

North Middleton Township Planning Commission

Township Building
2051 Spring Road
Carlisle, PA 17013

Minutes of the Planning Commission Tuesday, November 4, 2008

The meeting was held at the North Middleton Township building on Spring Road, in Carlisle, PA.

Attendance

Board Members-**Harry Kelso** (Chairman), **Bradley Mitchell** (Vice-Chairman), **Ronald Anderson**, **Pat McDowell**, and **Clifford Wolaver**

Solicitor-**Mark W. Allshouse**

Codes Enforcement Officer-**Paul Fegley**

Brehm-Lebo Engineering-**Doug Brehm**

Cumberland County Planning Department-Jim Bennett

Visitors

Dennis Hurley-3230 Waggoners Gap Road, Carlisle, PA
Jennifer Garcia-Dawood Associates, Carlisle, PA
John Madden-246 Arch Street, Carlisle, PA
William Kauffman-1921 Spring Road, Carlisle, PA
Frank Chlebnikow-Rettew

Call to Order

Chairman Harry Kelso called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Public Input (non-agenda items)

Chairman Kelso asked for any public input. No member of the public came forward at this time.

Approval of the Minutes for Tuesday, October 7, 2008

Chairman Kelso asked for any changes, corrections, or additions to the minutes for the Tuesday, October 7, 2008 Planning Commission meeting. None were requested.

Bradley Mitchell moved to approve the October 7, 2008 minutes as presented. Pat McDowell seconded. All votes were in favor, and the motion carried.

Pending Applications

#08-06: Dennis Hurley, Preliminary/Final Subdivision, Zoned Agricultural & Conservation, Approximately 38 Acres, Expiration Date: February 2, 2009

From the agenda:

This project is located at the intersection of SR 0944 and SR 0074 and is a three-lot subdivision. The Township has received from Mr. Hurley's engineer, Mr. Diffenbaugh, a written waiver request for Sections 180-16.A –Preliminary Plan, Section 180-25.D-Stormwater Management Plan, and Section 180-25.G-Grading Plan.

Dennis Hurley came forward to represent this matter. Mr. Fegley described the documentation in the Commission members' binders.

Mr. Kelso asked Mr. Brehm to go through his comments. Mr. Brehm read through the relevant comments from his memo of October 22, 2008. He noted that Comments #2 and #3 have been addressed, and that this page is taken care of.

Under Chapter 180-Subdivision and Land Development, Comment #1 mentions that the Applicant has requested a waiver for the Preliminary Plan. Comment #2 states that the plans have to be signed by the owner. Mr. Brehm indicated that he would save Comment #5 for last, since this is the only comment that would probably be discussed. Comment #7 points out that the previously submitted Non-Building Waiver has been withdrawn. Mr. Brehm stated that the second subdivision has been submitted by Mr. Hurley, and that this will be seen in December. Comment #8 refers to waiver requests, and notes that the date of approval of the waivers has to be placed on the Plan. Comment #9 notes that a Stormwater Management Plan is required for all subdivision plans and that a waiver of Section 180-25.D is required.

At this point Mr. Mitchell referred to Comment #8. He asked Mr. Brehm if the section numbers from the Ordinance were correct. Mr. Fegley noted the recent Code changes and he referred to what was written as Section 180-27.B.(11). He asked if this should actually be Section 180-26.B.(11). This was noted to be correct. Mr. Fegley asked that the reference to Section 180-27.B.(11) be corrected to read Section 180-26.B.(11). Mr. Brehm quickly read through the remaining comments.

Mr. Brehm referred back to Comment #5, which has to do with the gravel lane that goes across the property. The comment reads as follows:

"An existing gravel driveway is shown crossing Lot 31 and the lands of Railing, Rahal, and Adams; to other lands owned by Railing.

If it is the intent to add another user to the driveway for Lot 31, the Township should consider notations and/or an easement be established for the driveway, and whether improvements should be made to the driveway as per Section 204-76.F of the Subdivision and Land Development Ordinance.

The plan now indicates the driveway is to be abandoned, by label, and by Plan Note 9 on Sheet 3.

The Township should be satisfied as to the definition of the term "abandoned", (not used, removed, gated?), and consider what rights the neighboring landowners may or may not have regarding this driveway."

This comment was discussed at some length. Mr. Brehm spoke as follows:

Denny and I were talking about that here just a minute ago. It has to do again with that lane that goes across the property. Just so there's no confusion about our point, our two concerns are that that the Board of Supervisors ultimately are going to approve it and Mark are satisfied that Denny's proposed abandonment of the gravel driveway is appropriate. Our concern is is that the buyer for that lot, I think I may have said this the last time, when he buys the lot, we just need to make sure he's clear what the story is with that lane, so that he doesn't...so that he's in the dark and all of a sudden neighbors start driving up and down it. And secondly, I don't know what the rights are to the neighboring land owners. It's a private matter between Denny and

them. Those are the only two things we really need Mark and the Board to be comfortable with. As you approve the plan, I think if there is not some clarity about that then you might be subjecting somebody to some sort of private issue with that down the road. I think Denny's plan is to abandon it. That's what the plan says. I don't know if that means gate it, close it....

Mr. Hurley said that the plan is to restructure it to the new driveway. He commented:

Well, it's planned to be restructured to the new driveway. You see the...as it is right now, that was put in there prior to the neighbor buying the property next door. There was no house there when that lane was put in there when we logged-out the property and you see where it even goes across on to his property and I talked to him this past week about it, Al Railing, and he don't have a problem with that because it doesn't interfere with anything that he does, however I told him if we ever sell the property, it's good that we marked the line and we're going to close that off. We're going to put it 6 feet inside the property line. Actually it's completely stepped over. We almost have to abandon it to get it off his property. I mean so, I'm going to have to put a new driveway in 6 feet off the property line to the right of that and actually the whole roadway there as it is now will have to be overgrown or seeded. We can do that if you want. We can do it right now. We can go up there and dig it up and plant grass or weeds and a couple trees. We'll make it abandoned right now if you want, but other than that, I don't know what else to say. How do you abandon something? That driveway was only put in there in the last 20 years when we logged-out the property. That was not a historical driveway in there. Now there is a historical driveway which accesses one property behind us which is up the road from us by a couple hundred yards. I have pictures of that if you want to see them. And there is only one property in there which is landlocked and the lane up the road accesses it.

At this point Mr. Hurley came forward with a sketch and two photographs. He identified the photographs as "P-1" and "P-2." He noted that P-1 is his lane and that P-2 is the lane that he just mentioned. He described what was depicted in the photographs. Mr. Kelso said that the road depicted in P-1 is a "pretty good road going in there." He noted that he was expecting to see a driveway that you could barely see. Mr. Hurley stated, "Well, we use it. We use it now." Mr. Wolaver asked if it is gravel. Mr. Hurley acknowledged that this was correct. Mr. Kelso asked if anybody else uses it. Mr. Hurley replied, "No, we use it. It's ours. That's how we get to this property. We have 35 acres there." Mr. Kelso again asked if anybody else uses it. Mr. Hurley answered, "Not as a rule." He stated that his kids use it to go hunting in there. He said, "Nobody besides us." Mr. Mitchell asked if it was correct that Railing does not use it to access his property. Mr. Hurley indicated that this was correct. He pointed out Mr. Railing's access and his house. Mr. Kelso asked, "So this is the road you're going to abandon?" Mr. Hurley acknowledged that this was correct. He said the driveway would just be moved over. He explained that Mr. Railing has his own access to his property. Mr. Hurley stated that his own roadway was just put in there when his property was logged out.

At this point, Mr. Mitchell stated to Mr. Hurley, "It seems as if you're trying to get us to do or not do something and this is something that's present on your plan, and it can't exist going forward, so you've got to do something about it." Mr. Hurley said he didn't know what the issue is with it. Mr. Mitchell pointed out that a driveway can't be within 6 feet of the property line. Mr. Wolaver noted the proposed driveway. Mr. Hurley stated that if someone builds a house in there, a new driveway will be put in. Mr. Kelso referred to a neighboring piece of property and asked who owns it. Mr. Hurley stated that that is the Rahal property. Mr. Kelso asked if it is correct that Mr. Rahal still has to go through someone else's property to get there. Mr. Hurley stated, "Well that's his business." He added, "That's not our plan." Mr. Kelso indicated that he understood that. Mr. Fegley asked Mr. Hurley if the other lot has frontage on Route 74 up the hill after getting past the bar. Mr. Hurley referred to some of the properties on the map and stated that all of those properties have frontage on Route 74. Mr. Kelso pointed out that those are some pretty steep drop-offs for those driveways. Mr. Fegley noted that there are some houses there now with driveways. He acknowledged that Mr. Kelso was correct about the steepness. Mr. Hurley stated, "It would be hard for anybody to make a case of the fact that they needed this for access when they got that much road frontage."

Mr. Kelso asked Mr. Hurley what type of note he intends to put on this. Mr. Hurley asked what kind of note is being requested. Mr. Kelso asked Solicitor Allshouse what type of note Mr. Hurley should put on this plan to abandon this driveway. Mr. Allshouse spoke at this point:

Let me address the issues clearly that the Township should be worried about, if there even is one. And from what Mr. Hurley said, I don't know that there is one, (Mr. Kelso indicated that he agreed) but this is why you consider it. You've got an ordinance. We're going to look at it from two aspects. One is a non-ordinance aspect. A neighbor can have a right to use without needing it for access. In other words, you can have a right to use. Now, Mr. Hurley said something that clues me in that they probably don't, and that is the road was there before the neighbor's properties were there. So unless he deeded them the right to use in their deeds, or at some time gave them the permission to use it to access their property, they really don't have, or they've been using it for 21 years, they really don't have a right to use it, so he can close it off. The concern is, let's say someone does have the right to use it. How many lots are we putting on the private driveway then? If it's less than three, I don't think we care because our Ordinance allows three. If it's more than three, then there may be a concern, but if it's less than three, then the only note I would be concerned about is a note that all future owners would realize that it's being abandoned by Mr. Hurley and that to the best of the developer's knowledge, no one has a right to use it. That's the best he can do. If he closes it and puts a gate on it and someone says I have a right to use it and I'm going to sue you for it, he can't stop that but to the best of his knowledge no one's using it and he hasn't seen people using it and the way it was created would seem suspicious that someone would have a right to use it.

So, I think maybe the only thing to worry about is that the Plan shows where the driveway is, and the driveway gets moved someday, and the question becomes when the house gets built there, how do we do the follow-up to make sure the driveway got moved over 6 feet, and I think that's where your concern might be if there's not more than three lots going to be using it anyway, even if one of the other neighbors did use it. So, I'm not sure there's a big issue there. I think you figure out the mechanism to insure that that driveway gets moved so that when the house gets built it matches the plan that's recorded, and that future owner doesn't have a dispute with maybe the neighbor as to where this driveway is located and where the boundary line is, but outside of that, we can't do a lot. You can't require someone to go ask all his neighbors sign this that you don't have right to use it, because the first neighbor that thinks he might is not going to sign it. (Again, Mr. Kelso agreed) So that doesn't make any sense. So I think probably just a notation that the existing driveway will be abandoned, and maybe you put a timeline on it, prior to the issuance of a Building Permit, something like that, and then somebody is going to have to put a flag somewhere, so that when the Building Permit request comes in, it gets flagged and they go out and they make sure the driveway is moved. Outside of that, I think you note on the Plan the existing driveway that was along the property line has been abandoned, and that there's no known users.

Mr. Allshouse added, "I think that's the best we can do." Mr. Mitchell asked Mr. Allshouse if the language that is currently present in Note 9 would be sufficient. Mr. Allshouse asked that the note be read. Mr. Mitchell read Note 9 as follows:

"When a residence is built on Lot 31, the existing gravel driveway is to be abandoned as shown on this plan. A new driveway is then to be constructed and only to be used by Lot 31. Said proposed driveway must remain a minimum of 6 feet from either property line."

Mr. Allshouse said that that sounds acceptable to him. He commented again:

I'm not going to be misleading. Let's hypothetically say that Rahal and Railing and everyone says I have a right to use all of that. That's a private right to use but we don't have any way to know that here and now. We have to approve the Plan based on what we know. And so, if down the road we've got this private drive and all of a sudden there's three or four parcels using it, we can do what we can do, that's the assumption that they had the right to use and it all got determined, but really they backwards-planned us and we can't stop it. And it wouldn't be anything Mr. Hurley came in and secretly hid. It wasn't Mr. Hurley's fault that someone claimed they had a right to use his driveway. So, I think that note covers it.

Mr. Kelso asked Mr. Hurley if there is only going to be one residence back there. Mr. Hurley replied, "I imagine." Mr. Kelso asked Mr. Hurley if it was correct that he doesn't have any plans for anything else back there. Mr. Hurley stated, "I don't, no." He pointed out that it can only be a maximum of two due to the zoning. Mr. Hurley also stated that the perc tests are what governs it. He noted that two perc sites have been found, and that this is only enough for one. Mr. Hurley also pointed out that there may someday be sewer to this

property and that then someone may wish to add another residence. He added, "They'll have to cross that bridge when they come to it."

Mr. Brehm summarized that there are a couple of waivers to act on and a few signatures required. Mr. Kelso asked about the status of the H.O.P. Mr. Hurley stated that it has been issued and just has to be recorded with the deed. Mr. Fegley referred to Mr. Brehm's Comment #12 which asks for the D.E.P. code number to be noted on the plans. Mr. Fegley stated that this has been sent and that a reply should be received within the next two weeks. Mr. Kelso asked for any other questions. None were offered.

Mr. Kelso suggested a recommendation to approve. He asked that the waivers be considered first. The requested waivers are listed as follows:

- Section 180-16.A-Preliminary Plan
- Section 180-25.D-Stormwater Management Plan
- Section 180-25.G-Grading Plan

Mr. Kelso asked for a motion on the requested waiver of the Preliminary Plan, Section 180-16.A.

Regarding the requested waiver of the Preliminary Plan, Section 180-16.A, Bradley Mitchell moved to recommend approval. The motion was seconded by Ronald Anderson. All votes were in favor, and the motion carried.

Mr. Kelso asked for a motion on the requested waiver of the Stormwater Management Plan requirement, Section 180-25.D.

Regarding the requested waiver of the Stormwater Management Plan, Pat McDowell moved to recommend approval. The motion was seconded by Bradley Mitchell. All votes were in favor, and the motion carried.

Mr. Kelso asked for a motion on the requested waiver of the Grading Plan requirement, Section 180-25.G.

Regarding the requested waiver of the Grading Plan requirement, Section 180-25.G, Bradley Mitchell moved to recommend approval. The motion was seconded by Pat McDowell. All votes were in favor, and the motion carried.

Mr. Kelso suggested a motion to recommend approval of the Plan to the Board of Supervisors based upon compliance with all the comments from Engineering, any County comments, and the H.O.P.

Regarding Mr. Hurley's Preliminary/Final Subdivision Plan itself, Pat McDowell moved to recommend to the Board of Supervisors that they approve the Plan, based upon compliance with all the comments from Engineering, any County comments, and the Highway Occupancy Permit. Ronald Anderson seconded. All votes were in favor, and the motion carried.

#08-07: Spring Road Family Practice, Preliminary/Final Subdivision/Land Development Plan, Zoned Highway Commercial, Location: 1925 Spring Road, Expiration Date: February 2, 2009

From the agenda:

The Applicant wishes to combine two existing lots and expand an existing parking lot area.

Mr. Fegley spoke initially on this matter:

This project was brought to us and tabled. There was some concerns about setbacks and things of that nature. At that point our new Ordinance had kicked in. The Plan was withdrawn and resubmitted under the new Ordinance, so what you are looking at now is a, for lack of a better term, a revised plan. It's not a revised plan but it's a revision of what was seen earlier under the old Code. Under the original that we saw, that was brought before us, it would have required some Zoning Hearing Board variances. Due the enactment of our current Zoning Code, those disappeared. They have resubmitted the Plan. This will be a plan that you are looking at basically for the first time. You know what the background is on it up to that point.

Mr. Fegley described the documentation in the Commission members' binders. Jennifer Garcia of Dawood came forward to represent this matter. Dr. William Kauffman was also in attendance. Mr. Fegley asked Ms. Garcia if the Spring Road Family Practice is in fact one lot now. Ms. Garcia indicated that this was correct. She explained that it is still being shown as subdivided to sort of clean up paperwork but that there is one parcel number.

Mr. Kelso asked if there was any communication with PennD.O.T. regarding this plan. Mr. Fegley indicated that he had had none. Ms. Garcia stated the sharing of the driveway has been eliminated and that there will be one single access, which is the current access to Spring Road Family Practice. She added that there will be an expansion of 26 additional parking spaces. Mr. Kelso asked if there were any questions for Ms. Garcia before hearing Mr. Brehm's comments. Mr. Bennett noted to Ms. Garcia that County had not received a copy of the new plans. Ms. Garcia stated that a set would be dropped off.

Mr. Kelso asked Mr. Brehm to go through his comments. Mr. Brehm read from his memo of October 27, 2008. Mr. Brehm explained that the key point, as Ms. Garcia had said, is that the layout has been reconfigured from the last plan. He noted that the driveway has been eliminated and the new parking lot has been connected to the existing parking lot. Mr. Brehm described this as an improvement to the layout. He said that this plan is now headed in the right direction.

Under Chapter 204-Zoning, Comment #2 stated that the existing screening located along the rear property line appears to be removed and that adequate screening along all adjoining lands within a residential zone must be provided. Ms. Garcia stated that this was just a "drafting error" and that there is nothing to be removed back there. She stated that the gravel area is to be abandoned but that none of the vegetation is to be removed. Mr. Kelso asked Ms. Garcia if it was correct that the gravel parking area for staff won't be back there anymore. Ms. Garcia indicated that this was correct. She stated that a storm water facility is being proposed back there now.

Comment #3 is in regard to adequate lighting being provided and arranged so that it is not directed at land used for residential purposes or adjoining lots or streets. The comment recommends that notes and specs be added to the Plan. Ms. Garcia indicated that this could be provided.

Under Chapter 180-Subdivision and Land Development, Comment #1 notes that the Applicant has requested a waiver of the Preliminary Plan requirement. Mr. Brehm mentioned that the Plan has been reviewed as a Final Plan. Comment #4 states that the Applicant is proposing less than one (1) acre of disturbance, therefore an adequacy letter from the Cumberland County Conservation District is not required. The comment recommends that an Erosion and Sediment Control Plan be prepared and kept onsite during construction.

Comments #5 and #6 point out that the Applicant has requested waivers for the requirements of sidewalks and curbs. Mr. Brehm indicated that notes have been added to the plans and that a request has been made. Comment #7 mentions the recreational fee. Comment #8 asks for some monuments and markers to be shown.

Under Chapter 180, Article X-Stormwater Management Plan and Design Criteria, the memo had six comments. Mr. Brehm explained that perc tests will be done out there to make sure that the site infiltrates. He stated that the intent is to send the water to the back corner to a shallow sort of retention area. Mr. Brehm further explained that the front of the property will have a sort of water garden type of arrangement to catch a small amount of water that wants to drain towards Route 34. He summarized that the comments primarily had to do with getting the percs done and with looking at some of the grades that are a little off contour-wise.

Mr. Brehm stated that there are a few pieces of the drainage plan that are needed yet. He said he could talk to them about the specifics. Mr. Kelso asked if there would be any problem with the rain garden. Mr. Brehm said he didn't think so. He commented at this point:

There's one comment here where retention facilities, #3, are only permitted in cases where the developer has proven that predevelopment conditions exist, ponding along road embankments and so forth. I'm not sure we have an issue with that. The rain garden is fine. I think our issue out there was we're not sure the water is going to get in it, based on the grades that were shown on the Plan.

Mr. Kelso asked Mr. Brehm if it was correct that he needs to make sure the grading is okay so the water gets to the rain garden. Mr. Brehm indicated that this was correct. He pointed out that the basin in the back is very shallow and is going to be difficult to build. He noted that it is only one tenth of a foot deep and that you can't grade to a tenth of a foot. He added, "We just need to make sure that we get enough depth there that we actually capture the water and give it a chance to perc away." Mr. Kelso asked what will happen if the perc tests show that the water won't perc properly. Mr. Brehm replied that they will have to go to "Plan B." Mr. Kelso asked what this is. Mr. Brehm commented again:

You can also, and this is what we were going to discuss but, instead of just relying on the soil that's there to work, they can trench that a little bit. Bury some perforated pipe and some stone trenches and get the water off the surface and get it underground. So they have some choices they can make there. They can build like a seepage bed type thing. You have a condition out there where they have gravel that's somewhat compacted. Whatever water is going to be there, a lot of it is already there. When you blacktop it, you're going to see it, and they're forcing it to run to the back. We just want to make sure that it stays on the property. It has nowhere to go. They have a spillway that will spill straight out the back, but I think we're trying to make this so nothing ever leaves the property. Otherwise it's going on somebody else's property.

Mr. Kelso asked if there will be any issues with other peoples' properties back there and the water possibly getting into basements. Mr. Brehm said he didn't think so. He added, "I don't think we're talking about that much water." Ms. Garcia explained that this site is essentially the high point and that the only water is what is generated right on the site, and that there won't be any water coming from somewhere else that is going to accumulate. Mr. Mitchell asked why one tenth of a foot is being proposed. Ms. Garcia replied that this was basically just to be a flat area for the water to seep in. Mr. Brehm said he is okay with that, but that he just wants to make sure the water actually gets there. He stated, "We can work through that."

Mr. Brehm continued with his comments. Under Chapter 180, Article XI-Grading and Site Planning Requirements, Comment #1 states that the grading located around the proposed rain garden and entrance should be revised as necessary. The comment further states it appears that the proposed contours located in this area cross existing contours that should be modified. Mr. Brehm noted that something doesn't look right there.

Under Chapter 180-Article XII-Landscaping Requirements, Comment #1 states that any parking lot perpendicular to and within 100 feet of a public street or intersection shall be screened with a hedge, berm, or other measure to prevent distraction or confusion from parking cars' headlights. Mr. Brehm noted that they do have some plantings there, but that it is necessary to make sure they are tight enough together to make sure that headlights from cars driving toward Route 34 don't shine out onto the road.

Mr. Brehm had no other comments. He stated, "I think we can overcome the issues we have." He further noted, "It's a good plan." Mr. Kelso said he felt that it was much better than what was seen previously. He asked if there were any questions for Mr. Brehm. Mr. Bennett asked Mr. Brehm if he felt that there were substantial changes to the Plan, such that the County would need to review it. Mr. Brehm said he didn't think so. Mr. Bennett again asked for a revised plan just so the County has a record of it. Ms. Garcia agreed. She said she believed that all of the original issues that the County had were based on the shared driveway and the gravel parking area. She pointed out that these have been eliminated. Mr. Kelso pointed out that Lester Brickner had no comments.

Mr. Kelso asked Ms. Garcia about the memo from the North Middleton Authority regarding the depth of the existing service lines. Ms. Garcia said she would have to talk to Lee Koch about this. She said she believed

that this was based on the service that was going to the house where the parking lot is to be located. She noted that those lines have been abandoned. Mr. Kelso said he was guessing that this depends on where they are capped. Mr. Allshouse mentioned Mr. Koch's comments from the last meeting where he had discussed this. Mr. Allshouse said that Mr. Koch's concern was the pipes being too close to the surface and the weight from the parking area being on top of the abandoned pipes. He said that Mr. Koch wants to make sure that there is enough ground to cover the pipes. Ms. Garcia indicated that she had received the letter from Mr. Koch, but didn't have the depths of the pipes and had not been able to address his concerns yet. She explained that these pipes provided service to the house that has since been demolished. She also noted that these have been abandoned. Dr. Kauffman said that the pipes are capped at the street. Mr. Brehm pointed out that Lee Koch's concern is the line serving the Family Practice, and that this is what the second paragraph of his memo says. Ms. Garcia said that this could be worked out with Mr. Koch. She further stated that as far as she knows, the existing line does not run under the proposed area.

Mr. Kelso asked Mr. Brehm if his comments can be cleaned up fairly easily. Mr. Brehm responded, "I think so." He noted that they have to get their perc tests done and make some changes. He pointed out that the Board will not entertain it at the workshop meeting until it is cleaned up. Mr. Kelso acknowledged that he understood that. He asked the other Commission members if they wished to look at the Plan again. There were no requests from the Commission. Mr. Brehm said he didn't think there were any real planning issues. Mr. Kelso asked Ms. Garcia if she was okay with all of the comments presented. Ms. Garcia indicated that she was.

Mr. Kelso noted the four waivers to be considered. Mr. Fegley referred to the October 7, 2008 memo from Dawood. He noted that the memo describes the requested waivers. They are:

- Section 180-16.A-Preliminary Plan
- Section 180-37-Construction of Sidewalks
- Section 180-38-Construction of Curbs and Gutters
- Section 180-82-Submission of E&S Plan to Cumberland County Conservation District

Mr. Kelso noted that the Applicants were using the correct language of requested "modification to requirements," rather than "waivers."

Mr. Kelso asked for a motion on the requested modification to requirements of Section 180-16.A; the Preliminary Plan requirement.

Regarding the requested modification to requirements of Section 180-16.A, the Preliminary Plan requirement, Ronald Anderson moved to recommend approval. Bradley Mitchell seconded. All votes were in favor, and the motion carried.

Mr. Kelso asked for a motion on the requested modification to requirements of Section 180-37; the construction of sidewalks.

Regarding the requested modification to requirements of Section 180-37; the construction of sidewalks, Ronald Anderson moved to recommend approval. Pat McDowell seconded. All votes were in favor, and the motion carried.

Mr. Kelso asked for a motion on the requested modification to requirements of Section 180-38; the construction of curbs and gutters.

Regarding the requested modification to requirements of Section 180-38; Bradley Mitchell moved to recommend approval. This was seconded by Pat McDowell. All votes were in favor, and the motion carried.

Mr. Kelso asked for a motion on the requested modification to requirements of Section 180-82; submission of an E&S plan to the Cumberland County Conservation District.

Regarding the requested modification to requirements of Section 180-82; submission of an E&S plan to the Cumberland County Conservation District, Ronald Anderson moved to recommend approval. Bradley Mitchell seconded. All votes were in favor, and the motion carried.

Mr. Kelso asked Solicitor Allshouse if he would look at the Deed of Consolidation. Mr. Allshouse indicated that he looked at it months ago. Mr. Kelso suggested a motion to recommend approval of the Plan itself, based upon compliance with the Deed of Consolidation, any requirements from Engineering, making sure that the perc tests and the water issues are resolved, as well as the resolution of any issues with the North Middleton Authority.

Regarding the Spring Road Family Practice Preliminary/Final Subdivision/Land Development Plan, Pat McDowell moved to recommend to the Board of Supervisors that they approve the Plan, based upon compliance with the Deed of Consolidation, any requirements from Engineering, making sure that the perc tests and the water issues are resolved, as well as the resolution of any issues with the North Middleton Authority. Bradley Mitchell seconded. All votes were in favor, and the motion carried.

Review and Comment on the Comprehensive Plan

Mr. Kelso pointed out that no members of the public were present at this time. Frank Chlebnikow of Rettew came before the Commission and discussed the Comprehensive Plan at some length. Mr. Kelso noted that everyone here this evening was present at a previous joint meeting that was held. Mr. Chlebnikow noted that there had been some discussion at the last meeting about the different land use classifications that are being proposed. A handout summarizing the future land use classifications was provided to the Commission members.

Mr. Chlebnikow noted that the Comprehensive Plan is built around existing infrastructure; water and sewer. He identified two growth areas; a primary and a secondary, and said that this was all based upon the ability to serve this area with public sewer. He identified two agriculture conservation easements in the Township. He then identified a concentration of agriculture easements. He mentioned Agriculture Security areas and described them as a stepping stone to Agriculture Conservation and are a commitment by the farmer to farm the property and are also to protect the farmer against nuisance type ordinances. Mr. Chlebnikow stated that the Plan also built upon the built environment of Carlisle Borough. This area was pointed out on the map.

Mr. Chlebnikow listed and pointed out the following land use classifications:

- Agriculture
- Rural Resource
- Low to Medium Density Residential
- Medium to High Density Residential
- Village/Mixed Use
- Neighborhood Commercial
- Commercial/Light Industrial
- Industrial
- Public/Semi-Public
- Conservation Overlay

Mr. Chlebnikow commented at this point:

So, the Future Land Use Plan is really built upon existing conditions; ability to serve certain areas of the Township with infrastructure. It's tied back to your transportation plan, to make sure that your limited transportation dollars, either coming from the local level or from Tri-County are being spent in the most appropriate areas, you know, get the most bang for your buck. So again, that's a quick and dirty summary and most of you have already heard that. I have to thank Harry and Pat for bringing this information back to the Planning Commission and then coming back to the committee with your comments and giving us the ability to incorporate a lot of your thoughts and issues early in the process so when we get to this point in

time, as was seen on October 22nd joint meeting, pretty much everybody is on the same page as we move forward so, that's a benefit, and we teamed with Cumberland County Planning Department and Jim was instrumental in assisting us with gathering background information, mapping data, plus being a resident of the Township, he was a real benefit for the process.

Mr. Bennett noted that he is presently a former resident. Mr. Chlebnikow continued:

So, what's the purpose of this meeting tonight? Really it's two-fold. If we had public here, then they would comment to the Planning Commission, and your other purpose is to, if you support the Plan and you like the concept, move the Plan forward to the Board of Supervisors with a recommendation, and that can be a recommendation that it be approved as-is, a recommendation that it be approved subject to making some minor changes, and I think that's why we need to have the discussion tonight, or it can be, which I hope it's not, recommend you throw it out the door and you kick me in the butt on the way out. So that's really the purpose of this meeting here tonight.

A couple things where we are right now. There's a 45-day required review period. That expires on November 12th. At this point in time, the only comments that we have received back was from the County, and Jim can spend a couple of minutes just hitting those like he did at the last meeting. We have not received any comments back from the School District nor the surrounding municipalities which is a good sign, and that 45-day review period is coming to an end shortly. As I said, the County has reviewed the Plan. Jim mentioned that already. That was done on October 16th. I provided you with the County comments, and again we can really focus on specific areas of the Township.

We did have that meeting on October 22nd, which was a joint meeting as I mentioned. What did we do at that meeting? We reviewed the County comments. We heard from some public that were in attendance about this area where the trailer drop is proposed, and basically got on the same page in terms of getting Debi a digital copy that could be provided on the web site, which we got her the next day, and that's up and running.

So, what's next? Well, we have a public hearing scheduled for November 18th with the Board of Supervisors, and again that would be an opportunity for the public to come in and comment directly to the Board of Supervisors and at that point in time, the Board can determine what to do with those comments, whether they're worthy of being sent back to the committee, or everybody is satisfied with the current policy and condition of the Plan, and they can close the public hearing after they open it or after the people are done speaking. Those comments will be collected and then given back for us to take a look at.

Mr. Wolaver referred to the comments from the October 22nd meeting and asked if these would be incorporated or if they would have to come back and say those to the Supervisors. Mr. Chlebnikow responded to Mr. Wolaver:

We want to wait until we get to the Supervisors to make sure that the changes that are being made are only made once. We don't want to go ahead and make all the changes and then the Supervisors say no, go back to that previous...so we'll wait until we get authorization before we make any changes to this map at this point in time.

Mr. Kelso explained that at the last meeting the public comments were entertained but there was no decision by the Supervisors or anybody to change anything. Mr. Wolaver referred to the comments made by the Planning Commission at the October 22nd meeting and the comments being made tonight. He asked if these were part of the discussion or not. Mr. Chlebnikow responded to Mr. Wolaver:

Well, what we'll do is, just say for example, the one item of discussion is down along Neville Road. If you determine that you are satisfied that those homes are classified as Neighborhood Commercial with the Commercial Industrial classification behind it, nothing will change and we'll report back to the Board of Supervisors that your recommendation was to recommend approval of the Plan with no changes or if you decide that what they were talking about was making this whole area Village/Mixed Use, then your recommendation would be to consider making this Village/Mixed Use back in here, and the Board has the ultimate say on whether or not they would agree with that.

Mr. McDowell referred to Mr. Chlebnikow's reference to "back in here" and asked if he was talking about the strip of land right in front of where the proposed park is up there. Mr. Chlebnikow pointed out this location on the map. He responded to Mr. McDowell:

They talked about that strip of land. Then they talked about this whole thing being Village/Mixed Use and then there's three, I guess large residential homes that they brought up as potentially being included in that designation.

Mr. Mitchell noted that they want the 17 acres behind it to go into that grouping as well. Mr. Kelso said that one of the things that is being done with the Plan is to try to increase some commercial activities which he said "we're really shy on." Mr. Wolaver asked if that was what the residents wanted so they could then have an individual small business in their home. Mr. Kelso said that they have a mix. He noted that some are okay with what is proposed while some others would like to see it all made residential. Mr. Kelso added that he didn't think that was going to happen.

Mr. Chlebnikow continued:

Now if you think about Village/Mixed Use, you really have to begin to think about areas that are...it's a mix of non-intensive commercial uses with residential uses and some of these areas we have those conditions like we have out here. (He pointed out this location on the map) You need to think about, is this area...can this be developed as a village or is it better that these homes over the course of time be allowed to be turned into non-intensive commercial uses for attorneys and doctors and so forth. Now they may not like that concept, but again this is a long-range plan.

Mr. McDowell said he felt that Neighborhood Commercial is the most logical classification for the area being discussed when considering what is surrounding it. Mr. Kelso said he felt that trying to make a village one deep doesn't make a whole lot of sense. He also stated that he thinks that the intent is over time for all of that to become commercial, but that it should be made so that the houses can exist until that happens. There was some further discussion about the designations of a few different areas.

Mr. Kelso mentioned the next meeting. He said that if it happens like with the last Comprehensive Plan, people will come in and ask for their land to be zoned to something else. He said he guessed that it would have to be logged and somebody would have to make a decision on it. Mr. Chlebnikow explained what would happen at the public hearing. He said that members of the public would have the opportunity to step up to the microphone and make their comments to the Board of Supervisors. He explained that there is really no interaction with the public at that time, and that the comments are then processed to see what makes sense and what changes may be made. Mr. Chlebnikow further explained that the number of changes will determine whether the Plan has to go through the entire review process again.

Mr. Chlebnikow spoke further:

Now it doesn't mean that again, this is like a zoning ordinance, just because it's adopted by the Township doesn't mean that it stays static. You as a commission should be looking at it and if these people come in and maybe it's not suited for year one, but for maybe year four or five in the Plan some things have happened out here; now it makes sense to rethink this area down here. So every year you should be looking at the Plan and saying, are we okay? Are people coming in? Does it make sense? So, I would encourage the Township and the Planning Commission, I know we do on my planning commission. We would look at the plan and say what do we need to do and do we need to need to suggest any changes to our commissioners.

Mr. Wolaver asked if it was correct that there is a mandated two-year review on the Plan. Mr. Wolaver said he understood that there is a yearly look at the implementations, and then an overall look every two years. Mr. Mitchell asked if a list of action items addressed to the Planning Commission will be received. Mr. Chlebnikow pointed out that the action items are on the Plan. He spoke further:

The action items are on the Plan. Paul will take the lead on that or Debi, or the Commission will have a subcommittee of the Commission that will take a look at the Plan and determine what needs to be done. Maybe they'll say Frank, stay on Board with us and then each year you can provide that information to the

Commission as you have engineering consultants, having a planning consultant to say this is what needs to be done. Different options can happen like that. Usually it's a couple members on the Planning Commission using staff to have a little subcommittee. Then you have to start thinking about the budget season.

Mr. Kelso pointed out that unless the zoning is redone, none of this stuff will go into effect. He stated that he had talked to Supervisor Bucher tonight. Mr. Kelso said that he is going to try to get that into this year's budget at the next meeting. He noted that it makes sense to do this now because if it isn't put in now, then a whole year goes by before it is even started, and that once it is started it takes a while to get it done. He suggested the possibility of getting a grant. Mr. Kelso stated that it would be nice to get this moving so it could be implemented within a reasonable amount of time instead of sitting on it for over a year before starting the process of changing everything.

Mr. Chlebnikow then referred to the expansion area on the map and discussed the provision to use conservation by design concepts, which he explained is open space subdivision. He mentioned the National Lands Trust which he explained kind of champions the open space. He noted that the N.L.T. does have grant money available to incorporate the Growing Greener concepts into the ordinance. Mr. Chlebnikow stated that the N.L.T. will provide up to \$5,000, but he explained that the "kicker" is that the municipality must spend \$500 for the N.L.T. to review the ordinance and determine what needs to be done. Mr. Chlebnikow then explained that the real kicker is that to get the \$5,000, the municipality must fully abide by the N.L.T.'s provisions. He noted that some municipalities find their provisions to be very rigid and very strict. He explained that what happens is that a lot of municipalities will apply for the review to get the comments, but never apply for the \$5,000.

Mr. Kelso noted that the one area that may be commented on is the area around Route 641 down in the southeastern corner, because that is a change from residential. He said that the Village/Mixed Use seems to him like a win/win for everybody. He added that he didn't think it is going to be that big of a deal.

Mr. Chlebnikow stated, "So that's kind of where we are right now and again I appreciate the communication back and forth with the steering committee and the Planning Commission and the Township. It makes everybody's job a lot easier." Mr. Wolaver asked if the Commission will see the Plan again as the Planning Commission after it is looked at by the Board of Supervisors at the public hearing meeting on November 18th. Mr. Allshouse answered that it is not likely unless there are substantial changes. Mr. Wolaver asked if what the Commission is doing now is "our part of the adoption process." Mr. Chlebnikow acknowledged that this was correct. He stated that the goal would be for the public hearing and then the Supervisors to schedule the Plan for adoption at their next meeting.

Mr. Kelso spoke at this point:

My guess would be at the 18th we have the public hearing. At the workshop the following week we'll probably just discuss any issues we have with it because that's a non-voting meeting. That's on the 25th, on a Tuesday night. Then at the Township meeting on Thursday, December the 4th, that's when it will probably be adopted. Unless there's something that really goes haywire, I couldn't imagine them not adopting the thing.

Solicitor Allshouse pointed out that the adoption meeting needs to be advertised soon if the Supervisors are going to try to adopt it on December the 4th. Mr. Wolaver asked Chairman Kelso what the Commission's recommendation is tonight. Mr. Kelso stated that unless there are major problems with it, he would suggest a recommendation that the Township Supervisors approve the Plan as it is presented. He pointed out that some small changes can probably be made during the adoption process. Mr. Kelso said that to him, this makes the most sense. Mr. Wolaver asked if it was correct that the Plan is a policy statement guideline rather than a policy statement. Mr. Kelso answered that it is not law, and will not be until the zoning comes into effect. Mr. Chlebnikow pointed out that the Municipalities Planning Code says that the zoning has to be "generally consistent."

Mr. Mitchell had a suggestion about showing equivalent charts from ten years ago. He said that this would add a lot of strength to the report and also show what has been done since the last time a Comprehensive Plan was put together. Mr. Chlebnikow asked that these types of suggestions be jotted down and e-mailed to him. He said that these will be considered to see if they can be incorporated in there.

Mr. Kelso asked the other Commission members what they think. There was agreement that the Plan should be moved on. Mr. Kelso suggested a motion to recommend approval of the North Middleton Township Comprehensive Plan as written.

Bradley Mitchell moved to recommend to the Board of Supervisors that they approve the North Middleton Township Comprehensive Plan as written. The motion was seconded by Clifford Wolaver. All votes were in favor, and the motion carried.

Mr. Kelso thanked Mr. Chlebnikow. Solicitor Allshouse asked Mr. Chlebnikow if he could put together a short summary of the meetings held and the dates of those meetings that he can read into the record at the public hearing.

Subdivision and Land Development Ordinance Handouts

Mr. Fegley mentioned a handout that had been provided in the Commission members' binders. The handout pertains to a training session on Subdivision and Land Development Ordinances to be held in Cumberland County at the PSATS Training Center in Enola. Mr. Fegley said he would have to verify it with Township Manager Ealer, but that he believed the attendance fees are reimbursable by the Township. Mr. Fegley also said that the Governor's Center for Local Government Services puts on a "pretty good show." He recommended taking advantage of it.

Prior to adjournment, Mr. Fegley initiated some discussion about the scheduling of the December Planning Commission meeting. He noted that the regular scheduled meeting date is December 2nd, and is the second day of buck season. He pointed out that at least four of the usual attendees would likely not be available for that night's meeting. Mr. Fegley said it would be fine to have the meeting that night. He also noted that according to Mr. Allshouse, there is time to reschedule the meeting, if it is preferable to have everyone present. He suggested a couple of dates. Mr. Allshouse pointed out that Mr. Brehm would be sending a representative to the December 2nd meeting, and that the only plan on the agenda so far is another subdivision from Mr. Hurley. Mr. Kelso suggested that it be rescheduled for the 8th. Mr. Allshouse responded to a question from Mr. Fegley about the advertising of the rescheduling. There was agreement that the December Planning Commission meeting should be rescheduled for Monday, December 8, 2008 at 7:00 p.m.

Adjournment

Chairman Kelso asked for any further business. None was offered.

With no further business before the Commission at this time, Ronald Anderson made a motion to adjourn. This was seconded by Pat McDowell, and the meeting adjourned at 8:35 p.m.

Respectfully Submitted,

Pat McDowell
Secretary
North Middleton Township
Planning Commission

Michael S. Medvid
Recording Secretary