

**East Fallowfield Township
Planning Commission Meeting
Approved September 9, 2019 minutes
6:37 p.m.**

Attendees:

Dennis Crook, Chairman
John Nielsen, Vice Chairman
Michael Domboski
Alfred Wright
Sue Monaghan
David Rentschler, Engineer
Supervisor Joe Heffern
Mr. Doutrich, Agricultural Security Area Applicant

Not Present:

John Schwab
Joe Perzan

Dennis Crook called the meeting to order at 6:37 p.m.

Discussion on Order of Agenda Items.

There was a discussion about the order of agenda items for the meeting. The Planning Commission members decided to proceed with the meeting in the order below.

Piper Tract Preliminary/Final Minor Subdivision Application.

David Rentschler, from JMR Engineering, LLC presented the Piper Tract Preliminary/Final Minor Subdivision Application and proposed plans to the Planning Commission. A sketch plan of the Piper Tract was presented to the Planning Commission within the last year. The Township has not received comments back from the Engineer. Mr. Rentschler stated nothing has significantly changed between the sketch plan and the preliminary/final plan. Mr. Rentschler stated that an 11-lot subdivision was approved by the Board of Supervisors on the same parcel of land several years ago. However, this plan was never built. Caleb and Christina Piper would like to build a single-family home on one of the proposed lots. Lots 1 and 2 in the Piper Tract Minor Subdivision are identical to lots 1 and 2 in the original approved 11-lot subdivision plan. The purpose of lots 1 and 2 are to provide lots for the two existing structures. Lots 3 and 4 will be vacant lots. The Pipers plan to build their future home on lot 5. The Pipers are currently living at 55 Carlin Drive, which is lot 6 on the plan. Mr. Rentschler stated the Pipers are proposing a land swap from lot 5 to lot 6 to make lot 6 more rectangular and provide room for a possible future septic system on lot 5 if needed. The Pipers want lot 5 to have driveway access off Carlin Drive. Lot 5 will grant an easement for the septic on lot 6. Mr. Rentschler stated that a NPDES Permit is required and was submitted to the Chester County Conservation District. A NPDES permit is required for land over one acre with construction activities and earth disturbance. Water quality, water runoff, and stormwater management are scrutinized by the Chester County Conservation District. Mr. Rentschler discussed the Existing Features Plan showing what lots 5 and 6 look like. He also explained the Grading Plan which will manage stormwater by including a basin with an infiltration bed underneath it. A portion of the driveway will direct water runoff to a yard drain and will be directed to collect in the basin. Mr. Rentschler discussed the PCSM (Post Construction Stormwater Management) Plan which includes construction entrances and street protection. Mr. Rentschler reported that their Soils Consultant met with the Chester County Health Department last year to review the approved Sewage Facilities Planning Module for the original 11-lot subdivision. Testing and backup testing were done on the 11 lots and the Chester County Health Department did not feel a new Sewage Facilities Planning Module was necessary. Mr. Rentschler stated they did not get anything in writing from the Chester County Health Department regarding the Sewage Facilities Planning Module, however they are working on obtaining a written approval from the Chester County Health Department. Al Wright asked if septic testing was done on lots 1 and 2 which have existing systems. Mr. Rentschler stated testing was done on lots 1 and 2. Mr. Rentschler indicated an AT&T easement and a paper street that could be a potential access point to Strasburg Road in the future. John Nielsen voiced a concern about additional driveways on Strasburg Road due to the large traffic volume. Al Wright asked if the parcel is associated with two different zoning districts. Mr. Rentschler stated that the entire original parcel is in the R-1 Zoning District. The parcel the Piper's current house is located on is in the R-2 Zoning District. Mr. Rentschler said that he does not anticipate needing zoning relief. Lots 1 and 2, with

existing houses, are considered existing non-conforming lots. Mr. Rentschler said that the driveway location close to the property line is due to the location of the existing septic system and the owners' interest in saving trees on the property. The current septic system on lot 6 was briefly discussed. John Nielsen asked if there are plans to add shrubbery or trees to be put in for a break in the existing properties. Mr. Rentschler stated this is not shown on the plans. The location of the cemetery in relation to the parcel was discussed. Mr. Rentschler stated they will be back before the Planning Commission next month when the Township receives reviews from the Township Engineer and the Chester County Planning Commission.

Agricultural Security Area Application - Tax Parcel #47-4-6.6 - Ruth D. Doutrich/Scott Farm Estates, LLC.

Supervisor Joe Heffern, Chairman of the Agricultural Security Committee, spoke to the Planning Commission about the Ruth Doutrich Agricultural Security Area (ASA) Application. Supervisor Heffern stated that under the Agricultural Security Law, there are approximately five objective criteria that must be met for a property to be accepted into the Agricultural Security Area. The five criteria are as follows: the land in question should be viable farmland going forward (land does not need to currently operate as a farm); the property must be a minimum of 10 acres; the property must have certain soil quality standards; and the property must be compatible with the current and proposed future zoning of the area. Supervisor Heffern stated the first scheduled Township Agricultural Security Committee meeting did not have a quorum. At that time, he had the opportunity to speak with Planning Commission Chairman Dennis Crook and Mr. Doutrich, who is the son of the applicant. Supervisor Heffern said he also had an opportunity to speak to the former property owner Township resident Ronald P. Scott whose property abuts the property. The applicant is seeking a conservation easement on the property. The first step in this process is for the Township determines if the property is viable farmland and can be included in the Agricultural Security Area. If the Board of Supervisors approves adding the property to the Agricultural Security Area, then the second step is to provide the County with an easement to that land. This will ensure the property will never be subdivided. The first step of inclusion in the Agricultural Security Area is reversible and the property could potentially be subdivided in the future. The only benefit to the property owner for being included in the Agricultural Security Area is it prevents the Township from enacting ordinances to address nuisances. The Township is not permitted to name typical farming uses as nuisances. Supervisor Heffern stated that after looking at the objective criteria, he did not see any valid reason why the property should not be granted inclusion in the Agricultural Security Area or why it would not meet the objective criteria for inclusion in the Agricultural Security Area. John Nielsen discussed the Chester County Planning Commission's review letter regarding the application which included a checklist with the five criteria. He asked about comment number 1 which asked if the municipal zoning for the parcel allows agriculture. The answer was yes, however there is a comment that states, "non intensive agriculture is permitted by right in the R-2 Zoning District." Supervisor Heffern cited case "41 Valley Associates versus Board of Supervisors of London Grove Township." In that case, London Grove Township tried to disallow the application approval because the applicant's intent was to create a mushroom substrate farm. Supervisor Heffern stated the case verdict was that the Board of Supervisors were diving too deep into the zoning when considering an Agricultural Security Area Application. Supervisor Heffern said he thinks the Doutrich application meets the objective criteria and it is an admirable goal.

Sue Monaghan asked Mr. Doutrich what the intent is for the property. Mr. Doutrich stated that for the foreseeable future, the property will remain as it is. Mr. Doutrich said that soybeans and corn are being farmed on the land. Ronald P. Scott, Township resident, spoke about the farm. He stated his 1.5-acre property borders the Doutrich's property. Mr. Scott said that he is one hundred percent in support of the Doutrich property being included in the Agricultural Security Area because there will be no houses built to the west side of his house. Mr. Scott stated the property has been part of the Scott family land since the 1800's and the land has always been farmed. Mr. Doutrich stated he does not foresee the property's farming being changed; however, he may explore putting some acreage into an apple orchard.

The Planning Commission members asked the property owner's son, Mr. Doutrich questions, about the property. Mr. Doutrich stated the one property (tax parcel 47-4-6) was subdivided off and is not part of the application. John Nielsen asked if there are any structures such as barns or silos on the property. Mr. Doutrich said there are no structures on the property. John Nielsen stated he applauded Mr. Doutrich for his conservation efforts. John Nielsen said he whole heartedly supported Mr. Doutrich pursuing an apple orchard.

Dennis Crook reported that he spoke to Geoff Shellington, who is the Director of the Chester County Farmland Preservation. The Chester County Farmland Preservation handles the County's open space. Dennis Crook stated that the Comprehensive Plan did not include the Township's Agricultural Security Area properties. The County provided a copy of the Township's Resolution to create the Agricultural Security Area, which was approved on December 7, 1988. The original properties in the Agricultural Security Area were included with the Resolution. The properties are made up of the following classifications: conservation, agricultural conservation, and agricultural security area.

Dennis Crook said he is concerned about this Agricultural Security Area Application because the property (tax parcel 47-4-6) with the original farmhouse on it was shown as lot 44 on the Scott Farm Subdivision plans. The Scott Farm Subdivision was approved by the Board of Supervisors but not recorded with the County. Dennis Crook stated the sewer easement runs right through tax parcel 47-4-6. The subdivision plans did not indicate more than one parcel. Therefore, he questions how it was subdivided. Dennis Crook also discussed a 2014 letter from the Chester County Health Department to Township Engineer Herbert MacCombie's office stating that "it appears that lot 44, the 1.18-acre lot, has been subdivided and sold. The Tax Parcel for that lot is 47-4-6. Please provide evidence that this lot was approved by DEP and it has been subdivided." Dennis Crook stated that no one has found evidence that this lot was officially subdivided. Dennis Crook said he wanted to know how and when this lot was subdivided. Mr. Doutrich said Eliza Scott Berry sold the property and she handled the transaction. Tax parcel 47-4-6 is not part of the Agricultural Security Area Application. Dennis Crook said tax parcel 47-4-6 was sold twice. Dennis Crook said he is waiting on answers from the Township Solicitor regarding tax parcel 47-4-6. Supervisor Heffern stated that looking at the objective criteria, he does not see this as something that would hold up the Agricultural Security Area Application.

Dennis Crook discussed the Planning Commission's recent letter sent to the Board of Supervisors requesting expert professionals attend their meeting to answer questions regarding the Agricultural Security Area Application - Township Engineer, Township Solicitor, and the applicant. Only the applicant attended this meeting. There was a discussion regarding whether to make a second request for the Township Engineer and Township Solicitor to attend the next Planning Commission meeting on Monday, September 16, 2019. Al Wright stated that the Township Engineer was requested to verify that the Agricultural Security Law's soil criteria was met. A soil study was provided to the Planning Commission which verified that the soil criteria for the Agricultural Security Area was met. Al Wright said that when a subdivision and land development application is submitted, the Township receives an escrow fee that covers costs such as having an expert attend a Planning Commission meeting. There is no fee associated with an Agricultural Security Area Application to cover Township costs. This might be why the request for experts was not granted. The criteria presented by Supervisor Heffern is typical for what the Planning Commission should be required to do as part of the Agricultural Security Area Application review process. The Agricultural Security Area Application is reviewed by the Planning Commission to ensure there are no plans for developing the land that would conflict with approving the Agricultural Security Application. Al Wright stated the Planning Commission is not missing information that would prevent them from doing what they are required to do under the statutes.

Dennis Crook discussed the clock dates. He said the County first indicated that the Planning Commission's clock date starts with the Township's received date stamp (June 10). Chester County sent a letter dated August 29, 2019 that in following Act 43, the Chester County Planning Commission has 45 days to review this submission which means their review must be completed by September 29. Al Wright discussed the law that the Township Secretary sent to the Planning Commission which referenced the date the Board of Supervisors approved advertising and the 15-day waiting period. We can delay a decision but if it goes past a few weeks, the application will be deemed approved. Michael Domboski stated that most of the approved Agricultural Security Area properties are in the Rural-Agricultural Zoning District. This current property is in the R-2 Zoning District. There is a concern about setting a precedence by approving this Agricultural Security Area Application. If we approve the application for the Agricultural Security Area, the Acre Act kicks in and the Township may not touch the property under the state. If the Township does not approve this application, it preserves the Township's right to the R-2 Zone. Al Wright said that the Township Zoning allows for agriculture in the R-2 Zoning District. Dennis Crook stated that one of his concerns is that Agricultural Security Area Application for properties over ten acres will override Township Zoning regardless of whether the property is in the Agricultural Zoning District.

Supervisor Heffern discussed case law and a bias to preserving farmland. Township resident Ronald P. Scott stated that no property owners of the neighboring properties appeared before the Agricultural Security Committee meeting to protest approval of the Agricultural Security Area Application, however, he appeared to show support of the application. Dennis Crook discussed the flow chart for types of applications and clock dates that the Planning Commission has been working on. John Nielsen discussed inconsistencies in the Township Code that the Planning Commission needs to address. Dennis Crook said the Planning Commission researches and provides recommendations to the Board of Supervisors.

There was a lengthy discussion regarding how to proceed with the application. They also discussed deferring a decision until next Monday's Planning Commission meeting. Al Wright requested they review the questions and requests in the Planning Commission letter to the Board of Supervisors. Dennis Crook discussed the requests in the letter. He said the Planning Commission's only functions as well as the advice they get from experts. Al Wright suggested verifying who would be paying for the experts before officially requesting their attendance at the next Planning Commission meeting. John Nielsen brought up a concern about the intensive and non-intensive agricultural use. Supervisor Heffern said that he has no problem having Solicitor Crotty attend the

Planning Commission meeting. Dennis Crook stated ownership of lot 44 is his biggest concern and questions do come up during discussion at meetings.

MOTION: Dennis Crook made a motion to postpone this decision until the next Planning Commission meeting on Monday, September 16, 2019. Sue Monaghan seconded.

VOTE: 4-1 (Dennis Crook, John Nielsen, Sue Monaghan and Michael Domboski voted yea. Al Wright voted nae.)

Supervisor Heffern informed Mr. Doutrich, Mr. Scott, and the Planning Commission members that there is a Township Agricultural Security Committee meeting scheduled on Wednesday, September 11, 2019 at 6:00 p.m.

Discussion on Multi-Use (MU) Zoning District - Uses by Right.

The discussion regarding the Multi-Use Zoning District uses by right was deferred until the next Planning Commission meeting.

MOTION: Dennis Crook made a motion to put this on the next Planning Commission meeting agenda. John Nielsen seconded.

VOTE: 5-0

Ridgecrest Plan Signing.

The Planning Commission members signed the approved plans for the Ridgecrest Development. These plans were previously approved and signed by the Board of Supervisors.

New Business.

Township Resident Ronald P. Scott discussed a recent trend in Amish expansion into new townships. Mr. Scott reported that the Amish are starting to buy homes in developments with the intention to put barns and horses on these properties. Mr. Scott stated that this is a current issue in West Sadsbury Township in Chester County and in townships in Lancaster County. Residents of these townships are uprising in protest. Mr. Scott said he is not aware of any Amish currently residing in East Fallowfield Township and he suggested the Township Planning Commission start considering this issue to be proactive. Mr. Scott said he would welcome the Amish into the Township because they keep their homes and farms nice. Sue Monaghan stated that there are acreage limits for animal ownership. Dennis Crook said that the Township Zoning Ordinance requires one acre for the first horse and an additional half acre for each additional horse. Sue Monaghan said that the acreage for properties in developments are typically below an acre so this may not be an issue in East Fallowfield Township. Al Wright asked how the township would regulate the Amish transportation method which is horses. How do you accommodate and regulate horses as a use of transportation? Mr. Scott also briefly discussed several abandoned houses in poor condition in the Township. John Nielsen suggested Mr. Scott submit complaint forms to the Township office regarding these blighted properties.

Chester County 2020 Breakfast on "Attainable Homes."

Dennis Crook said the Chester County 2020 Breakfast on "Attainable Homes" was not well attended by East Fallowfield Township. Dennis Crook also reported that Chester County 2020 is offering the SALDO course. He said if anyone took the SALDO course and missed a class, this is a chance to take a makeup class. Dennis Crook also briefly discussed the possibility of sponsoring another Chester County 2020 class or holding a Community Conversation. Mr. Crook stated that there is money in the Planning Commission's current year budget for these items.

MOTION: John Nielsen made a motion to defer the rest of the Planning Commission's business until next Monday. Sue Monaghan seconded.

VOTE: 5-0

Adjournment.

MOTION: Dennis Crook made a motion for the September 9, 2019 Planning Commission meeting to adjourn at 8:40 p.m. John Nielsen seconded. VOTE: 5-0.

Respectfully submitted,



Lisa Valaitis
Township Secretary