

Town of Pine Plains Zoning Commission Minutes
March 8, 2006

Members Present: Jon DePreter, Peter Caldwell, Helene McQuade, Gary Keeler, Vikki Soracco, Scott Chase and Nan Stolzenburg (Consultant).

Absent: Margo Jackson

Guests: (5) members of the public, (1) reporter from the Register Herald and (1) reporter from the Millerton News.

Meeting called to order at 5:30 PM.

Caldwell moved to approve the minutes from the February 8, 2006 meeting. Seconded by McQuade. All in favor.

Privilege of the Floor – There were no comments from the community.

DePreter stated that the goal this evening is to have a final delineation of the Ag district overlay boundaries and a final decision on base density. DePreter stated that there was a request at the last meeting to go back over the individual parcels that we looked at previously but with the prime soils in as opposed to the shallow soils and using the commission's agreed upon environmental control formula. DePreter further stated that he would like to introduce the information on the first topic on the agenda (the updated build-out analysis for the three examples discussed previously) and use that as a segue to get into the second and third topics on the agenda (discussing and deciding upon the delineation of the Ag district overlay boundaries and the base densities in the Ag and rural districts). DePreter stated that he would also like to discuss a date for the commission's public presentation.

Stolzenburg presented the commission with an updated build-out analysis for Sunny Meadows Farm, Schultz Hill Farm and the Fulton Rockwell Farm using the environmental control formula that the commission had agreed upon a while back. Stolzenburg explained the recalculation of those results. Stolzenburg further explained that on page 3 of the build-out analysis where the number of dwellings that were allotted to each area based on the calculations were placed in locations that did not have any environmental constraints and that they weren't necessarily clustered although they may be able to be clustered, and they weren't placed in any way saying this is a good place or bad place, they were simply where there are buildable portions left that could support that dwelling. Stolzenburg stated that we do not want to equate this to desirable or undesirable design of that parcel, this just shows you that they are where the buildable locations are on those parcels, based on the information that we had. Stolzenburg stated that these are estimates and based on the data we have in the computer and they may be close to what would happen but the only way we will know exactly what could happen to

those three parcels is to get out there and really look at a parcel by parcel survey of the features. DePreter stated that in the calculation, it has shallow soils and has the square foot analysis for shallow soils. Stolzenburg stated that might be left over from before but she will check with Don Meltz. Caldwell stated that when Meltz did his original build-outs he did not include shallow soils as a specific item so this is actually a new distribution of data. DePreter stated that he was just wondering if that was included in the formula. Discussion followed. Stolzenburg telephoned Meltz and confirmed for the commission that the analysis does not include shallow soils and that Meltz thought the commission just might be curious as to how much shallow soils are on the sites.

DePreter went on to state that Caldwell had wanted to say something on this subject. Caldwell stated that his problem is that what you have at a 5 acre base density is that you create a hamlet on each of these farm parcels. Caldwell explained that with 41 houses on the 400 acre Fulton Rockwell Farm, 17 houses on the 200 acre Shultz Hill Farm and 24 houses on the 300 acre Sunny Meadows Farm, he questions whether that is an appropriate way to design housing in the agricultural district. Caldwell stated that he thinks that number of houses in the middle of the agricultural district on each given farm will interfere with agriculture and feels it will be very difficult to plan siting of those houses as well. Caldwell explained that it will require infrastructure where there is no infrastructure at the moment and he feels it's much too dense a housing proposal for the agricultural district. DePreter asked if anyone else had anything to say. Chase stated that if the commission's goal is to try to maintain that rural and agricultural character and at the same time give people some value towards their property, it seems that the only place that points you to is trying to develop some sort of transfer of development provisions whereby you essentially give a parcel a certain number of units and then say because we're trying to maintain the agricultural and rural character those houses would have to move into the hamlet. DePreter stated that he thinks that's a really interesting planning idea but he thinks it's a very complicated situation for us right now and feels the commission is going to have a hard enough time putting this thing on the table and maybe the way to do it is to introduce this and get it passed and then at some point introduce a transfer of development.

DePreter stated that he isn't going to look at the map Stolzenburg presented in terms of where the particular houses are because these are not necessarily sited houses and with the 400 acre parcel there is probably a lot more space between those dots on the map than appears on this piece of paper. DePreter stated that since we had 37 houses last time and everybody was more or less happy with that number and now we have 41 houses, it really is not a significant difference. DePreter stated that as far as Fulton Rockwell's property there are a number of fields there and we did talk about possibly having the fields being treated differently in a number of ways either by base density or by siting so he is still comfortable with the 5 acre base density. Chase stated that the last time using the 5 acre base density we found that it came out somewhere between one unit per 11 to 14 acres and now we are down to roughly one unit per 10 to 12 acres so he agrees it is not a significant change. DePreter stated that he thinks the more important part is not only the numbers but that we are protecting the soils and if he had a choice between a couple of more houses and not protecting the soils he would trade those couple of extra houses to

protect the soils. Soracco asked if Sunny Meadows would be included in the floating district that we talked about at one time. DePreter stated that what we were talking about in the floating district is if it came up under the idea of an affordable housing project that maybe the town would want to consider it. Brief discussion followed. DePreter asked if anyone had any further questions on this subject. There were no further questions or comments.

DePreter stated that perhaps the commission should discuss and decide on the delineation of the Ag district overlay. DePreter stated that the last time the commission spoke on this, Caldwell had a suggestion to have it be parcels based which would include everything within the parcels. Caldwell stated it would be the active farmland parcels that are currently identified as such and that would include the hobby farms. Stolzenburg stated that it would only include the hobby farms if those hobby farms are somehow identified as being productive agriculture. Discussion followed.

Before the commission moved on with the discussion, Caldwell stated the argument has been made that farmland associated woodlands should be included in the agricultural district for their commodity value in timber, fuel and maple syrup production, that both wetlands and woodlands should be included in the agricultural district on an environmental basis for their water retention and that the best designed boundaries for the agricultural district are parcel boundaries based on three centuries of private ownership of farmlands and because they are accurately described by survey. Caldwell stated that is the statement of argument for a parcel based Ag district as already mapped by Stolzenburg.

DePreter stated that the commission had some agreement on making the Ag district basically the active farmed fields and what that would do. DePreter stated his suggestion was that the Comprehensive Plan had asked us to protect agricultural resources as they are in the soils and active farmlands. DePreter further stated that he thinks we have actually protected the soils all the way across the town no matter where the Ag district is and he stated he likes that because of the fact that we don't know who is going to open up a farm or if the future farm is going to be not only farmed for food but there's a very good potential that agriculture could be for fuel. DePreter stated that this is one example of why we can say to the community that we basically protected all of the soils from border to border by putting it in our environmental control formula. DePreter stated that the idea would be to have an Ag district defined by the actively farmed fields and that then we would be able to have a rationale for having a lower density in those areas that would be different than in the rural area so that we can then say whatever number everyone agrees to as well as mandatory siting requirements. DePreter further stated that whether someone is going to cluster their homes or not, they are going to be required to move any residential units off the fields or at least on the edge of the fields in a way that's going to be the most productive use of the agricultural fields in the future. DePreter stated that would be a mandatory requirement. As a separate thing, DePreter stated that he thinks we should have an incentive for clustering and if we have a 5 acre base density, we could start at 7, 8 or even 10 acres, then we would say if you are not going to cluster your homes then we're going to have a higher density because not only

are we protecting the prime soils but we are specifically creating a second level of protection for these fields and you would be allowed less homes. DePreter gave an example using the Fulton Rockwell property and stated that maybe instead of having one house on every 10 acres we could say that if a person wants a 4 acre parcel and we can get more in there if the person agrees to conserve a certain portion of that field in permanent easement then the person will have met most of the requirements to protect the land and the agriculture so you then have an incentive to bring them back down to what the rural base density is. DePreter stated that will be the property owner's decision to make and he likes that option of having the property owner make the decision with a healthy enough incentive for them to be able to come to the plate if they want to and if they don't, we have a level of comfort that we would allow less homes because of those fields. As far as the parcel based, DePreter stated that he would agree that in an ideal world, it would be good to have the Ag district be parcel based but that nothing has been parcel based from the beginning and that everything the commission has done so far has been resource based. DePreter stated that he feels comfortable not having it be parcel based.

Stolzenburg stated that another way to look at it would be to not include the prime and statewide important soils in the environmental control formula in the rural area that is not farmed and that one of the features of the Ag overlay district is that it would get added into the environmental control formula for those areas. Stolzenburg explained that would target the protection in the adjustment of density to the Ag overlay district and the prime soils of those areas. Stolzenburg stated that she isn't sure if you gain or lose anything by doing it that way but she thinks there are other ways of doing it. Stolzenburg stated that she thinks that when looking at the Ag district you should not lose site of what you're ultimately going to do in that Ag district because that makes a difference on where the boundaries are. Stolzenburg asked what distinction between the rural areas and the Ag district areas are going to be and what is the reason for having the Ag overly different from what we're doing in the rural areas? Stolzenburg stated that if we are going to have the environmental control formula control density everywhere then what's the purpose of having the Ag overlay and mandatory siting and what are we trying to accomplish by having an Ag district. Stolzenburg stated that the commission needs to clearly answer that question and that would help in deciding what the boundary of the Ag district needs to be. DePreter stated that he thinks it's that we are trying to protect the agricultural fields. Chase stated that he feels we are trying to preserve the soils so the capability is there should economics change in the future. DePreter agreed stating that it's very possible that 20 years from now we might have fuel crops. Chase stated that he feels that soils become important and as far as how to define agriculture, he is concerned about basing it upon what is active agriculture today. Stolzenburg stated that then the question is what resources need to be protected? Discussion followed.

DePreter stated he would like to go around the table on this now. Caldwell stated that he thinks the base density in the Ag district should be a 10 acre base density and the base density in the rest of rural Pine Plains should be a 5 acre base density. Caldwell further stated that is a very clear cut reason for defining an agricultural district because it is going to be an area where there's less housing density permitted. DePreter asked what would

happen if someone just drops the agriculture and then they are out of the district and then they are in the 5 acre base density. Caldwell stated that we don't have to say that they would be out of the district as we define the Ag district just because they drop the agriculture. Discussion followed.

Stolzenburg stated that if you go by the parcel based, from an administrative point of view, it probably will be easier. Stolzenburg explained that if you're not going parcel based and just going by the active fields, then if someone is developing their entire parcel which includes woodlands, fields and other features then it adds a level of complexity because then they would be in two different districts.

DePreter stated that he would like to go around the table. McQuade stated that she thinks as far as defining the agricultural district that she feels she still would like to see the prime soils and soils of statewide importance included in that. McQuade stated that if they are not included in the Ag district and what we want to accomplish with the Ag overlay is that we are stringent about siting requirements and so forth then they're not protected that way unless they're included. McQuade stated that DePreter mentioned earlier that he felt comfortable not including prime soils and soils of statewide importance because they were already given some protection in the environmental control formula so that there's a lower base density in those areas but if they're not in the Ag overlay district then they are also not beholden to any siting requirements that we might want to apply to the Ag overlay district. DePreter stated that we could have siting requirements in the rural district. McQuade stated that she favors including the soils and feels that it simplifies the siting issues. McQuade stated that she feels the Ag overlay should be drawn by resources including prime soils, soils of statewide importance and active agriculture and not parcels. Caldwell stated that he advocated a parcel based agricultural district which in fact is more inclusive than what McQuade described. Chase stated that he is in favor of the parcel based for the ease of administration. Soracco stated she is not in favor of the parcel based and would rather see it be the open fields because she is a little concerned about the soils. Keeler stated that he is leaning toward the parcel based because he thinks that if there are open fields on parcels that are in the Ag district we should offer that as a 10 acre base density then if they cluster, we can drop it down to a 7 or 8 acre base density so they can get more houses if they cluster. DePreter stated that is what he was also thinking and that he thinks that might be a good compromise. DePreter stated that as long as the fields are protected, he has no problem with it being parcel based. Discussion followed.

Stolzenburg asked if there is a concern that people over time might see it as a disincentive to continue agriculture whether it is parcel based or active agriculturally based. DePreter stated that the thing about agriculture is that it's different than something like an aquifer or steep slopes because agriculture is a business and people are going to make business decisions about their land. DePreter stated that is why he has been trying to remain flexible with this. DePreter stated that we need to draw our boundaries and stand by them by saying that the day that we made this plan, these were the active fields, this is what the community thought was important, these are the resources we are trying to protect and as of the year 2006, these fields were active and we want to try to keep them

active. Chase stated that he thinks that if we want to do that and have real grounds for doing that it would need to be based upon the prime and important soils because just the fact that somebody clears a field and calls it agriculture doesn't mean it was appropriate for agriculture. Keeler stated that when he mentioned 10 acres for base density if we had an Ag district with a 10 acre base density that's what you would get if you are building a house and you're not going to do any incentive to site or to put most or part of the land in easement, however if you agree to put part of the land in easement and you cluster the homes then we could drop it to a 5 acre or a 7 acre base density. Keeler stated that formula would have the soils included in it so we would be protecting them that way. Keeler asked what do you do with a parcel that's almost entirely good soils. McQuade stated that those prime soils and soils of statewide importance which could be used for agriculture would not be protected by siting requirements unless we include them in the Ag overlay so even though they might have the environmental control formula applied to them, there might a lower base density but we wouldn't be telling people that they can't put a house in the middle of the lot. DePreter stated that the Planning Board will have done an inventory of the site even if it's not in the Ag district and it would be saying that here's the steep slopes, etc. and whether it's in the Ag district or not, the property is going to get resourced. Then people would sit down with the Planning Board and they would try to move the houses away from the soils. Discussion followed.

Caldwell stated that although DePreter doesn't want to discuss it tonight, a transfer of development rights would incentivize people to move away from the areas of interest being discussed. DePreter stated that if people want to discuss it that's fine with him, he only said for him personally he thinks that including that in our zoning the first time around may be a complex situation for the town in general. Caldwell stated that he thinks we definitely should include transfer of development rights in our zoning code before we finish. DePreter stated he wasn't trying to stifle any conversation but perhaps for right now, before the public presentation we should just put that aside.

DePreter stated that he wanted to confirm what the commission is in agreement on thus far. DePreter stated the commission agreed to mandatory siting in the Ag district regardless of how it is done. All agreed. DePreter stated that the commission agreed to a lower base density for the actively farmed fields in the Ag district. All agreed. DePreter stated that the commission agreed to incentives for clustering that would bring the base density down to the sense that it would be a higher density as a potential and not only clustering but a certain amount of land would be permanently set in conservation easements. All agreed.

DePreter suggested that the commission discuss whether the Ag district should be parcel based or based on prime soils, Ag soils and fields anywhere in the district. Keeler stated that for the ease of administration, he would say parcel based. Soracco stated that she would go against the parcel based. Chase stated that basically we are giving away these prime soils and soils of statewide importance because they're not part of an agricultural district. DePreter stated that they are not being given away, they are going to be put in the environmental control formula. Chase stated that he thought the mandatory siting was only going to be in the Ag district. Caldwell stated that it will be *at least* in the Ag

district but also for prime soils and soils of statewide importance. Caldwell stated that there is no reason why mandatory siting requirements can't be applied to those resources for the Ag district as well as for prime soils and statewide soils outside of the Ag district. Chase stated that if that is the poll then he would agree to that. Caldwell stated that going back to Keeler's suggestion that for ease of administration the Ag district should be parcel based but that does not mean that we would excuse areas of prime soils and soils of statewide importance which fall outside of the Ag district. Caldwell explained that those would be under the constraints of mandatory siting.

Stolzenburg stated that basically we will have mandatory siting away from the environmental features that are in the formula everywhere no matter what district. McQuade stated that she would agree with that as long as there are siting constraints on the prime soils and soils of statewide importance outside of the parcel based Ag overlay district. Caldwell, Chase, Soracco and Keeler confirmed that they also agree with that and DePreter stated that he agrees. Stolzenburg confirmed with the commission that what they want is that the Ag district boundary is going to be drawn based on full agricultural parcels. DePreter stated that for administrative reasons, the commission has decided that would be the easiest.

DePreter stated that he would like to propose that the commission accepted a 5 acre base density in the rural district. All members agreed.

DePreter asked the commission members if they agree with having a different base density or if the fields in the Ag district should be a different base density or are we going to have what sounded like a 3 tier system starting with a 10 or 8 acre base density and going down to 7 or whatever base density gets you back down to the rural district base density. Chase stated that he feels we should start with the 10 acre base density and then with incentives let people get down to a 7 acre base density. DePreter stated that he thinks no matter where you start, you should be able to get back to the rural district numbers if you meet all of the requirements. DePreter stated that maybe it is better to start at a 10 acre base density and if they do everything right then they get down to a 5 acre base density.

Stolzenburg stated that perhaps there can be a rural district that is really not farmed but rural, an Ag district that has agriculture in there and then you have your open fields so we would have to have three districts. Stolzenburg stated that she doesn't think the commission can just arbitrarily say that open fields get another density. DePreter asked if it could be called an Ag open space overlay. Stolzenburg stated that it can be. DePreter suggested calling it an Ag open space overlay.

DePreter stated that the proposal on the table is that we are saying the Ag district is parcel based for administrative reasons, then inside that agricultural district we have the agricultural open space overlay and that will have a different base density but the rest of the parcel based agricultural district is still the 5 acre base density of the rural area. Discussion followed. DePreter repeated that the proposal and the last thing the commission needs to vote on tonight is a 5 acre base density in the

rural district, which we have, then a 5 acre base density in our agricultural district except for the Ag open space overlay which are the open fields and would be a 10 acre base density with the clustering and permanent easement on a certain percentage of the property which we will get to when we talk to the community, then you would be able to get back down to a 5 acre base density if all of those requirements are met. McQuade agreed. Caldwell stated it all depends on what percentage of the property would be required to maintain but stated that provisionally as a general proposition, it may work. Chase stated it was easier for him when it was 5, 10 and back to 7 but now we are saying 5 acre base density and raising it to 10 but then letting people come back to a 5 acre base density. Soracco agreed with the proposal on the table, Keeler agreed and DePreter agreed. DePreter stated that there is a majority vote in favor of the proposal.

Stolzenburg stated that next time we will talk about our public meeting.

McQuade motioned to adjourn. Seconded by Keeler. All in favor.

Respectfully submitted by:

Karen Pineda
Zoning Commission Secretary

*** Bold font denotes a decision made by, and agreed to, by the Zoning Commission for purposes of composing the Generic Environmental Impact Statement.**