

Public Hearing
Ordinance 2008-01-Gettys Rezone Application #2
February 7, 2008

The North Middleton Township Supervisors held a continued public hearing concerning proposed Ordinance 2008-01 on February 7, 2008 at the Township Municipal Building, 2051 Spring Road, Carlisle PA. Chairman Richard A. Bucher called the public hearing to order at 7:07 p.m. Board members present were Vice Chairman Robert H. Shearer, Supervisor Dennis Hurley, Supervisor Harry Kelso, Supervisor Robert Reisinger, Solicitor Mark Allshouse, Manager Deborah Ealer, and Recording Secretary Lori A. Coleman.

Visitors: See February 7, 2008 attendance sheet.

Solicitor Allshouse noted Mr. Gettys has approached the Township and requested a rezone of a portion of the zoning map allowing for a change in a portion of the Agricultural Holding Zone (AH) to the Suburban Residential Zone (R-1). At a prior meeting, the township reviewed a number of exhibits that were entered into the record. At the January 7th meeting, the proposed rezone was reviewed by the NMT Planning Commission. The minutes were not approved or transcribed for approval, but PC Chairman Harry Kelso was present to offer a report with regard to the PC discussion, comments and recommendation. To complete the record, Solicitor Allshouse asked Supervisor Kelso to provide a recommendation if one was provided. Supervisor Kelso reported the PC board heard the zoning request on Tuesday evening. The current rezone request will eliminate concerns with the long cul-de-sacs in reference to safety issues since the streets would tie together. The recommendation of the PC was to approve the rezoning change request.

Applicant's Presentation

Bob Saidis representing the applicant introduced Fred Gettys and John Clark to the board. Mr. Saidis verified with Solicitor Allshouse that the exhibits entered were A through H, and then offered a sketch plan of Mountain View Estates which was entered into the record as **Exhibit I**.

Mr. Saidis referenced page 12 of the blue booklet noted as the Amendment to the Zoning Map. Mr. Saidis indicated Mountain View Estates was rezoned to R-1. Upon review, the road master has some objections to the access (listed as eliminate road and rain gardens), and as Supervisor Kelso indicated the cul-de-sacs. Recently, Mr. Gettys acquired the Brenneman tract which then provided access to Cornman Road at a different location and eliminated the cul-de-sacs that would not comply with the ordinance which required 1200ft or less. The exhibit on page 12 shows 16 lots, but they anticipated it would be less due to the wet lands in that area.

Fred Gettys noted the rezone was initiated due to the issues with two tracts in Mountain View Estates. Mr. Gettys mentioned the unsatisfaction of the Road Master. One way to correct the issue was to connect two cul-de-sacs together. The change ended up diminishing the natural and environmental habitat that was present. As the project evolved, Mr. Gettys noted he was able to acquire the abutting tract which ended up relieving two primary issues: cul-de-sacs and drainage. In addition, it provided another access to the property. Thus, he was before the board with a request to rezone the property from agricultural holding to residential. He added as on the

exhibit, it was proposed for single family homes along with recognizing the wetlands. It was also designated that it would be part of Phase IV for Mountain View Estates.

Public Comment

Jim Stine of 221 Cornman Road stated he owned 3000ft of the property that will border the subdivision. Mr. Stine presented some photographs to the board which illustrated the wetlands on the Brenneman property. He pointed out a culvert which existed. He noted the water from the culvert on the Brenneman property runs under the road into his property. He reviewed a photo which showed a wetland area with a quarter inch of rain. Supervisor Bucher asked where Mr. Stine's property was located in relation to the subdivision. Mr. Stine stated it was on the west side of the Brenneman property. Mr. Stine stressed having drainage to take the water down the road to the creek otherwise it would flood his pastures. The applicant's council and engineer reviewed the photographs.

Board of Supervisors Questions / Comments

Supervisor Hurley stressed he was under the impression that the Township would not do anymore rezoning until the Comp Plan is completed. Supervisor Kelso questioned if the photos represented the regular flow and wetness from the culvert. Mr. Clark noted two finger areas of wetlands on the property which run southwest. Mr. Clark added the areas were delineated on the plans. For any future development, Mr. Clark stressed they have to accommodate the flow and follow the regulations for infiltration. Typically, they have to take into account the difference between the predevelopment and post development storm water.

Additional Public Comment

Ben Stine of 221 Cornman Road asked where all the water from the streets, roads and houses would go. Supervisor Bucher stated the storm water management would be addressed in the land development phase. Supervisor Reisinger questioned if the water should stay on the site. Mr. Clark noted any increase in the water from paved areas, driveways, streets, curbs, walks, etc. has to be continuous. He referenced pond areas that only allow so much water to be released at a time. It was a new requirement of the state which is measured by years and frequency.

Board of Supervisors Questions / Comments continued

Supervisor Reisinger stated it looked like a logical change in zoning. Supervisor Shearer noted it met the codes from agricultural holding to residential. He added it would require continuity with single family homes, and stressed if the board would wait it would have the possibility to become high density zoning which would cause additional run off to the Stine property. Plus single family homes have a better retention of water going to the Stine property. Overall, Supervisor Shearer noted he supported the rezoning.

Supervisor Bucher inquired if the photos presented by Mr. Stine were wetlands. Mr. Clark stated the photos were primarily of Mr. Stine's property. Mr. Stine agreed they were his property. Mr. Clark added they had specialist check the area in which they determined the area was wetlands. Mr. Clark noted the wetland area cannot be impacted. Mr. Saidis asked Mr. Stine if the area was wetlands. Mr. Stine guessed the area was wetlands. Supervisor Bucher asked if the area they were requesting to rezone had any wetlands. Mr. Clark stated wetlands existed on the property and were denoted on the plans as the two finger areas.

Supervisor Shearer asked if any of the areas are waivable by DEP. Mr. Clark stated it had to be justified and mitigated. Supervisor Hurley stressed Mr. Gettys could still do what he wanted to do without the rezone, but he would not be able put in as many homes. Supervisor Hurley felt the rezone was preempting the need. As some guarantees and benefits to the Township, Mr. Saidis noted Mr. Gettys indicated he would give an irrevocable easement for the subdivision that the board would discuss later on. He added the planning is a benefit to the Township that the road is going to be there regardless for a better traffic flow.

Engineer's Comments

Mr. Lebo noted it was consistent with extending the R-1.

In addition, Supervisor Kelso noted the plan was reviewed at the Planning Commission meeting in which they felt it made sense since it would not be many extra homes.

Evidentiary Closing

At this point, the evidentiary portion of the hearing was closed.

Conclusion

Supervisor Shearer noted Mr. Stine has the principal concern that should be addressed during the land development plan. Supervisor Bucher thanked Mr. Stine for bringing his information to the hearing. Thus, Supervisor Reisinger moved to approve the rezone request for the Gettys / Brenneman property from Agricultural Holding to Suburban Residential. Supervisor Kelso seconded the motion and the motion carried with a 4-1 vote. Supervisor Hurley voted nay.

Solicitor Allshouse noted the MPC states that if there is an approval, the Township is not required to write a decision. Thus, he verified with Mr. Saidis that he waived a written decision as opposed to a written letter that the rezone has been approved. Mr. Saidis verified a written letter was acceptable.

Adjournment

The public hearing was adjourned at 7:32 p.m.

Respectfully submitted,

Deborah Ealer
Township Secretary

Lori A. Coleman
Recording Secretary