

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

October 3, 2025

Via Email [REDACTED] First Class Mail

Office of the Attorney General
Attn: Robert A. Willig
1251 Waterfront Place - Mezzanine Level
Pittsburgh, PA 15222

Re: ACRE Request for Review - Worcester Township, Montgomery
County, [REDACTED]

Dear Mr. Willig:

Please be advised that this firm serves as Solicitor to Worcester Township (the "Township"), and is in receipt of your correspondence dated September 4, 2025 in relation to the complaint of [REDACTED] (the "Complainant").

I appreciate the opportunity to provide vital background information, which was intentionally omitted from the Complainant's request for review, and respectfully submit that all Township Ordinances, including the Zoning Ordinance, Subdivision and Land Development Ordinance, Riparian Corridor Ordinance and Stormwater Management Ordinance, are fully compliant with the Agricultural, Communities and Rural Environment Law ("ACRE"), the Right to Farm Law ("RTF") and the Municipalities Planning Code ("MPC").

I. PROCEDURAL HISTORY

The Complainant is the controlling member of the legal owners of the subject properties. The [REDACTED] is the owner of

approximately 3.69 acres located at [REDACTED] and [REDACTED] is the owner of the adjacent property consisting of approximately 10.58 acres. The properties were purchased in March of 2023 and May of 2023, respectively (collectively the "Property").

Following complaints from neighboring residents in October, 2023, the Township became aware of unpermitted activity at the Property, including large scale grading work, tri-axel trailers bringing road paving materials including concrete and/or asphalt onto the Property, crushing and grinding of such materials, and numerous construction vehicles and equipment being stored on the Property. It is notable that the Complainant is the owner of a construction business engaged in road paving projects. Subsequently, the Township Zoning Officer issued several notices of violation to the Complainant noting that the properties were in violation of the Zoning Ordinance, as construction activities were not a permitted use in the AGR District and a grading permit was required for the scope of work.

A grading permit was later issued, and subsequently revoked, as the scope of work far exceeded the work described on the permit application. Significant earthmoving activities and site improvements, including driveways and equipment storage areas, had been discovered, all without permits or Township approvals. Inspections of the Property from approximately October, 2023 to May, 2024 did not reveal **any** agricultural activities on the Property. Later inspections of the Property reveal that the alleged apiary and nursery uses occupy a small percentage of the Property, with impervious surfaces covering the majority of the Property. The scope of work, including the intention to combine the two parcels, necessitated land development in accordance with the Subdivision and Land Development Ordinance.

Further, the amount of earth disturbance in excess of one acre triggered the need for an NPDES Permit from the Department of Environmental Protection. Our understanding is that the DEP conducted its own investigations and also issued a Field Order requiring the Complainant to cease all earthmoving activities as

they were conducted without an NPDES Permit. A copy of the Field Order is enclosed for your review.

Similar to the finding in *Tinicum Twp. v. Nowicki*, 99 A.3d 586 (Pa. Commw. Ct. 2014), the Complainant's activities do not qualify as an agricultural operation. Since the Complainant's purchase of the Property, the impervious coverage has increased in such a significant manner that it is visible from Google Earth imagery in a time lapse fashion, which is entirely contrary to normal agricultural operations. (See enclosed Google Earth images)

As a result of the Complainant's failure to bring the Property into compliance with the Township Code, the Township was forced to file an action for injunctive relief in the Montgomery County Court of Common Pleas (Worcester Township vs. [REDACTED] and [REDACTED] (the "MCCCP Action"). A copy of the Complaint in Equity is enclosed for your reference. The parties attended a hearing on April 28, 2025 ("MCCCP Hearing"), and ultimately reached a tentative resolution, contingent on several items, including the filing of an application for land development.

On the record at the MCCCP Hearing, the parties agreed as follows:

(1) Within 7 days of the hearing, a site inspection would take place at the Property with representatives of the Township, the Complainant, and counsel to determine the necessary steps to bring the property into compliance with the Township Code;

(2) Within 7 days thereafter, the Complainant would apply for a Zoning Determination by the Township Zoning Officer; and if the Complainant disagreed with the determination, he would have the right to file an Appeal to the Zoning Hearing Board;

(3) Within 30 days of the hearing, the Complainant would submit a Land Development Application to the Township, and pay all necessary application fees and escrow fees with respect to same;

(4) If for some reason the aforesaid deadlines were not adhered to, either party would be able to contact the Court and request that the matter be relisted before the Court, with Judge Haaz retaining jurisdiction.

Following the MCCCCP Hearing, **as agreed by the parties**, a site inspection occurred, a Zoning Determination was issued, and a Land Development Application and attendant plans were filed by the Complainant with the Township. The Zoning Determination, which determined that the present use of the Property is a prohibited construction storage yard and set forth the necessary conditions to be complied with to convert the Property to a compliant nursery and apiary use, was appealed to the Zoning Hearing Board (the "ZHB"). During the ZHB proceedings, it was revealed that the Complainant only planted trees in pursuit of his alleged agriculture use in April or May of 2025, conspicuously timed with the MCCCCP Hearing. On September 16, 2025, the ZHB announced its decision affirming the Zoning Determination. We anticipate receipt of a written decision with findings of fact and conclusions of law from the Zoning Hearing Board within 45 days of the decision, and are happy to provide a copy upon receipt if it would be of assistance.

II. ALLEGED ONEROUS RESTRICTIONS / REQUIREMENTS IMPOSED

Foremost, the restrictions and "expensive and time consuming" requirements set forth in the Zoning Determination regarding the necessary steps to convert the Property from an illegal construction storage yard to a nursery and apiary were agreed to in the MCCCCP Action, a key fact that counsel for the Complainant has completely omitted in his correspondence to the Office of Attorney General Dated July 31, 2025.

It is notable that the Complainant has in fact already submitted the required Land Development Application and paid the requisite fees now complained of. An Excerpt of the Land Development Plans is enclosed herein, and I would direct your attention to the impervious coverage area that was installed without proper approvals.

With respect the requirement of an application to the Montgomery County Conservation District ("MCCD"), the PA Department of Environmental Protection and MCCD impose their own requirements for an NPDES Permit, and the Township is unable to further comment on those requirements.

III. MINIMUM 25 ACRE TO OPERATE FARM STORE IS VALID

The Complainant takes issue with the 25 acre minimum parcel size to operate a farm store contained in Section 150-11.E(6) of the Zoning Ordinance. However, the Complainant fails to consider Section 150-177.1.A of the Zoning Ordinance, which allows seasonal roadside stands in the AGR District.

The following agricultural uses and structures are permitted in the districts zoned for agricultural use:

A. Seasonal roadside stand for the sale of agricultural products, which may be located within the front setback, not less than 25 feet from any neighboring property line and not within the legal right-of-way of any street or road. Vehicular access to seasonal roadside stands must be located at least 300 feet from any intersection, and seasonal roadside stands may not interfere with sight distances or create a safety hazard to motorists or pedestrians. A roadside stand shall not exceed 200 square feet.

The provisions of Section 150-177.1.A allow for roadside stands from which to sell agricultural products on a seasonal basis, such as tomatoes in the summer, as seasonal agriculture dictates. In contrast, the provisions of Section 150-11.E(6) allow

for larger farm stores by conditional use. The intent set forth in the Zoning Ordinance is for retail to be conducted in the commercial or shopping districts within the Township, and allow the AGR District to remain focused on agriculture, including the sale of agricultural products.

There are multiple farm markets currently in existence within the Township, including [REDACTED] and [REDACTED] rendering the Complainant's allegations of impropriety or exclusivity disingenuous at best.

As noted in the Township's Comprehensive Plan and reflected in the Zoning Ordinance, smaller agricultural parcels are at risk of fragmentation, non-agricultural development, burdens on traffic and infrastructure, including parking, access and utilities, and possibly nuisance or compatibility issues with non-farm neighbors. The 25 acre minimum size requirement for a farm market is intended to ensure that only agricultural operations with sufficient land – and thus less disruptive externalities and ability to buffer impacts – are allowed.

As per Section 150-10 of the Zoning Ordinance, the legislative intent of the AGR Agricultural District is to:

- A. Preserve agricultural land and open space areas of Worcester.
- B. Allow agricultural, institutional and low-density single-family detached development to coexist in a manner that limits the impact of each use on the other.
- C. Buffer residential development from agricultural uses and existing roads.
- D. Limit the adverse environmental impacts of development on the Township's steep slopes,

floodplains, streams, wetlands, woodlands, riparian corridors and groundwater.

- E. Preserve the Township's historic, rural character and heritage.
- F. Limit the impact of development traffic on the Township's major roads.

Notably, there are several zoning districts available for retail uses, yet the AGR District is not one of them.

Further, farmers are able to seek a variance from the Zoning Hearing Board to allow the operation of a farm market or roadside stand on parcels of less than 25 acres, on a case by case basis.

IV. RIPARIAN CORRIDOR ORDINANCE IS VALID

The Riparian Corridor Ordinance applies to all projects and land development within the Township, including agricultural uses. Despite the Complainant's contention that the Ordinance "makes controlling stormwater runoff ...virtually impossible", all landowners in the Township have managed to achieve compliance with the Ordinance. While preservation and encouragement of agricultural uses is important, as clearly identified in the Comprehensive Plan, agricultural uses cannot be exempted from compliance with the Riparian Corridor Ordinance. Due to the vast amount of impervious area proposed on the Property (much of which has been illegally installed without the required permits), stormwater management is required. The installation of storm water facilities within the Riparian Corridor, as proposed, is permitted by conditional use, and thus, contrary to Complainant's assertion, is not "virtually impossible".

The provisions of the Riparian Corridor Ordinance are not targeted at agriculture but are designed to carry out the Township's duties under the MPC, which expressly authorizes municipalities to adopt regulations to protect natural resources, including streams, floodplains, wetlands, woodlands, steep slopes,

and groundwater. See 53 P.S. § 10603(b)(5), (c)(6). The Ordinance is therefore a legitimate exercise of the Township's land use authority, and not an impermissible regulation of "normal agricultural operations" under ACRE.

Riparian corridor protections are essential to maintaining water quality, preventing flooding, and protecting streambank stability. The Commonwealth Court has upheld local regulations aimed at protecting environmentally sensitive areas, provided they are generally applicable and reasonably related to environmental objectives. See *C & M Developers, Inc. v. Bedminster Twp. Bd. of Supervisors*, 820 A.2d 143 (Pa. 2002).

Importantly, the Ordinance does not prohibit or limit agricultural uses, but requires that agricultural operations, like all other uses, avoid degradation of riparian buffers and comply with stormwater requirements when impervious coverage increases. These standards mirror state law obligations under the Pennsylvania Clean Streams Law, 35 P.S. § 691.1 et seq., and DEP's regulations, which require erosion and sedimentation controls for earth disturbance activities, including agriculture when such disturbance exceeds one acre.

In this case, the Complainant's activities triggered riparian corridor and stormwater management requirements because of the vast increase in impervious surface, grading, and filling near sensitive hydrologic features. These activities are wholly inconsistent with the stated purposes of both the Riparian Corridor Ordinance and the Comprehensive Plan, which emphasizes protection of stream corridors, wetlands, woodlands, and soils suitable for agriculture. The Complainant's assertion that compliance is "onerous" ignores that these requirements apply equally to all landowners and are critical to ensuring that downstream properties and water resources are not harmed by uncontrolled runoff and sedimentation.

Therefore, the Riparian Corridor Ordinance is not an unlawful restriction on agriculture but a neutral, generally applicable regulation serving substantial public interests. It harmonizes

with both ACRE and the Right to Farm Law, neither of which authorizes agricultural operators to degrade water quality, destroy riparian buffers, or circumvent stormwater protections imposed on all other uses.

V. CONCLUSION

One of the stated goals in the Worcester Township Comprehensive Plan is to preserve farmland, particularly "to provide areas for growing produce and raising farm animals close to the greater Philadelphia market while contributing to the diversity of the township's economic base and employment. Also, to preserve soils that are suitable for farming **instead of paving them over**, and to help protect environmentally sensitive areas." (Worcester Township Comprehensive Plan, p. 1; emphasis added). By paving such a tremendous area of the Property, all the while claiming to be in pursuit of agriculture, the Complainant undertook actions directly in opposition to the goals of the Comprehensive Plan.

In no way do the Township Ordinances impede or interfere with normal agricultural operations. The ACRE Complaint constitutes a thinly veiled attempt to continue to utilize the Property for a construction storage use while hiding under the guise of an agricultural use. The initial zoning violations, declaring the use of construction storage non-compliant with the Zoning Ordinance, which were never appealed, render the violations conclusive in accordance with the MPC.

With regard to allegations of impropriety, the Township has applied, and will continue to apply the Zoning Ordinance equally to all landowners and occupants within the Township, including the Complainant. The provision of the Zoning Ordinance pertaining to farm markets was adopted in 1988, well before the election of the Supervisor who happens to be one of the owners of [REDACTED]

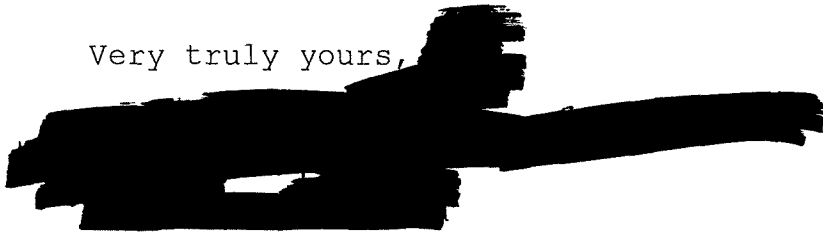
In accordance with the Township's Ordinances and Comprehensive Plan, the Township encourages and seeks to preserve agricultural uses within its borders.

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The Complainant's latest actions in filing this ACRE Complaint are yet another example of attempts to defy the Township. Despite the Township's best efforts to resolve the outstanding matters with the Complainant, the MCCCCP Action remains pending.

Should you have any questions or need additional information, please do not hesitate to contact me. Thank you in advance for your assistance in this matter.

Very truly yours,



Attachments

Copy via email only:



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