

**West Penn Township Board of Supervisors  
27 Municipal Road  
New Ringgold, Pa 17960**

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**2<sup>nd</sup> Hearing for Proposed Zoning Ordinance  
Tuesday, September 6, 2022**

**Present at the Meeting:**

Tony Prudenti – Chairman  
Glenn Hummel – Vice Chair  
Tim Houser – Supervisor  
Karen Wittig – Treasurer

Katie Orlick - Secretary  
Paul Datte - Solicitor  
Mike Begis - ARRO  
Charlie Schmehl – URDC

**I. General**

**A.** Chairman opened the hearing with the Pledge of Allegiance and Introductions at 5PM.

Chairman announced before we get started we will be limiting people to two minutes of public comments so everyone gets a chance to speak. Chairman also announced if we have to we will hold another meeting.

**B.** Chairman introduced Charlie Schmehl for Urban Research and Development Corporation. He is our consultant through the Zoning Ordinance process.

Charlie Schmehl handed out a Summary of the proposed Zoning Ordinance. Mr. Schmehl has been working with the Planning Commission, the Zoning Update Committee and the Board of Supervisors to update the Proposed Zoning Ordinance. The object of updating the Zoning Ordinance is to look at what makes sense in the Township. The Zoning Ordinance is a way for the Township to look at where development should occur. The Township is divided in different Zoning Districts. Some Districts allow Industrial Uses, Commercial Uses, Different Types of Residential Uses and all of them allow some type of Agricultural Use. Density varies in different parts of the Township. As part of this process of updating the Zoning Ordinance, we look at the slopes on different parts of the community, flood prone areas, wetlands, natural features & boundaries and the ability of the road system to handle development.

We take into consideration where development already occurs and then we try to find the best places for different types of new development. We are not allowed to stop development, we are only allowed to manage it under State Law. We have to have a place somewhere in the Township that allows every particular land use. There are certain mandates that we have to live with in this process. Zoning does not close any existing lawful business. Anyone that has an existing lawful business or existing operation today, can continue to have that business. If you happen to be a business that would not be allowed new in that part of the Township, for example if you have an Auto body Shop, in a residential area, you would be allowed to continue that business, you can expand it within limits, sell it and you can change it into a new business as long as the new business is not more intense overall the existing business. Everyone is guaranteed rights to existing uses. Zoning is looking at expansions, new uses and new development. That would not harm existing businesses that are operating legally today. Those are called non-conforming uses. Charlie Schmehl referred to his Summary that he handed out and the Zoning Map along with the proposed changes that may be made to the map.

Charlie Schmehl spoke about Open Space (Cluster) Development. It would allow lot size reduction in return for permanent preservation of part of the land in some form of open space or agricultural use.

It is a way to maintain green space between clusters of homes and land.

Charlie Schmehl gave a brief description of the Zoning Districts.

CN Conservation District – is mainly mountains. It mainly starts off with a 10 acre minimum lot size. It is very steeply sloped and are comprised of State Game Lands. The Zoning Hearing Board would continue to be allowed to approve some 1.5 acre lots on area of less than 20% slopes, if additional standards are met.

AC Agricultural Conservation District – New District – promotes Open Space Clusters - similar to the CN, except it would start with 3 acre minimum lot size if open space development (cluster) options would not be used. If the open space option would be used, one acre minimum lot sizes would be allowed if 50% of the land would be preserved.

AG Agricultural District – this is most of the Township. AG primarily allows Ag uses and single family detached dwellings on a 1.5 acre minimum lot.

RR Rural Residential – includes land around the Elementary School. This district included area surround concentrations of existing homes. It would continue to mainly provide for single family detached houses on one acre minimum lots. Lot sizes could be reduced as small as 1/3 acre if there is central water and central sewage services.

SR Suburban Residential – is the Pines manufactured home park and the former Villas Crossing Golf Course. This district allows for all types of Housing. It allows a mix of housing types, including singles, twins, townhouses and apartments. Townhouses and apartments are only allowed with central water and sewage services, at up to 6 homes per acre. The SR District would continue to allow manufactured/mobile home parks with a maximum density of 5 homes per acre.

VC Village Center – This district included the center of Clamtown and part of South Tamaqua. This district mainly allows various types of housing and less intensive types of businesses, such as offices, banks & restaurants without drive-through service. Lot size can be reduced to ¼ acre if there is both central water and sewage services. For homes with well and septic system, a one acre minimum lot size would continue to apply.

HC Highway Commercial – allows all types of commercial businesses. That district is mainly on SR309 & SR443. More intensive uses require Zoning Hearing Approval.

LI/B Light Industrial/Business District – District applies to an area along North side of SR895, east of SR309. An area between Andreas and the Quarry is proposed to be added to the LI/B District. Each Municipality is supposed to have buildable locations for every legitimate land use.

CI Commercial Industrial District – General Industrial includes; former Atlas Powder Complex land west of Clamtown (which is now AG use) and part of the West side of SR30+ in South Tamaqua, which includes some trucking oriented uses and allows a variety of Commercial Uses. The industrial uses that are less likely to cause nuisances and hazards should continue to be permitted by right, while the more intensive and potentially hazardous uses should need Zoning Hearing Board Approval.

EI Extractive Industrial District – Andreas Quarry Area. Mining would need conditional use approval from Supervisors.

Charlie Schmehl explained one of the ways Zoning works is it gives some regulation. We need our Zoning Ordinance to be able to regulate every kind of proposed land use. Charlie Schmehl concluded his Summary of the proposed Zoning Ordinance.

Chairman wanted to clarify that when Mr. Schmehl was talking about lot sizes in the different districts he was referring to minimum lot sizes.

**Brian McQuillen** from Penn Drive stood up and said, my wife and I and Ilisa and Kevin Hoppes invited a number of people to the meeting tonight. Mr. McQuillen said with only having two minutes to speak he would like the people he asked to come to the meeting to yield their time to him. He feels it would reduce some of the redundancies, and some of the multiple questions on the issue. Chairman said as long as they know they are giving up their time to speak at this meeting. Mr. McQuillen asked if anyone would yield their time to him. Don & Terri Watson (Mill Dr.), Ilisa Sackhoff Hoppes (Mill Dr.), Jane McQuillen (Penn Dr.), Trevor McQuillen (Clearview Crossing), Helen & David McCarroll ( Clearview Crossing), Pamela Dumond ( Mill Dr.), Faith Orsulak (Tulip Lane), Rebecca Easterday (Medical Crossing), Carol & Terry Fritz ( Penn Dr.), Chris Santore (Clearview Crossing), Elaine Jones (Mill Dr.), Althea Lorah (Mill Dr.), Jim Heffelfinger ( Clearview Crossing) and Brian McQuillen, yield their two minutes to Brian McQuillen which gave him 34 minutes to express him and his neighbor's concerns about the proposed Zoning Ordinance and the farm on Mill Lane. Mr. McQuillen thanked everyone for coming. Mr. McQuillen and his neighbors are at the meeting to discuss some of the changes to the existing Ordinance that are proposed. Mr. McQuillen said it is proposed that in the Highway Commercial District there are a lot of changes in permitted uses. The HC District had 48 permitted uses and now it is proposed to have 139 permitted uses. Mr. McQuillen said no other Districts in the Township has that many proposed changes. Mr. McQuillen feels that Charlie Schmehl and URDC stuffed every permitted use in the HC District. Chairman stated that isn't necessarily true. Chairman asked Mr. McQuillen when the last time the Township redid Zoning. Mr. McQuillen said in 1992. Chairman stated that from 1992 to the present which is 2022, it has been 30 years and a number of different uses came up, that were never a use before. Mr. McQuillen stated that his family and the surrounding neighbors have serious concerns about the proposed changes to the Zoning Ordinance and the map. The new Ordinance proposes to allow Agricultural Industrial Use in the Highway District. The HC, VC and RR Districts have not allowed this use in 35 years, why change it now.

Mr. McQuillen believes that the current use of the property by Tuscarora Grain Co. should have never been allowed. He feels it is not a permitted use of this property. Mr. McQuillen believe to change the use of that property now is not in the best interest of the Township. Mr. McQuillen believes the existing Zoning was likely established because of problems with Nitrates for processing on this property 40 years ago. Mr. McQuillen gave the Board some exhibits. Mr. McQuillen said one being the current Zoning Map. The current Zoning Map shows that the property that Tuscarora Grain is currently utilizing illegally was completely cut out of the AG District that allowed this type of use. Mr. McQuillen believes it was because of the Nitrate issue 40 years ago. Mr. McQuillen explained what happened 40 years ago about the Nitrates going into wells and contaminated their water. The existing ordinances were put in place when there were only a few residential homes in the area and now there are a lot more. Mr. McQuillen submitted another exhibit. He submitted to the Board of Supervisors two research papers on the effects of chicken manure on public health. Chairman feels all that Mr. McQuillen needs to do at this time is express what he feels is wrong with the proposed zoning ordinance and ask the Board for the changes he would like to see. Mr. McQuillen read some of the research paper. Mr. McQuillen requested to remove Agricultural Industrial from the Highway Commercial District. He would like to see the whole definition removed including Commercial Crop Storage.

Mr. McQuillen read two statements about chicken manure between broilers and layers. Mr. McQuillen also has three affidavits from adjoining land owners that indicated that property was not used for a period of 20 years in the current form. Mr. McQuillen feels the nonconforming use does not work.

Mr. McQuillen has an affidavit from a land owner that had their well tested in 2018 and it was fine and is now contaminated with bacteria. Mr. McQuillen spoke about the depth of wells in the area and how they can become contaminated. Mr. McQuillen said odor from manure, a roasting problem and truck traffic of an industrial use in the HC District will affect the ability of himself and his neighbors to enjoy their property. Mr. McQuillen feels that an industrial use should not be in HC District. Mr. McQuillen feels that AG Industrial should be kept in the Industrial District not the HC District.

Mr. McQuillen asked the Board on behalf of himself and his neighbors to remove the AG Industrial use from the HC District.

Mr. McQuillen submitted another document in the record which is URDC Summary Letter. Mr. McQuillen read a statement about Zoning & protecting neighborhoods from incompatible development. He read a few more statements from the URDC letter.

Mr. McQuillen expressed another concern about Clearview Crossing Rd. This area is proposed to change from AG District to the HC District. However all the existing uses along this road he feels is residential. Mr. McQuillen said he feels that road is a below standard width. Mr. McQuillen and on behalf of his neighbors would like to request Clearview Crossing remains what it is and not to be changed to HC District.

**Paul Dreisbach** on SR 443 & Clearview Crossing said his property is HC. Mr. McQuillen said yes, off of SR443, 500ft from centerline.

Attorney Datte stated recognizing the proposed zoning districts typically track property boundary lines unless it is specifically mentioned that it is 300 or 500ft deep. Attorney Datte asked Mr. McQuillen if there is a specific area on Clearview Crossing he is referring too. Mr. McQuillen feels HC District should be on a Highway.

**Mr. McQuillen** expressed he didn't know about the Township forming a Committee to review, comment and help update the Zoning Ordinance. Although we started the process for the Zoning Ordinance in 2019 and the Township advertised, asked at multiple meetings for volunteers and had it on the website looking for volunteers to be on the Zoning Committee, he feels someone directly should have reached out to him because of how much knowledge he has when it comes to Zoning. Ilisa Sackhoff Hoppes feels the Township should email or send letters to every resident in the Township to inform them. Glenn Hummel suggested to the Chairman about putting an email committee together and that Ilisa Sackhoff Hoppes could be in charge of it.

**Kevin Hoppes** – Mill Dr. – Asked the BOS if Tuscarora Grain got any permits. Chairman said I believe they have. Chairman asked the Secretary. The secretary said they were not approved for Soybean Roasting. They did receive some permits for other things. Mr. Hoppes wanted to know how much research was done to approve those things. Mr. Hoppes said he was hoping that the news media would be able to get records under the PA Open Records Law. Mr. Hoppes said until Tuscarora Grain began operation, he has two wells, one is polluted with bacteria which had previously been tested Ok. Mr. Hoppes' concern is they only have done a little work there and he has one well that has costed him thousands of dollars to remediate. Mr. Hoppes said can I prove it, no. Mr. Hoppes said people are having breathing problems. He spoke about maybe they can use scrubbers. Mr. Hoppes feels that since this farm hasn't been operating for year it should be illegal for them to be doing what they are doing. He feels that they are a commercial production facility, not a farm. Mr. Hoppes expressed his feelings about zoning, possible well & creek contamination. He also expressed his concerns about width of the road and truck traffic on Mill Dr.

He feels the farm on Mill Lane was not properly permitted and it should be stopped.

**Gary Miller** - St. Peters' Rd. – noted to the Board that he believes the farm on Mill Lane is Organic. Mr. Miller said being an Organic Farmer has more regulations than the Township does. Organic Farmers do not use chemicals, they use all natural. They have a lot of regulations to follow in order to be Organic. Chairman said yes and the Township cannot supersede the State Regulations.

Chairman feels that with the smoking of soy and the air irritants, he believes sparked all these concerns. However, we spoke to the farmer and asked if he would consider putting in scrubbers and taking care of some of the smoke if it is possible. The farmer said he is willing to look at certain things to see if it can be done better or more suitable for everyone. Chairman said the farmer is willing to work with us and conform. Chairman said he may agree with Mr. McQuillen and not have the Industrial Farm Use in the Commercial District or if we do we will do it as a Special Exception where they would have to go to the Zoning Hearing Board for more regulations to protect the people of our Township.

Attorney Datte stated he believes we have been bringing in a pending Zoning investigation into a hearing dealing with Zoning. Mr. McQuillen & Mr. Hoppes' comments about the Ag Industry being a permitted right in the Highway Commercial District is appropriate for this type of proceeding. The rest of it and the complaints about the operation, it is under investigation, there are enforcement notices that are outstanding and maybe additional enforcement actions taken by the Township Zoning Officer. Attorney Datte asked to please don't take those concerns and interject them in this hearing for the proposed Zoning Ordinance.

Mr. McQuillen said to Attorney Datte said this operation may farm farms and other areas but he believes this property is not a farming operation. He believes it is an Agricultural Industry.

**Randy Miller** - St. Peters – expressed his concerns. He likes farming because that is what he always did. He said he is a farmer and there are problems in the zoning now. However, he feels that certain people can stand up front and feel they are experts on zoning but he feels they don't know anything about Agriculture. Mr. Miller said as soon as they start talking about Agriculture, he knows what is accurate about farming. Mr. Miller said he is not an expert but he knows when someone isn't right about Agriculture. If you are going to make things up, make sure you are right.

Mr. Miller said he is a farmer but he is not the same farmer as an organic farmer but we are still farmers. He asked how many chemicals come home just from a shopping cart. Mr. Miller said we are probably spreading less per acre than what comes home on a shopping cart. Mr. Miller said he remembers the past problems with the wells, but is the past now the problems of the future?

Chairman asked Randy Miller if he had any change he would like to see in the Zoning Ordinance. Mr. Miller said he believes Agriculture is not dead in the community and it needs to be looked at. Mr. Miller said when you talk about tractor trailers, he feels it is the safest way to get the crops out of the fields. Because you have your wheels spread across the road on 5 axles and you're going across the road one time vs taking the crops across the road in smaller trucks three time with 2 axles.

**Terri Knoedler** – Fort Franklin – her concern was about certain individuals complaining about her property. She believes that Schellhammer, Rosen and McArdle had complained about her property at a meeting. Chairman asked Charlies Schmehl when we started working on the Zoning Ordinance. Mr. Schmehl said in 2019. Chairman said no one has been in to submit a concern for that. Ms. Knoedler said there is an imaginary line that cuts a piece of her property off. Chairman asked her to show him what she was referring too. Chairman said the imaginary line is the zoning district. Charlie Schmehl said you are mainly controlled by the building location of the property to what Zoning District you are in. Chairman said we are talking about the use with no buildings. Attorney Datte said you would compare Agricultural Use and Conservation. Charlie Schmehl said it would basically only effect you if you wanted

to do a housing development in the Conservation District. Attorney Datte said if you are farming the entire property now even if the Zoning District changes you can still continue what you always have been doing. Terri Knoedler is requesting her whole property to Agricultural.

**Todd Deem** – Summer Valley Rd. – Mr. Deem is requesting the Board approve the Planning Commission’s recommendation to have Summer Valley Rd. where Mr. Deem lives on SR895 (Summer Valley Rd.) and change it to Highway Commercial. That area is proposed to be Village Center and Mr. Deem would like it changed to Highway Commercial. Mr. Deem would like to change from SR309 to Dorset Rd. to Highway Commercial instead of Village Center. Mr. Deem said the Planning Commission recommended to go to Retreat Rd. Chairman said the problem we discussed before was we are trying to keep most of the Township Agricultural as possible. Chairman said we obviously cannot stop development but we can control it in some degree. SR 309 we have as Highway Commercial which is the main highway with businesses on it. SR895 is more rural and not a lot of businesses on it. We proposed to have it as Village Center because we can kind of control what is going to develop there. The difference between Highway Commercial and Village Center is Uses permitted by right. Chairman said growth is going to happen in our Township, however we would like to have some control of it. Chairman said regardless of what district you are in, and you want to do a use that is not permitted by right, you can appeal the Zoning Decision and have a Hearing in front of the Zoning Hearing Board. Charlie Schmehl said that we did our homework and make it resistant against challenge. Mr. Schmehl said as long as we allowed for everything and thought it through it is hard to overturn Township Zoning. Chairman asked if that was why we have so many more uses than we did before. Charlie Schmehl said, yes. Mr. Schmehl said we divided up the industrial uses into more categories.

Attorney Datte said as a follow up of what the Chairman had said if you do apply to the Zoning Hearing Board for relief, there are statutory requirements established in our Zoning Ordinance that need to be met. The Zoning Hearing Board has to abide by those and the burden is on the person appealing to the Zoning Hearing Board. They will need to meet the criteria.

Randy Miller asked if there is change on Sunny Rd. & SR309. Randy Miller asked if it is still Agricultural. Chairman said as of now it is Agricultural. Randy Miller asked if it will change. Chairman said he doesn’t know that at this time.

Brian McQuillen said to the Board that the Special Exception will not work for that property. Mr. McQuillen feels we should keep it the way it has been for 40 years. He feels that Agricultural Industrial should not be a Use or a Special Exception in the Highway Commercial District. Chairman feels that we have to have that Use somewhere. Mr. McQuillen said we should only have it in the Industrial District. Chairman feels it should be a Special Exception no matter what district it is in because Special Exception goes in front of the Zoning Hearing Board. Mr. McQuillen feels if it is not permitted in that District it gives more ways to fight it at the Zoning Hearing Board level. Chairman said what he is saying is that anywhere it is permitted by right it should have to go in front of the Zoning Hearing Board as a Special Exception.

**Ilisa Sacknoff Hoppes** wanted to know why is her road Highway Commercial and not Village Center. Attorney Datte stated that she was always was Highway Commercial. Charlie Schmehl and Ilisa Sacknoff Hoppes discussed changing that area to Village Center. Attorney Datte said he will need to discuss it further with Mr. Schmehl. Charlie Schmehl said his plan is take in all the comments from everyone, give his comments then the Supervisors will have to discuss them at their next meeting.

**Paul Dreisbach** – Clearview Crossing – asked about his property. Attorney Datte said there is no change proposed changes for his property.

**Daryl Nothstein** – Summer Valley – asked about what was decided about Sr895 and making it Highway Commercial. Chairman said there has been no changes with anything yet. Right now we are just taking suggestions. Then between our Consultant, our Solicitor and our Zoning would come up with what we feel should be in those districts. Attorney Datte said there will another meeting or hearing.

Tim Houser said we want to preserve most of the Township as Rural Residential and Agriculture. Tim Houser said we have to ask ourselves where we want most of the traffic. We want them on the State Highways. Tim Houser also talked about Manure Management and said there are regulations that the Board of Supervisors have to follow even if we disagree with them. Mr. Houser spoke about truck traffic and how the roads are breaking up on the outsides of them because our roads are not wide enough. Tim Houser said the Township doesn't have the money to widen all the roads that should be widened. He continued to state that if we would widen our roads to the full 33ft, residents on Mill wouldn't be happy. A lot of people would be losing their mailboxes or building for that fact.

Glenn Hummel spoke about a memo that was circulating the Township. Mr. Hummel said whoever sent the memo achieved their goal. He said the memo was very inflammatory, it threw the rock into the hornets' nest. Glenn Hummel said this Zoning Ordinance has been getting updated for the past three years. We wanted peoples' input however sending out that memo was the wrong thing to do.

Attorney Datte did say he appreciated the group, for designating Mr. McQuillen as the spokesperson for the group.

**Derrick Jones** – Mill Dr. – was concerned with where his house sits on the road, and the speed of vehicles that drive on his road. Attorney Datte said the road isn't expanding and the Zoning District is currently not changing.

**Michael Jackson** – Mill Dr. – spoke about speed limit on Mill Dr. and how fast people speed down the road.

**Jeff Bradford** - West Penn Pike – he questioned why some properties got changed to Highway Commercial and others didn't change. Chairman said we have been in the process of updating the Zoning Ordinance since 2019. He said some people requested their property not to be Highway Commercial or Village Center. Charlie Schmehl said he looked at site distances and serious slopes on the property that may cause traffic safety hazards.

Mr. Bradford spoke about some other properties that didn't make sense to him about changing them to Highway Commercial. He feels every property on West Penn Pike changed to Highway Commercial except his property and another property north of his property. Mr. Bradford is requesting that his piece of property be changed to Highway Commercial at 1557 West Penn Pike.

Randy Miller said he owns property by Mr. Bradford's property.

Chairman read the Planning Commission's recommendations to the Draft Zoning Ordinance.

### **The Planning Commission Recommends to the Board of Supervisors:**

#### **Zoning Map Change:**

1. Start SR309 going West down SR895 to Retreat Rd. The Planning Commission recommended to change it from Village Center to Highway Commercial. Both sides of the road.

The Planning Commission also recommended widening from the centerline North & South of SR895 from 300ft to 600ft in the Highway Commercial District.

2. Starting at the intersection of SR895 and SR309 heading North to the Township Boundary Line that the Highway Commercial area on both, east & west side of SR309, if the Board would take into

consideration extending the 300ft the area up to 600ft. as per the Geographic's of the land and property lines.

**Other Comments the Planning Commission recommends to the BOS about Zoning Ordinance:**

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**Medical Marijuana Grower / Processor** (See 602.A.42, including additional setbacks)

Only in Highway Commercial and Commercial Industrial District by Special Exception

**Security Fence** – 4ft fence or block wall. Planning Commission recommends it should be at least 6ft high with a barb wire that leans out.

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**Crematorium** – Article 4 doesn't Apply

Check All reference to **Article 4** should be reviewed.

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Bob Miller called for a motion to present to the Board of Supervisors, the Planning Commission's recommendations regarding the new Zoning Ordinance. RoseAnne Georgiades made the motion. Herb Woodring seconded the motion. All in favor. Motion was carried. 3-0

The Planning Commission recommends the Board of Supervisors to consider their comments while making their decision in adopting the Zoning Ordinance.

Attorney Datte said we provided the County with the draft Zoning Ordinance and we are waiting for their comments. The West Penn Township Planning Commission reviewed and commented on the draft. Attorney Datte stated we advertised for the Zoning Hearing in the Times News, once a week for two consecutive weeks prior to the hearing. The Township complied with the requirements of the Municipality's Planning Code. The comments from this hearing will be commented on by URDC and then discussed with the Supervisors, Attorney Datte, URDC and our Engineer. The Board will also take into consideration the Schuylkill Planning Commission's comments. Then the Board will reach a conclusion on any revisions they would like to see made to the Draft Zoning Ordinance. Chairman would like to have another meeting before we vote on it. Chairman thanked everyone for coming and participating at the hearing. Chairman called for a motion to conclude the hearing at 6:26PM. Glenn Hummel made the motion. Tim Houser seconded the motion. All in favor. Motion was carried. 3-0

Transcribed By:

Katie Orlick

West Penn Township Secretary



