not need it.
7. Whether Clarion County's unequal treatment of my agricultural operation compared to similar operations violates the principles of consistent and fair application of regulations.

Thank you for your attention to this matter. I look forward to your guidance on next steps and ensuring that state laws protecting agricultural operations are upheld.

Sincerely,

A black rectangular redaction box covering the signature of the sender.

Exhibit A (The thread of unanswered emails with Clarion County. My latest email is nearest the top of the thread, and my initial project request email is at the bottom of the thread, with one single reply from the County, simply telling me that the project "meets the definition of land development")

Wed, Dec 4, 2024,
6:22 AM



[REDACTED]
[REDACTED]

to

[REDACTED]
[REDACTED]
[REDACTED]

To clarify any intent; here is a resubmission of my project. Please let me know if it, in fact, qualifies for land development:

I am planning to erect Act 15 of 2018-compliant hoop houses on my farm at [REDACTED]. These hoop houses will be used exclusively for agricultural purposes, as defined under Act 45 of 1999, and will serve as essential accessory structures for growing and producing plants for my online nursery operation. The hoop houses will not have permanent foundations, will not allow public access, and will not be used for retail purposes.

Their sole function is to support agricultural production, aligning with both state laws and the definition of accessory farm buildings under Clarion County's SALDO, which exempts such structures from land development requirements.

Best regards,

[REDACTED]

[REDACTED]

[REDACTED]

On Tue, Dec 3, 2024 at 11:30 PM [REDACTED]

Dear [REDACTED]

Thank you for taking the time to speak with me earlier today regarding the land development requirements for my proposed agricultural structures at [REDACTED]. I appreciate the opportunity to discuss this matter further; however, I remain unclear on certain aspects of the County's classification and would like to request additional clarification.

During our conversation, you referred to my structures as "commercial agricultural." This classification is unfamiliar to me, and I am unsure how it applies to my operations under Pennsylvania law. My greenhouses are moveable, lack permanent foundations, and are used solely for growing plants as part of an online nursery and wholesale plant operation. These structures meet the criteria for agricultural buildings under state laws, including Act 15 of 2018 and Act 45 of 1999, which provide exemptions for high tunnels and agricultural operations.

Furthermore, I don't understand why you feel that these greenhouses are not **essential accessory buildings** to our farm. They are integral to our ability to produce agricultural commodities—plants for sale through our online nursery and for wholesale transactions—and cannot reasonably be separated from the core agricultural purpose of the property. Under Clarion County's own SALDO, accessory farm buildings are explicitly exempt from land development requirements. Given their clear function as agricultural accessory structures, I feel as though my greenhouses should be classified accordingly and exempt from this arduous and burdensome process.

If your land development requirements persist in spite of the clear need for these greenhouses on our farm, I'm curious if the plat plan requirement could be reconsidered, given that these greenhouses are moveable and may be relocated across the property as needed? Since they lack permanent foundations and are designed to be adjusted based on operational needs, a plat plan may not accurately reflect their use and location over time.

Thanks,

[REDACTED]

[REDACTED]

On Wed, Nov 27, 2024 at 7:06 AM [REDACTED] wrote:

Dear [REDACTED]

I am writing to inform you that I have initiated a formal ACRE review with the Pennsylvania Attorney General's office regarding the land development requirements imposed on my agricultural operations at [REDACTED]

After extensive review of state laws, including Act 15 of 2018, Act 45 of 1999, and MPC §603(h), I believe the classification of my operations as commercial and the associated requirement for land development approval may conflict with state-level protections for agricultural operations. These laws clearly outline exemptions and safeguards for high tunnels and agricultural buildings, which my operations and structures meet.

Despite my repeated attempts to seek clarification and resolution from your office, the lack of clear communication and rationale for your position has left me with no choice but to escalate this matter to the Attorney General's office. This step is necessary to ensure that the actions of Clarion County align with state laws designed to protect agricultural operations like mine.

I remain open to further discussion and collaboration to resolve this issue at the local level. However, I felt it was important to notify you of the steps I have taken to address the undue hardships and delays this situation has caused my family and business.

Thank you for your attention to this matter. Should you have any questions or wish to discuss a resolution, please feel free to contact me directly.

This will be my last email until I (hopefully) hear from your office early next week.

Happy Thanksgiving,

[REDACTED]

[REDACTED]
[REDACTED]

On Tue, Nov 26, 2024 at 8:15 AM [REDACTED] wrote:

Dear [REDACTED]

I am writing yet again to request a resolution and clarification regarding the land development requirements imposed on our agricultural operations at [REDACTED]. This situation has caused significant delays,

stress, and hardship for my family and farm business, and I am growing increasingly concerned about the lack of timely communication and clarity from your office.

During our initial due diligence, Ashland Township specifically told me that the scope of my online nursery operations was agricultural and not commercial. This assurance was critical to my decision to proceed with purchasing the property and planning the relocation of my greenhouses and operations.

Last Monday, after my engineer suggested I might fall under land development, I contacted [REDACTED] from your office. He assured me that I would hear from you by Tuesday with clarification. However, I did not hear anything until Friday, when you emailed to say that land development approval would be required. Now, a full week later, I am still unclear as to why your office feels my operations—clearly operating within the scope of agriculture and aligned with state definitions—are classified as commercial rather than agricultural.

Our operations rely on four relocated greenhouses, which meet the criteria for high tunnels as defined in Act 15 of 2018. These moveable structures lack permanent foundations and are specifically designed for plant production, aligning with the state's definition of agricultural operations. Additionally, the PA Construction Code (Act 45 of 1999) explicitly exempts agricultural buildings from permitting requirements.

Given the significant inconsistencies between your office's position and state-level protections, I respectfully request clarity on the following:

1. **Act 15 Compliance:** How is your office interpreting and applying Act 15 of 2018 to agricultural high tunnels and operations in Clarion County, and why are our operations being classified as commercial?
2. **Land Development Requirements:** On what basis does your office determine that our operations require land development approval, given the clear agricultural classification under state law?
3. **Alignment with State Protections:** How does this determination align with Pennsylvania law, including the MPC §603(h) requirement that zoning provisions "encourage the continuity, development, and viability of agricultural operations"?

The lack of timely communication from your office and the ongoing delays are unacceptable. This situation is causing extreme hardship, jeopardizing my business operations, and placing an undue burden on my family. If this issue is not resolved promptly, I am extremely close to contacting the Pennsylvania Attorney General's office to investigate whether your office is in compliance with state law. Additionally, I am prepared to retain private counsel to pursue civil damages caused by these unwarranted delays and restrictions.

I strongly urge your office to provide a resolution and detailed clarification on this matter without further delay. Please let me know how we can move forward while remaining in compliance with both county and state regulations.

Thank you for your attention to this urgent matter. I look forward to your immediate response.

Best regards,

On Mon, Nov 25, 2024 at 11:20 AM [REDACTED] wrote:

Dear [REDACTED]

I hope this message finds you well. I am again writing to provide additional information relevant to the ongoing discussion regarding the classification of our proposed agricultural structures at [REDACTED]. Recent guidance from Representative Donna Oberlander's office and a conversation I had this morning with [REDACTED] from the County Planning Office have brought up several important points about state-level protections for agricultural high tunnels and buildings.

During my conversation with [REDACTED] he admitted he was unaware of Act 15 of 2018, but assured me that he would look into it and speak with you directly about its implications. Act 15 specifically provides exemptions for high tunnels used for agricultural purposes, and we cannot understand why your office feels that our greenhouses meet the definition of a commercial structure and require land development.

High Tunnels Under Act 15 of 2018:

As outlined in both Title 53 PACS and the Storm Water Management Act, high tunnels are exempt from certain stormwater management requirements if they meet the following definition:

- Used for the production, processing, or storage of agricultural commodities.
- Constructed with a metal, wood, or plastic frame and a flexible covering (e.g., plastic or woven textile).
- Featuring a floor made of soil, crushed stone, or other non-permanent materials.

Our greenhouses meet these criteria, as they are moveable structures with no permanent foundation, designed specifically for plant production. This designation aligns with their classification as agricultural high tunnels in our current location in Tulpehocken Township, Richland, PA.

Agricultural Buildings Exempt from the PA Construction Code:

Under the PA Construction Code (Act 45 of 1999), agricultural buildings are exempt from permitting requirements. This definition includes structures used for growing horticultural products, such as greenhouses and high tunnels, provided they are not habitable spaces or intended for public occupancy.

Clarification Needed:

Given these clear state-level protections, I respectfully request an explanation of how Clarion County's determination aligns with Act 15 of 2018 and other relevant laws. Specifically:

1. How is the County interpreting and applying the exemptions provided under Act 15 of 2018 and Act 45 of 1999?
2. On what basis does your office classify our greenhouses as commercial structures requiring land development?
3. How does this determination align with the protections for agricultural operations under Pennsylvania law, including the MPC §603(h)?

Impact on My Family and Business:

The ongoing delays and shifting interpretations have caused and are continuing to cause significant stress and hardship for my family and farm business. We are doing everything we can to comply with regulations, but these additional hurdles are making it increasingly difficult to proceed.

I urge your office to carefully review the provisions of Act 15 of 2018 and reconsider its position. I look forward to your response and clarification on these important points.

Thank you for your time and attention to this matter.

Best regards,

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

On Sun, Nov 24, 2024 at 8:19 AM [REDACTED] <[REDACTED]> wrote:

Dear [REDACTED]

I am once again writing to follow up on the ongoing discussion regarding the classification of our proposed agricultural structures at [REDACTED] and to seek clarity on how Pennsylvania Municipalities Planning Code (MPC) §603(h) is being considered in your determination that our project meets the definition of land development.

As you are aware, MPC §603(h) is a critical legal safeguard intended to protect agricultural operations, particularly in areas with a historical agricultural presence. The provision explicitly requires that municipal

ordinances "encourage the continuity, development, and viability of agricultural operations" and that zoning provisions "shall not unreasonably restrict agricultural operations." These protections are vital to ensuring that agricultural businesses like ours can operate without undue regulatory burden.

Our proposed structures—four relocated greenhouses and potential future hoop houses—are integral to plant production, a normal agricultural operation. During our initial due diligence with Ashland Township, we were explicitly informed that these structures would be classified as agricultural and therefore exempt from land development requirements. This guidance was critical to our decision to move forward with this property. The subsequent shift in interpretation by Clarion County seems to impose restrictions on our operation that may conflict with the intent of MPC §603(h).

Alignment with MPC §603(h):

I respectfully request clarification on how Clarion County ensures compliance with MPC §603(h) in the application of its land development and zoning ordinances. Specifically:

1. How does the County reconcile the classification of our greenhouses as "commercial" rather than agricultural, given their clear purpose for plant production?
2. What considerations were made to ensure that the County's interpretation of SALDO and related requirements does not unreasonably restrict agricultural operations?
3. How does the County demonstrate encouragement of agricultural continuity and development, as mandated by MPC §603(h), in cases like ours?

Hardship on Our Business and Family:

The unexpected and shifting requirements imposed by the County have caused significant stress and hardship on my family and our farm business. We have invested substantial time and resources into planning this relocation based on the understanding that our structures were considered agricultural. The sudden changes not only jeopardize the timeline for our relocation but also create unnecessary financial and operational burdens.

This situation is taking a toll on our ability to focus on building and growing our business, impacting not only our farm's productivity but also the well-being of my family. As a small agricultural operation, we rely on clear, consistent guidelines to plan and operate effectively. The lack of clarity and additional hurdles have made this process unduly burdensome.

I urge the County to review this matter in light of MPC §603(h) and consider how these decisions impact the very agricultural operations this law is designed to protect. I am committed to resolving this matter collaboratively and remain open to further discussion or clarification as needed.

Thank you for your attention to this important issue. I look forward to your timely response.

Best regards,

[REDACTED]
[REDACTED]

[REDACTED]

On Sat, Nov 23, 2024 at 7:32 AM [REDACTED] wrote:

Dear [REDACTED]

I hope this message finds you well. I am again writing to follow up on the ongoing discussion regarding the classification of our proposed agricultural structures at [REDACTED] and how state-level regulations, including Act 15 of 2018 and the ACRE Act, apply to your determination that our project meets the definition of land development.

During our initial due diligence process with Ashland Township, we were explicitly told that these buildings—four relocated greenhouses and potential future hoop houses—would be classified as agricultural and therefore exempt from land development requirements. This understanding was central to our decision to move forward with the property, and the sudden shift in interpretation by Clarion County has created significant challenges for my family, my business, and the future of our operations.

It is also worth noting that past responses from your office have been slow and, in some cases, have not been provided within the promised timeline. This has only added to the challenges we are facing and delayed our ability to find a resolution.

Relevance of Act 15 of 2018:

Act 15 provides specific exemptions for high tunnels (or hoop houses) from certain stormwater management requirements, recognizing them as agricultural structures. These exemptions have been consistently applied in our current location in Tulpehocken Township, Richland, PA, where our greenhouses have always been classified as temporary structures and exempt from stormwater requirements. I believe these criteria apply equally to the structures we are relocating to Clarion County, and I respectfully ask for an explanation of how Act 15 is being applied in your determination.

Compliance with the ACRE Act:

The Agriculture, Communities, and Rural Environment (ACRE) Act protects agricultural operations from unauthorized local ordinances that inhibit normal farming practices unless explicitly authorized by state law. Classifying our agricultural greenhouses and operations as "commercial" rather than agricultural may conflict with ACRE's protections. These structures are integral to our farm's plant production, and I would like clarification on how Clarion County ensures compliance with ACRE when interpreting land development requirements for agricultural projects.

Impact on the Local Economy and Reconsidering My Plans:

I also want to highlight that [REDACTED] would contribute positively to the local economy by creating jobs, driving agricultural commerce, and bringing new business to the area. However, the challenges created by the County's current position are forcing me to reconsider whether Clarion County is the right location for my operations. This process has caused immense and unnecessary strain on my family and business, and I am now seriously considering relocating my greenhouses and future operations to a county that offers more support and alignment with state agricultural protections.

These struggles are forcing me to consider all available options to protect my farm and family, including legal action to address potential noncompliance with state law and to recover civil damages for the harm this situation has caused and is continuing to cause.

I urge the County to reconsider its position and align its actions with the clear intent of state laws designed to protect agricultural operations. I am committed to resolving this matter collaboratively but must also protect my business from the unnecessary delays and burdens this decision has caused.

Please let me know if additional information is required, as I am happy to provide any documentation or clarification needed. I look forward to your response.

Best regards,

[REDACTED]

[REDACTED]

[REDACTED]

On Fri, Nov 22, 2024 at 5:23 PM [REDACTED] wrote:

Dear [REDACTED]

I hope this message finds you well. I wanted to follow up on my earlier email regarding the classification of our proposed structures as part of the land development requirements under SALDO.

At our current location in Richland, PA, our greenhouses have always been classified as **temporary structures**. This classification has exempted them from stormwater requirements or any other land development processes. Given that we are relocating the same structures to [REDACTED] is difficult to understand why they are now being classified differently in Clarion County.

These greenhouses are integral to our agricultural operations and seasonal plant production, and their temporary nature is evident in their design and use. The sudden shift in classification not only imposes significant regulatory and financial burdens but also conflicts with the guidance we received during our due diligence process, where we were explicitly told the structures would be considered agricultural.

I respectfully ask again for clarification on how this determination aligns with Clarion County's ordinances and the protections provided under the Agriculture, Communities, and Rural Environment (ACRE) Act. I also urge you to consider the precedent set by other counties in Pennsylvania, where similar structures have consistently been treated as temporary and agricultural in nature.

Thank you for your continued attention to this matter. I look forward to your response and am happy to provide any additional information you may need.

Best regards,

[REDACTED]

[REDACTED]

On Fri, Nov 22, 2024 at 3:50 PM [REDACTED] wrote:

Dear [REDACTED]

Thank you for your detailed response regarding the land development process outlined in Clarion County's Subdivision and Land Development Ordinance (SALDO). I appreciate your guidance and willingness to assist us as we navigate these requirements.

I want to reiterate that during our initial due diligence process with Ashland Township, we were explicitly informed that the structures we are proposing—four relocated greenhouses and potential future hoop houses—would be considered agricultural. Based on this guidance, we moved forward with confidence, fully believing that our project aligned with agricultural standards and would not fall under the scope of land development requirements.

Our plant nursery is a farming operation that focuses on plant production and wholesale, with no on-site retail. The greenhouses we are relocating from [REDACTED] are integral to our agricultural operations and seasonal plant production. Similar to many other farmers, we engage in direct marketing through online sales, which is a standard practice for agricultural businesses.

However, we are now being told that our structures and operations meet the definition of land development under SALDO. This shift in interpretation has created significant challenges to our carefully planned relocation timeline. Further, we are concerned that classifying agricultural greenhouses as "commercial" or "permanent" structures may not be in alignment with state-level protections for farming operations.

In particular, we would like to understand how the County's current interpretation aligns with the Agriculture, Communities, and Rural Environment (ACRE) Act (Act 38 of 2005). ACRE ensures that local ordinances do not unlawfully inhibit normal agricultural operations. Specifically, it defines unauthorized local ordinances as those that prohibit or limit a normal agricultural operation unless explicitly authorized by state law.

Given that our proposed structures are fundamental to our agricultural operations, we respectfully ask for clarification on:

1. The specific provisions of SALDO and the Pennsylvania Municipalities Planning Code being applied in this determination.
2. How the County ensures its ordinances and their application are consistent with the protections afforded to agricultural operations under ACRE.

We are committed to adhering to all valid regulations and appreciate your assistance in moving this project forward. However, this matter raises important questions about how agricultural operations are classified and regulated in Clarion County.

I look forward to your response and would be happy to provide any additional information or documentation needed.

Thank you for your attention to this matter.

Best regards,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On Fri, Nov 22, 2024 at 3:19 PM [REDACTED] wrote:

[REDACTED]

We have reviewed your email and attachments and have determined that your project does meet the definition of land development as included in Clarion County's Subdivision and Land Development Ordinance (SALDO) and the Pennsylvania Municipalities Planning Code.

The SALDO and land development application documents can be found on the County's website at https://www.co.clarion.pa.us/government/departments/planning/subdivision_and_land_development_ordinance/index.php. Our land development process is a two-step process. You will apply for preliminary land development approval first and after that is granted by the Clarion County Planning Commission, you will have up to 5 years to obtain any additional permits/approvals and to complete your project. When the project is completed, you will then apply for final land development approval. The final land development documents would show that you built your project as shown on the preliminary land development plan.

[REDACTED] the County Engineer and will be the main contact for your land development application. I have included him in this email. Because [REDACTED] is not in the office every day, I encourage you to copy [REDACTED] (also included in this email) on any emails that are submitted during the land development process to make sure any questions are addressed, and the process keeps moving forward.

We look forward to working with you on this project. If there is anything else we can do for you, please do not hesitate to reach out to us.

Thank you,

[REDACTED]

[REDACTED]

Clarion County Department of Planning and Development

421 Main Street, Suite 22

Clarion, PA 16214

[REDACTED]
[REDACTED]



Please adjust your address book to my new e-mail address [REDACTED] Any further communication should be sent to the new e-mail address. After 3 months, emails addressed to [REDACTED] no longer be delivered.

The Planning Department has moved to the Clarion County Complex located at 160 Amsler Avenue, Shippenville, PA 16254 due to renovations at the Court House.

Our mailing address remains the same.

We appreciate your patience.

From: [REDACTED]
Sent: Friday, November 22, 2024 12:37 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Description of Project and Proposed Greenhouse Structures at [REDACTED]

****Warning: This email originated outside of Clarion County's Network.**

DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. ** Clarion County IT Department

Dear [REDACTED]

Per [REDACTED] advice during his recent conversation with my wife and co-owner [REDACTED] I am submitting this letter to provide an overview of our planned project and the greenhouse structures we are moving to our new property at [REDACTED] Pennsylvania.

Our agribusiness, [REDACTED] is a plant production and wholesale nursery that engages in direct marketing through online sales, similar to many other farmers who sell their products directly to consumers. As part of our expansion, we are relocating four 30x96' Northern Gothic Greenhouses from our current site at [REDACTED] to the new property. These structures are listed on page 47 of the **Nolts Greenhouse Supply Catalog** (available at [this link](#)). For your reference, I have attached images of both the current and new locations. Please be aware that I must pass these plans through my engineer, so they have some changes made.

While we initially planned to erect an additional three Quonset-style hoop houses (similar to those on page 46 of the same catalog) this winter, we have recently decided to delay these plans until next season at the earliest. Any future structures would likely align with this style.

We hope this summary provides the clarity needed regarding our project. Please don't hesitate to reach out if you have any questions or require additional information.

Thank you for your time and attention.

Sincerely,

[REDACTED]
[REDACTED]

Exhibit B (The unclear imposition of Stormwater Management on the "entire project")

Jan 10, 2025,
10:53 PM (6 days
ago)



[REDACTED]
[REDACTED]
m>

to [REDACTED]

Dear [REDACTED]

Thank you for your email to [REDACTED] regarding the stormwater management requirements for our "proposed land development project". While I appreciate your help thus far, I am concerned that the determination provided lacks sufficient explanation as to why our proposed high tunnels (hoop houses) would necessitate a stormwater management plan under Clarion County's ordinance.

Key Concerns

1. Exemption for High Tunnels under Act 15 of 2018:

Pennsylvania Act 15 of 2018 specifically provides an exemption from stormwater management requirements for high tunnels under certain conditions. These structures are temporary, low-impact agricultural installations that do not typically contribute to concentrated stormwater runoff when best management practices are followed.

- o The act allows high tunnels to cover up to 25% of impervious surface area without triggering stormwater requirements. For undeveloped parcels like ours, it is reasonable to interpret this threshold as 25% of the **total parcel area** since no other impervious surfaces currently exist.
- o Your determination does not address this exemption or clarify how it was factored into the decision.

2. No Explanation of Stormwater Impact:

The email does not explain how the proposed high tunnels would create a stormwater issue requiring a formal management plan. Without such an explanation, it is unclear why the county

is imposing this requirement. High tunnels are designed to minimize runoff, and we are prepared to implement best management practices (e.g., vegetative buffers or swales) to address any potential concerns.

3. **Broad Interpretation of "Impervious Area":**

The determination references the county's 5,000 square foot impervious area threshold but does not clarify how high tunnels, exempt under Act 15, are being included in this calculation. This broad interpretation appears inconsistent with state law, which aims to reduce regulatory burdens for agricultural structures.

Request for Clarification

To better understand this determination and work toward a resolution, I respectfully request the following:

1. A clear explanation of how Clarion County's stormwater management ordinance aligns with Act 15 of 2018, particularly regarding high tunnel exemptions.
2. Specific details on why the proposed high tunnels necessitate a stormwater management plan, given their temporary and low-impact nature.
3. A breakdown of how the 5,000 square foot threshold was calculated and whether high tunnels were included despite their exemption under Act 15.

Proposed Resolution

I believe that this matter can be resolved by revisiting the determination and applying the exemption outlined in Act 15. I am willing to take reasonable steps to address any valid stormwater concerns, but I respectfully request that the county acknowledge the state-mandated exemption for high tunnels when reviewing this project.

I look forward to your response and a constructive dialogue to resolve this matter. Please do not hesitate to contact me if additional information is needed to assist in your review.

Best,

[REDACTED]

[REDACTED]

[REDACTED]

On Fri, Jan 10, 2025 at 6:35 PM [REDACTED] wrote:

----- Forwarded message -----

From: [REDACTED]

Date: Fri, Jan 10, 2025 at 2:49 PM

Subject: Proposed Land Development - Ashland Township

To: [REDACTED]

CC: [REDACTED]

Hello [REDACTED], we have now received the determination from our solicitor concerning the need for a stormwater management application for your proposed Land Development project. The solicitor has determined that a stormwater management plan is needed for the entire project, including any future structures and gravel areas.

Because the new impervious area for the project will be over 5,000 square feet, you will need to contact an engineering firm of your choice to prepare a stormwater management plan in accordance with our Clarion County Stormwater Management Ordinance. The prepared stormwater management plan will need to be submitted to our office for review by a third-party engineering firm.

The County's Stormwater Management Ordinance and additional stormwater management information can be found on the County's website at [Clarion County, PA](#).

If you have any questions concerning this information, please contact me.

[REDACTED] County Engineer

Clarion County Department of Planning & Development

421 Main Street, Suite 22

Clarion, PA 16214

[REDACTED]

[REDACTED]

[REDACTED]