

North Middleton Township Planning Commission

Township Building
2051 Spring Road
Carlisle, PA 17013

Minutes of the Planning Commission Tuesday, January 6, 2009

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), **Pat McDowell** (Secretary), **Ronald Anderson**, and **Clifford Wolaver**

Codes Enforcement Officer-**Paul Fegley**

North Middleton Authority-**Lee Koch**

Brehm-Lebo Engineering-**Doug Brehm**

Cumberland County Planning Department-Jim Bennett

Visitors

Jennifer Garcia-Dawood Associates, Carlisle, PA
Tony Dawood-Dawood Associates, Carlisle, PA
John Clark-Hartman & Associates
Steve Johansen-Remax Realty Assoc.
Fred Gettys-Gettys Development Group

Call to Order

Chairman Harry Kelso (for 2008) called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Reorganization of the Planning Commission

Chairman Kelso asked Mr. Mitchell to initiate the reorganization of the Planning Commission for 2009. Mr. Mitchell asked for any nominations for Chairman of the Planning Commission.

Pat McDowell moved to nominate Harry Kelso as Chairman of the Planning Commission. Mr. Mitchell asked for a second to the motion. Ronald Anderson seconded the motion. Mr. Mitchell asked for any additional nominations for the position of Chairman. None were offered. Mr. Mitchell called for the vote on the motion. All votes were in favor and the motion carried.

Harry Kelso accepted the position of Chairman. He asked for a nomination for Vice-Chairman of the Planning Commission.

Pat McDowell moved to nominate Bradley Mitchell as Vice-Chairman of the Planning Commission. Mr. Kelso asked for a second to the motion. Ronald Anderson seconded the motion. Mr. Kelso asked for any additional nominations for Vice-Chairman. None were offered. Mr. Kelso called for the vote on the motion. All votes were in favor and the motion carried.

Mr. Mitchell accepted the position of Vice-Chairman. Mr. Kelso asked for a nomination for the position of Secretary.

Bradley Mitchell moved to nominate Pat McDowell as Secretary of the Planning Commission. Ronald Anderson seconded. Mr. Kelso asked for any other nominees for the position of Secretary. None were offered. Mr. Kelso called for the vote on the motion. All votes were in favor and the motion carried.

Mr. McDowell accepted the position of Secretary. The lineup for 2009 will be:

- Chairman-**Harry Kelso**
- Vice-Chairman-**Bradley Mitchell**
- Secretary-**Pat McDowell**

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 Thursday, December 18, 2008

Chairman Kelso asked for any changes, corrections, or additions to the minutes for the Thursday, December 18, 2008 Planning Commission meeting. None were requested.

Bradley Mitchell moved to approve the December 18, 2008 minutes as presented. Pat McDowell seconded. All votes were in favor, and the motion carried.

Pending Applications

#08-10: Costopoulos, Preliminary/Final Subdivision, Zoned Agricultural, Total Acreage 99 Acres +/-, Expiration Date: March 8, 2009

From the agenda:

This project is located between Easy Road and Stone Church Road, west of Route 74. This is a two-lot subdivision. The newly formed lot would be labeled Lot #2, consisting of 10 acres. This project was tabled by the Planning Commission at their December 18, 2008 meeting. The Planning Commission is now presented with a revised drawing, a response letter by Dawood dated December 29, 2008, and a Dawood letter for a request for modification of requirements dated December 29, 2008.

The Planning Commission will need to act on the following:

- Section 180-15.A-Preliminary/Final Plan Review
 - Section 180-23.B.(27)-Setbacks Shown On Residual Tract
 - Section 180-24.D., 180-27.C-Stormwater Management Plan
 - Section 180-24.G., 180-27.F-Grading Plan
 - Section 180-39.C.(1)(e)-Single Lot One-Time Exemption of Recreational Fees
 - The Plan itself
-

Jennifer Garcia came forward to represent this matter. Mr. Fegley described the documentation in the Commission members' binders. Mr. Kelso asked Ms. Garcia if the initial comments from Brehm-Lebo had been responded to. Ms. Garcia stated that the comments had been responded to and that some waivers had been added within the waiver requests. Mr. Kelso asked Mr. Brehm to go through his comments. Mr. Brehm mentioned his memo of November 26, 2008. He noted that there had been a number of comments

previously and that the Plan wasn't really reviewed here last month. He further indicated that Dawood has revised the Plan in the meantime and had cleaned up "basically about all those comments." Mr. Kelso asked Mr. Brehm to go through any comments that aren't satisfactory to him. Mr. Brehm read through his memo of December 31, 2008

Under Chapter 180-Subdivision and Land Development on page 2 of the memo, Comment #7 points out that a portion of the site is located within Lower Frankford Township, and that the Plan should be reviewed by Lower Frankford. Mr. Brehm said that one way or another, it should be coordinated with Lower Frankford to have the Plan looked at and signed prior to recording.

Comment #13 asks that an existing barn be shown on the plans for Lot 1. Comment #16 states that a no-well-zone should be shown around the primary and secondary perc and probe locations. Mr. Mitchell asked if this is circular. Mr. Brehm replied that it was his understanding that it should be an oval. He described the two probe sites with the percs in the middle and said that it sort of creates a rectangular site with linear sides and rounded-off ends.

Comment #20 has to do with the requested waiver of the Stormwater Management Plan. Mr. Brehm stated that this waiver is supported. Mr. Brehm briefly discussed Comments #23 through #25. These had to do with reducing the plans, certifications and needed code numbers.

Comment #29 states that if the Plan requires more than one sheet, a sheet layout index should be provided. Mr. Brehm pointed out that everything is on one drawing right now. Regarding Comment #30, Mr. Brehm indicated that a typical driveway location has been shown. The comment asks that a note be put on the Plan stating that the apron will be paved. Mr. Brehm added that there is no detail shown for that.

Mr. Brehm then discussed the requested waivers as follows:

- *Preliminary Plan*-Mr. Brehm stated that the Plan appears to qualify for this.
- *Setbacks Shown for the Residual Tract*-Mr. Brehm said that this is allowed sometimes on larger residual tracts so that the setbacks don't have to be drawn on the plans. He noted that these are on the Plan in tabular form.
- *Stormwater Management Plan*-Mr. Brehm noted that this had been touched on.
- *Grading Plan*-Mr. Brehm said that with the size of the lot with one home on it, he didn't believe this was an issue.
- *Recreation Fee*-Mr. Brehm indicated that this is up to Paul and the Board to figure out. He said he assumed that the Applicants would qualify for the exemption.

Mr. Brehm summarized that the remaining items appear to be "cleanup items." Mr. Kelso asked Ms. Garcia if this plan has gone before Lower Frankford yet. Ms. Garcia stated that the Plan has been submitted to Lower Frankford Township and that it is on their Planning Commission agenda for later this month. Mr. Kelso asked if they have to sign our plans. Mr. Fegley said that what typically happens is that once it gets cleaned up here he will hand it over to Lower Frankford for whenever they look at it. He further explained that he requires that they provide a recorded copy. He added, "It's not a big deal." Mr. Kelso asked Ms. Garcia if she was okay with the comments from Brehm-Lebo. Ms. Garcia stated that she was. Mr. Kelso asked if there are two good septic sites. Mr. Fegley indicated that there are.

Mr. Mitchell referred to Note #1 on the second page of the plans. He asked if there is a word missing. Ms. Garcia said that there appears to be a word missing and that there also may be an extra word. She stated that this would be corrected.

Mr. Kelso referred to the letter of December 29, 2008 from Dawood and asked if the referenced section numbers are all correct. Mr. Fegley indicated that he would quickly check these, but that he believed them to be correct. Mr. Kelso asked if this was done under the new Ordinance. Mr. Fegley said he believed it was.

Mr. Brehm pointed out that the recreation fee section number may not be correct. He said he believed it was to be 180-39 instead of 180-40. Mr. Fegley checked on this. Mr. Fegley stated that the correct number should be Section 180-39.C.(1)(e). This was pointed out in Comment #27 of the Brehm-Lebo memo. Mr. Brehm asked if there are any County comments. Mr. Bennett stated that there are no additional comments.

Mr. Kelso asked for any other questions. None were offered.

Mr. Kelso asked that the requested waivers be considered at this point. Regarding the requested waiver of the requirement for a Preliminary Plan, Mr. Kelso asked for a motion.

Pat McDowell moved to recommend approval of the requested waiver of the Preliminary Plan requirement, and for the Plan to be considered a Final Plan, Section 180-15.A. Ronald Anderson seconded. All votes were in favor, and the motion carried.

Regarding the requested waiver of the requirement to show setbacks on the residual tract, Mr. Kelso asked for a motion. It was noted that the setbacks are going to be shown in a table on the Plan.

Ronald Anderson moved to recommend approval of the requested waiver of the requirement to show setbacks on the residual tract, Section 180-23.B.(27). Bradley Mitchell seconded. All votes were in favor, and the motion carried.

Regarding the requested waiver of the requirement for a Stormwater Management Plan due to the size of the property, Mr. Kelso asked for a motion.

Bradley Mitchell moved to recommend approval of the requested waiver of the requirement for a Stormwater Management Plan, Section 180-24.D and Section 180-27.C. Pat McDowell seconded. All votes were in favor, and the motion carried.

Regarding the requested waiver of the requirement for a Grading Plan, Mr. Kelso asked for a motion.

Ronald Anderson moved to recommend approval of the requested waiver of the requirement for a Grading Plan, Section 180-24.G and Section 180-27.F. Pat McDowell seconded. All votes were in favor, and the motion carried.

Regarding the requested approval of the single lot one-time exemption of the recreational fees, Mr. Kelso asked for a motion.

Bradley Mitchell moved to recommend approval of the single lot one-time exemption of the recreational fees, Section 180-39.C.(1)(e). Clifford Wolaver seconded. All votes were in favor, and the motion carried.

Regarding the Plan itself, Chairman Kelso suggested a recommendation to approve, based upon satisfaction of all of the comments from Engineering, and a correction of Note #1 on Page 2, as well as signatures from Lower Frankford.

Bradley Mitchell moved to recommend approval of the Costopoulos Preliminary/Final Subdivision Plan based upon satisfaction of all of the comments from Engineering, and a correction of Note #1 on Page 2, as well as signatures from Lower Frankford Township. Ronald Anderson seconded. All votes were in favor, and the motion carried.

Ms. Garcia thanked the Commission.

#08-11: The Village at North Ridge Phase II, Final Subdivision, Zoned R-1, Total Acreage 9.75 Acres, Expiration Date: April 6, 2009

From the agenda:

Phase II of this project consists of 32 lots on which 16 duplexes will be constructed. The Planning Commission will need to act on the following:

- The Plan itself
-

Mr. Fegley began the discussion. He described the documentation in the Commission members' binders. He pointed out the memo from Lester Brickner of December 16, 2008 and noted that Mr. Brickner had no comments. Mr. Fegley then pointed out the memo from Fire Chief Shawn Brickner. Mr. Fegley noted that Chief Brickner had requested that a fire hydrant be moved across the street, and that this looks like a "minor deal." Mr. Fegley also pointed out a December 30, 2008 memo from Brehm-Lebo and a December 31, 2008 letter from the North Middleton Authority. Mr. Fegley asked if there were any County comments. Mr. Bennett offered his copy. Mr. Fegley mentioned that these had not been put in the binders.

This matter was represented by Fred Gettys, John Clark, and Steve Johansen.

Mr. Kelso asked Mr. Brehm to go through his comments. Mr. Brehm noted that this was his first review of this plan for the Planning Commission. He read from his memo of December 30th.

Comment #2 under Chapter 180-Subdivision and Land Development is asking for the name, address, seal, registration number and signature of the registered engineer and/or surveyor or landscape architect responsible for preparation of the Plan. Comment #3 asks for the signature of the owner.

Comment #4 states that the maximum lot coverage for multi-family units in the zoning data table should be revised as necessary. Mr. Brehm said he believed that the wrong number is in there. The comment also notes that the table should include off-street parking requirements. Comment #6 indicates that the Plan should be certified by a professional land surveyor.

Comment #7 says that a note shall be added to the plans indicating permitting requirements for stream encroachment. Mr. Brehm mentioned that this kind of ties into Comment #9. He said he wanted to make sure that the Applicants have all of the permits. Mr. Brehm also pointed out that this is a change in phasing and that some minor adjustments have been made to the actual size of this phase because of the stormwater. He said he believed that the Applicants have all of their permits. He asked Mr. Clark about this. Mr. Clark stated that all of the 105 permitting has been acquired for the entire development. Mr. Brehm asked that copies of these be provided to the Township. He also said that it wouldn't be a bad idea to cite those on the Plan.

Comment #8 states that all public improvement guarantees with construction cost estimate in accordance with Article XIII should be provided.

Comment #10 says that the Township should consider requiring a temporary turnaround at Appalachian Avenue and Crest View as well as the extension of all buried utilities ten feet (10') past the improved cartway.

Comment #11 mentions that the cross slope of the proposed streets provided in the profiles is not consistent with the detail provided on sheet 17. The comment asks for clarification. Comment #12 states that easements should be provided along all water courses and drainageways located on proposed building lots. Mr. Brehm pointed out that there is a drainageway that comes kind of close to the backs of a couple of lots.

Comment #13 notes that single-family detached or semi-detached residential developments shall dedicate a minimum of 3,000 square feet per lot dwelling or unit to recreational use or pay a fee in lieu of such dedication. Mr. Brehm pointed out that the Board will have to act on that.

Comment #14 states that the revised Stormwater Management Report indicates that the berm and spillway of WQB9 will be temporarily raised. The comment further states that the proposed changes should be depicted on the plans.

Mr. Brehm mentioned that Comment #15 is back in line with the permitting that was mentioned in Comments #7 and #9. The comment states that it should be considered if the proposed stormwater management changes require NPDES minor modification approval from D.E.P. Mr. Brehm stated, "I can't imagine that they do, because they are fairly minor." He added that this is something mostly for Mr. Clark to make sure that they are okay with.

Comment #16 indicates that each Stormwater Management Plan shall contain provisions which clearly set forth the ownership and maintenance responsibility of all permanent stormwater management facilities as outlined in Section 180-82 of the Ordinance.

Mr. Brehm explained that Comment #17 has to do with setting the final grades. He noted that Comment #18 kind of plays into this too. Mr. Brehm said he is asking to have the top of foundation wall numbers put on the plans. He said he wasn't sure if this is something that has been asked of the Applicants before. Mr. Clark noted that this is something that hasn't been done, and that this would be tough to do. He said that typically what is shown is the finished floor of the garage and the finished floor of the house so that it can be determined where the top of the block wall will be. Mr. Brehm pointed that this is what has been done for years but that this is lately being looked at differently.

Mr. Fegley spoke at this point:

We're having problems. What's occurred is in the past you showed it as the Finished Floor Elevation, and because of the U.C.C. codes, the Unified Construction Code now, the Code in there says your finished grade cannot be within 8 inches of the foundation wall height. It has to have so much slope in so many feet. What was happening was, everybody was following the print and the house was in a position such that when it came to putting the final grade in, the guys were tight. The yard was flat. So, what we're asking now is for some kind of detail illustrating that your final grade needs to be within...no nearer than 8 inches to a foundation wall height.

Mr. Clark began to explain what he typically tells the people who do the design work. Mr. Fegley pointed out that a foot in height is lost between the finished floor and the top of the foundation when all is said and done. Mr. Clark said that from the top of the foundation wall down he likes to see at least a foot. Mr. Brehm said that what is being asked for is 18 inches to 2 feet.

Mr. Brehm spoke at this point:

What's happened is you put finished floor on then you've got the garages lower than the finished floor. All the grades come up. You do your grading plan and the builders are just not getting that right. They're sort of following the plan but the houses are ending up too low. So you've got two houses with no room for a swale between them or you've got water coming off a hill into the back yard and so we've asked that you get this top of foundation on them because the Code is kind of tied to that and goes out from there. But the goal is to make it abundantly clear on your plan what the builders are supposed to do.

Mr. Clark asked if he could show a detail in lieu of marking the foundation elevation. Mr. Brehm replied, "I guess that's okay."

Mr. Fegley spoke again:

As long as you can demonstrate that the final grade cannot be any closer than 8 inches of the top of the foundation wall, and that there is enough room for a minimum of 6 inches of slope from the wall out 10 feet, so when these contractors get in here tight and there are swales between these buildings, they have room to do it. They get the footer up higher so that they have room to put more slope of the earth in. We've had several areas where the grade was near flat, and as a subsequence we had to allow them to bring the dirt higher up the foundation wall. Doesn't sound like a big deal until somebody starts throwing six inches of tanbark around it. Pretty soon then we've got water coming over the foundation wall down into the basement.

Mr. Brehm added this:

And then that plays into a comment about some of the grading and contours around the building. You ought to revisit a couple of those and make sure that the water is flowing away from the actual building. We just want to make it abundantly clear to everybody how it is supposed to be because we get two, three, four of these a year. There's actually been a couple in Fred's other phases here and there and it's the builder, you know, and the house just gets set too low. We go out and there's no room to make it right. Then you're looking at French drains and all sorts of other Band-Aid approaches to it. A lot of guys are just looking at the curb and saying why don't we keep it a foot above the curb, but that isn't the way it needs to be done either because your grading plan is sort of all integrated. That's what we're looking for. If you have any questions about that, Paul will straighten you out.

Mr. Brehm continued to read through his comments. Comment #19 points out that there is a street tree between Lots 10 and 11 which appears to interfere with the proposed stormwater conveyance and IW-2. Mr. Brehm explained that it appears to be on top of the stormwater system and should be moved. Comment #20 notes that there are some street trees that are closer than 40 feet on center. Mr. Brehm said this was due to the driveway scheme. He stated that if it was not possible to comply, typically a waiver is requested if some are closer than 40. He said though that there is a requirement for the number of trees in a particular lot or street in total.

Mr. Brehm had no other comments. Mr. Clark asked to go back through the comments. Mr. Clark said that some of the items have been addressed. He stated that Comment #4 has been taken care of. He noted that Comments #7 and #9 were talked about.

Mr. Clark spoke about the issue of the temporary turnarounds:

The issue of the temporary turnaround at the end of Appalachian and Crest View...what we did there is we proposed to pave the street. We normally wouldn't have had to but since the lots don't front on that street, we didn't want to just leave that street not constructed because of the grading that leads up to that from the lots so we proposed to put the curb and the sidewalk in. That way the lot can be sold and you wouldn't have that interference in the future for them coming back in and constructing that street and having to redisturb that yard area along those lots. So we've simply proposed not to put a turnaround in. There's no need for anybody to go there, into that street. There's no driveways that come off of it, etc. Rather than putting in a big turnaround really that isn't necessary, that's why we did what we're doing, so if you need to request a waiver for that, we will do that. We just didn't think it was necessary.

Mr. Kelso asked Mr. Brehm why it would be necessary to do that if they are going to pave it and if nobody goes back there. Mr. Brehm replied, "Well, we typically ask for them. You can't have a dead-end street. I know they're phasing it." To Mr. Clark, Mr. Brehm asked, "Let's say we go through with this and then you offer to dedicate; you're not going to offer to dedicate any portion of Appalachian Avenue or Crest View. Is that what you're saying?" Mr. Clark responded, "We would dedicate that." Solicitor Allshouse pointed out that the Township won't take it without a turnaround for the plow. Mr. Brehm stated, "If that's the route you're going to go, you've got to have a turnaround. He won't take the street, without a permanent turnaround, really."

Mr. Gettys spoke at this point:

I'd like to interject a thought here too, and this goes back again really on the early approval of the Villages, and of course more recently with Mountain View Estates, and really the only reason we're where we are now, and this has been reviewed by Engineering and by Counsel for the Township in a workshop session with the Board as a matter of fact, is the fact that this was mandated to connect into Mountain View Estates, and indeed, all things being equal, and hopefully they will coincide, that really the access will concurrently occur with the Phase II of the Villages and with Phase I in Mountain View. So that's a necessity that this is even going forward really to validate Phase I of Mountain View Estates, and maybe you're not altogether familiar with what we're talking about, but this goes back...and Doug can, I'm sure, he's well aware of the transition of what's happened here in this matter.

Mr. Brehm explained that what Mr. Gettys was saying is that they switched phases because Mountain View is getting started and they have to connect.

Mr. Brehm spoke at this point:

So it comes down to what you want to do with these streets. If you want to turn Crest View and Appalachian over, you're going to have to have a turnaround. If not, I suppose you could request just West View Court to be taken over, and nothing done on the other two, you know what I'm saying, in the mean time. In all your phases Fred, you had temporary turnarounds as you inched your way back through the property. This isn't much different.

Mr. Gettys responded to Mr. Brehm:

As a general rule, yeah, you're right Doug. Here this is a little different situation where all things being equal, we would be hopeful that there's going to be a concurrent crossover from the Villages into Mountain View Estates. Currently a common turnaround anymore, you know, you're talking about 25,000 to 30,000 dollars, which is easy enough. We could spend that money, but indeed, if this is going to transition, as it's supposed to, it would be a waste of money.

At this point Mr. Brehm noted to Mr. Gettys that he was not being asked to pave it, but rather he was just being asked to put in a turnaround. Mr. Gettys stated that last time that happened it didn't turn out that way, and that he wanted this to be the understanding. Mr. Brehm said to Mr. Gettys that he may have asked the Township to take it over. Mr. Gettys acknowledged that this was correct. Mr. Brehm pointed out that Crest View is going back to one of the phases in this project.

Mr. Brehm spoke further:

Typically they like to see the turnarounds. These are stubs so there shouldn't be people going back there. On some of your longer streets that phased on through we did want them because a bus was going to go back there, or a snow plow or something needed to be able to turn around. And so, we wanted some sort of turnaround. The thing is, if you don't go forward with the future phases or Mountain View, you've got a stub street there, and the Township is not going to take it.

Mr. Gettys suggested that the only other alternative might be to make the phasing to go by that stub street. Mr. Clark asked about the possibility of simply putting up a barrier at the end of the street, and that if the Township does accept it just to not plow it. Mr. Allshouse stated that this is a liability issue for the Township. He further stated that if the Township does accept it then the Township is required to maintain it. Mr. Allshouse further explained that it's a public road and everyone has an access to it. He added that the Township can't not plow something that has been accepted. Mr. Clark asked about the possibility of just barricading it off. Mr. Allshouse stated that the Township can't barricade a public street without passing an ordinance to close a public street. Mr. Fegley asked Mr. Clark if he was talking about barricading it at the intersection where those lots would not be developed. Mr. Clark acknowledged that this was correct. Mr. Allshouse noted that what is being proposed is to barricade that stretch so no one goes back there and there isn't a turnaround. He explained that the problem is that you can't do that easily because the Township just can't go out and put barricades on public roads that have been dedicated. He stated that they are not "our roads," they are "the public roads," and that the Township holds them in trust and maintains them for the public so the Township can't just decide to do that without an ordinance and a public hearing and all of those things. Mr. Allshouse added, "If we could, that would be an easy solution."

Mr. Gettys asked if there would be any problem with going through on the dedication of the phasing to run the phase right by that. He noted that this has been done before. Mr. Brehm stated to Mr. Gettys, "If you don't offer them for dedication, I don't think we're talking about it."

Solicitor Allshouse spoke at this point:

If you don't offer them for dedication, I think you've got a better issue, or if you really think Mountain View is going to be concurrent, maybe you get to the Board of Supervisors and propose a condition that says you have whatever...six months before you put in a turnaround. Or if you really think it's going to be concurrent, you can get those improvements in Mountain View done, but if it's going to be two years, because what the Board is looking at is, and I know it's not something you want to hear. Fred Gettys goes bankrupt. Now we

have a planned approval of a stub street that's never going to extend. You're not going to go into Mountain View and we can't do anything about it. Eventually what happens is this. All the people on those streets say come take our street, come take our street. He paved it to spec. We don't want a street unless it's got a turnaround. That's why we have to look at it as individual...even though we know where you want to go with it, and so there might be some proposal to make to the Board of Supervisors if the Planning Commission is willing to move it on with a recommendation for something to say, here's our options. Can you accept something in the middle?

Mr. Gettys asked if a perpetual easement or an access can resolve this. Mr. Brehm responded to Mr. Gettys:

What we've typically seen Fred is sort of a temporary...it's a dashed right-of-way around it, and the temporary turnaround. And it stays that way until you get to the situation maybe Mark's talking about where we all decide that it's not ever going to get done. Then you have the right-of-way and the means to go in and finish the road so the Township can take the road over, but we don't have any of that on paper here.

Mr. Allshouse followed up on this:

And that's the problem. If you go to the stub street and we ever have to take the road, we don't have the ability to make a turnaround because we don't own the bulb. We just own the stub street, and that's why a temporary turnaround is always required on anything that we're going to end up getting, even though we know, and the hope is you get Mountain View done and you connect them, we've got to assume unless there's...it would be one thing if there is a plan for Mountain View in front of us showing the connection.

At this point Mr. Clark indicated that there is a plan. Mr. Allshouse continued:

Then I think if there is, then you have the ability to go to the Board and say we'll show the temporary turnaround but can we have some leeway on when it has to be constructed.

Mr. Gettys stated that there is a plan that has been approved by the Board that has Mountain View Estates in the final first phase subject to the resolution of matters with the Authority. He noted that there are not any structural issues. Mr. Allshouse asked if this plan shows the connection of these two streets, and if the Mountain View street is coming into a turnaround or a stub. Mr. Gettys said he didn't have a plan with him but that he was sure that it is a "straight through" and that "there is no temporary." Mr. Clark stated that the approval of the first phase of Mountain View required that at the time this would go through, and that that is the reason for this plan. Mr. Mitchell asked what the access will be to Phase II. Mr. Gettys said that this will be through Phase VII of North Ridge and from Creek View. He said there were five different areas there. Mr. Gettys mentioned the dictate from the Township for a second entrance, and said that that is why this is all being generated.

Mr. Allshouse asked Mr. Gettys if there is an approved Final on Mountain View showing that that street connects to the one that is talked about as being a stub. Mr. Gettys answered, "I think it does." Mr. Allshouse said that if that's the case, the land development for Mountain View would cover the construction of Mountain View's portion and the land development for this plan would cover the Township being able to construct the connection for this portion and it wouldn't need a turnaround. Mr. Brehm indicated that this was correct. Mr. Mitchell pointed out that this is for Appalachian Avenue but Crest View would still need a turnaround. Mr. Brehm acknowledged that Crest View is another issue. Mr. Brehm suggested to Mr. Clark that at a minimum, maybe some of the detail from Mountain View should be dashed in showing the road coming up there and maybe adding some notes about that. There was some further discussion about the final first phase of Mountain View. Mr. Gettys said that the Board had approved this and that all of the exceptions were granted. Mr. Allshouse stated that if that's the case, then he felt that Appalachian Avenue is resolved. Mr. Brehm stated, "If we get them both bonded up and they're going to connect, we're good." Mr. Allshouse suggested showing some minor detail off the end of Appalachian Avenue so that the Board remembers. He suggested some note saying "approved per final whatever on such and such a date for connection." Mr. Allshouse noted that that will get rid of that issue and that it will not be seen as a stub street. Mr. Brehm added, "And if we have construction escrows for both, then we're good." Mr. Allshouse agreed. He pointed out that this just leaves Crest View.

Mr. Gettys referred to the matter of the temporary turnaround and asked Mr. Brehm if this means grading out to a certain level but does not necessitate blacktop. Mr. Brehm indicated that this was correct. He described getting the shale straightened out and putting some stone on it. Mr. Allshouse added that it should be shown as the bulb in the right-of-way. Mr. Brehm also noted that Lester Brickner also wants any buried utilities to go out past the end of the blacktop. Mr. Gettys noted that this has been done previously. Mr. Brehm stated that the only reason to pave that would be at the point when it isn't going to be finished. He said that the escrow should probably include money for a paved cul-de-sac in the event that it is not finished. He explained that if Mr. Gettys would walk, the Township could seize the bond and finish the street and take it over.

Mr. Mitchell referred to the phasing schedule shown on the plans. He asked if this is the current schedule, the original, or both. Mr. Gettys responded to this question and provided some explanation. Mr. Clark referred to the phasing schedule as shown on sheet 3. He explained that Phase II and Phase IV were originally Phase III.

Mr. Kelso asked Mr. Gettys if Phase I is what is now being worked on. Mr. Gettys acknowledged that this was correct. Mr. Kelso asked about the access to Phase II. Mr. Gettys stated that this will be through Phase VII of North Ridge. Mr. Clark and Mr. Brehm came forward and pointed out the access. There was also some discussion of what is existing and what is being planned.

Mr. Kelso asked Mr. Brehm if just a little bit more work needs to be done to this. Mr. Brehm acknowledged that this was correct. He stated that there are no real substantial design issues but is just all the notes that were read. He mentioned elevations, grading, and the issues that were just talked about. Mr. Gettys said that this would be turned back into the Township hopefully for the workshop meeting this month. He acknowledged that there is a lot of writing and further stated, "Not a lot of issues I don't think, Doug, that we can't correct."

Mr. Kelso asked Mr. Koch for his comments. The following are Mr. Koch's initial comments:

This whole plan was changed to accommodate a second access. That's the whole thing, but most of the Authority's concerns center around fire flow protection, because when Villages was first put in, there was a lot of 8-inch pipe for water main. Then Mountain View came along and that was extending those 8-inch pipes way on out further, and that became a fire flow situation. So, my comments here or recommendations center around how can we make sure that we have water flowing into the future of Mountain View Estates. It actually doesn't have too much involved with what we're looking at here on Phase II because there is a single feed pipe to 32 homes. Well, that feed pipe goes down, we knock out 32 homes. We've knocked out 50 homes already. I mean, it happens. You don't like to do it, but it does happen. But now we're taking that single feed pipe and we're running into Mountain View Estates, so I've put together some recommendations on how to correct that and basically there is some timing issues involved in that. If you want to fold out your plan I'll kind of show you real quickly.

Mr. Koch came forward. He spoke at length and repeatedly referred to the Utility Plan on page 5 and the Phasing Plan on page 3. He also referred to his letter of December 31, 2008. What follows are his comments as he referred to what was depicted on the plans:

Essentially what you have, it's not shown, but you have Phase VII of North Ridge. There's an 8-inch line there. Down a few lots, over here, you have another access from Phase VII; Long View, and then you have Crest View. So, if this line here, this is your single feed line, and it goes down into Appalachian, and when this gets built, you're going to be adding to those 32 homes when Mountain View comes along. Now the way we orchestrated that with Mountain View is we put in a water line easement right here at Crest View. If you watch the water line, the water line comes down here and you watch your valves where they're at, and where this other water line comes back through an easement and back in here to Lot 9, and Lot 9 abuts, I believe it's 28 and 29 of Mountain View Estates, and basically it's going to turn again, go down Mountain View Estates, to the street, and then come along that street right into here. Now, that can be done. I mean this work can be done right here, right now, but everybody is talking about being concurrent with Mountain View Estates, but the permitting isn't completed on Mountain View Estates and may not be for many months, because it's in to D.E.P. But once Mountain View Estates goes in, it would be my recommendation that that water line easement also get built, get built down in here where that temporary road is over to this point. You

now have two feeds into Mountain View Estates, and additionally it's only about three or four lots on over or so, to get into this other water line and extend it on down. Now you have several sources of water feeding this area; going into Mountain View Estates. They're still only 8-inch lines. They're still only 8-inch lines, but you have dual feeds coming in on the 8-inch lines and, of course, North Ridge Phase VI and Phase V and all those, they're all networked. They're all looped, which is what you want to do on a system.

Part of the system back in through the other phasing, if you go to that phasing plan. If you go in here, a lot of these pipes that came in here this 12-inch, 12-inch, 12-inch....the rest of it is 8. By having this 12 coming on through, you're not bringing that 12 that really gives you your fire flow protection until later years. Once this is built and then once that's built. Now under my plan, or under the plan, here's Long View, here's Over View, here's West View. This 8-inch will first serve this part. But once Mountain View starts going, then you pull in this secondary line over here to 9, and you also bring Long View down here and tie-in. You're already going to have the water mains on out of this because they're going to build them because we require them to be built beyond the black top; beyond the macadam surfaces. So you're really not talking that far. You're talking a few lots over and this one's already down here. Now that would be a combination of 8 and 12 because this when it finally gets built, that's going to be 12-inch. Once this gets built, you're going to have water lines right to here; 12-inch, and then you just finish that. Now that could be several years; depends on markets, depends on whatever, but then you're bringing your water on up to speed as to what we wanted it when this plan was first conceived and then when this plan was put in afterwards. Because if you recall, when North Ridge came in, there was an approved plan with 8-inch, then Mountain View came in and we went back and modeled it and we said hey, we have to update some if these pipe sizes or we're not going to have fire flow protection, and that was the issue. That's what I tried to write in here but a lot of times it's better to show someone in a picture as to actually what you're trying to accomplish.

I mean the Authority realizes, and I was at the workshop meeting. It was on October 29th, and I don't think there was anything that anybody was concerned with. I did mention at that meeting about the single water pipe feed. The sewer pipe I wasn't worried about because that's already up here. That's under construction, or is constructed. That's not an issue, but the water feed and fire flow would be an issue and if this only gets built and you don't do some of that other stuff, you're only going to have a single feed going into Mountain View and you're only going to exaggerate your potential problem for water flow. That's what I wrote down in the memo. Perhaps what I could do is just take one of these sheets out and color code it so that the Supervisors when they get it they understand what I'm saying, you know, everybody has a picture and they can see that somehow this has to be memorialized. I don't know the venue to do it, but that's Mark's call on that, how we would memorialize that but that would be the recommendation from the water standpoint.

The only other things that we have, while we're up here standing here. I looked at Note 23. This Note 23 also appears on the plans in other places, like on sheet 4, sheet 5. That note seems a little weak to me in comparison to what we've had on other plans because other plans, it says on easements and right-of-ways there's no changing to any grading. There was no plantings. There was no structures, and the note that is actually in the Code Book that the Board of Supervisors recently passed is 164-5 is "obstructions prohibited of easements and right-of-ways." That has a little bit more teeth than what I think that note does. I think this note here is a little weak on what we've had in the past, because we had some issues with grading and people went in there and they did some grading.

At this point Mr. Koch asked Mr. Fegley if he had seen that note. Mr. Fegley indicated he hadn't. Mr. Clark pointed out that this note had been brought in from the Preliminary Plan. He said that it could certainly be updated. Mr. Fegley read the following from the current Code:

- "The erection, construction, placement, locating or planting of any improvement, fixture, fence, landscaping, vegetation, trees, shrubbery, or other object, whether permanent or temporary along any public water or sewer easement or North Middleton Township right-of-way, or North Middleton Authority shall be prohibited."

Mr. Koch stated that the big thing in there is fences. He noted the problem of people putting up fences in easements. Mr. Gettys pointed out that the deeded restrictions do not allow any fences. Mr. Koch acknowledged that this was a good thing but he still suggested that the note needs to be upgraded. He

stated that the other things he had were minor comments. Mr. Koch summarized that his big issue was the timing on the improvements with the water and the tie-ins to North Ridge Phase VII and into Mountain View.

A somewhat lengthy discussion followed.

Mr. Gettys referred to the possible temporary cul-de-sac and said that this would have nothing to do with Mountain View Estates. He stated that the area being discussed is a self-sustaining area with water and sewer. Mr. Koch acknowledged that he understood that completely. He spoke further:

I completely and fully understand that this is self-sustaining. What I'm saying is, this needs to be memorialized that when Mountain View Estates...this is just, you don't just ignore Mountain View Estates and the issue of this water. You have to recognize that Mountain View Estates is coming in and how your feed source is and that's what I'm trying to do here is memorialize it that somehow what you're doing now and with what you're going to do with the rest of the Villages and Mountain View Estates all gets memorialized, and it all has a pattern to when it gets built.

Mr. Gettys said he wished to verify what Mr. Koch was saying by talking about "memorializing." Mr. Gettys stated that to him this didn't mean "constructing." Mr. Koch replied, "Not at this time." Mr. Koch said that he had stated right at the beginning that this can go in as it is right now, but that when going into Mountain View...(at this point Mr. Gettys said that he had always assumed that this would be true and that it was never an issue). Mr. Mitchell pointed out that the easements have to be in place. Mr. Koch noted that the easements are in place. Mr. Allshouse stated, "If it's an improvement to go into this phase at some point, then it should be noted on the Plan that this improvement must be constructed prior to "XYZ" occurring in Mountain View." Mr. Koch said that it actually doesn't go into this phase, and that it actually is part of Mountain View. Mr. Allshouse asked if the feed into Mountain View is coming through this phase. Mr. Koch replied, "It will come through this phase." Mr. Allshouse asked if it is shown on the Plan now. Mr. Koch answered, "It is shown on the Plan now." Mr. Allshouse spoke further:

Then I think a plan note that says this feed must be constructed prior to something; a trigger point in Mountain View, and that's what needs to be determined, and the note goes on this plan because this is the plan that's showing the feed.

Mr. Clark commented at this point:

This is what I heard. When we did the design on the first phase of Mountain View, which we acquired approval of; the water line was going to feed through this system. After Lee saw that this was going to have an additional demand, his engineers did a model of this, and said all right, in the future what we need to do is have a line that runs to the rear of the lots but what I understood is, we didn't have to connect that until the future phases beyond Phase I in Mountain View were actually going to be proposed.

Mr. Allshouse stated:

If that's right, and I don't know that that's right, but let's say that's right, or whatever is determined; that's the note that needs to go onto this plan, that has the improvement that says this feed must be constructed at such and such a time and that's what needs to be determined; when does that feed have to be constructed.

Mr. Koch stated, "We always said, always said, that we wanted to have a second feed point into Mountain View Estates, always." He further stated, "And we never said it was deferred. It was when Mountain View Estates starts because that's the start of it."

Mr. Clark indicated that there are notes on their plans saying that that wouldn't be extended until that phase was built here. Mr. Clark said that he would have to look at that. Mr. Koch stated, "We'll update it." Mr. Clark stated, "Because that it is not how we have our plans...I'm telling you that right now. Our plans for this phase, that stub stops at that property line." Mr. Koch referred to the Plan and said, "Well sure for this it stops right here. I'm talking when Mountain View Estates comes in and you need to extend that out or you don't have a second feed line." Mr. Clark acknowledged that he understood that. Mr. Kelso asked if there is an approved plan that does not have a secondary feed. Mr. Koch replied, "No, we have an approved plan. It

does show a secondary feed, but I'm saying that you need to have it sequenced that the feed gets done as soon as the first phase goes in." Mr. Clark pointed out that Phase I of Mountain View does not show that connected." Again Mr. Koch referred to the Plan and stated, "Phase I of Mountain View doesn't show this either, coming over." Mr. Clark acknowledged that Phase I of Mountain View does not show what Mr. Koch had pointed out.

Mr. Koch spoke further:

Does not because we changed everything. Now we're in this process of changing from Phase 1 out here. Now this is Phase II. Phase II here and Phase III weren't built and if this would have been Phase III, then everything would have been built out here and then we would have had all of that 12-inch and 8-inch and all that network of piping, so we're changing things now. We're changing the sequence of things and we have to reevaluate how we build it because of that, or you're not going to end up with enough fire flow.

Mr. Kelso asked if Phase I of Mountain View needs to be looked at even though it's final. Mr. Koch stated that this is where he thinks it needs to be changed and needs to be memorialized. Mr. Koch said, "That's where I think the notes need to be added, is in Mountain View." He further stated, "I'm bringing it up now because you need to understand how this has altered..." At this point Mr. Kelso asked what has to be done to this thing here. He asked to make the assumption that Mountain View has to be amended or revised.

Mr. Koch responded to Mr. Kelso:

We just have to know...we just have to make sure that it is not forgotten. In my mind, if we just capture it correctly on the minutes here and capture it in the minutes at the Board of Supervisors here, and everyone has an understanding that when this Mountain View gets done, there's going to be some additional water line extensions to provide secondary looping, then I think we're all fine.

Mr. Kelso pointed out that these will have to be shown on the plan at some point. Mr. Gettys asked Mr. Koch when this occurs. Mr. Koch noted that Mr. Gettys had said that things would be done in 5 years. Mr. Koch said he thought this was pretty ambitious and that he thought it might be more like 15-20 years. He stated that this is why he thinks it's important to get this memorialized.

Mr. Gettys spoke at this point:

I don't think we have an issue with what you're trying to say here, and this in and by itself, if we forgot about Mountain View Estates, because this is an approved, but at the moment subject...here we've been waiting for months and that hasn't occurred, but if we took this off and put a temporary cul-de-sac in here, then this is all we're addressing, with the provision for future up here in Mountain View.

Mr. Koch indicated that he understood. Mr. Gettys asked if this is acceptable. Mr. Koch responded to Mr. Gettys by stating, "This is fine, but when you do Mountain View Estates, certain other additional things have to occur." Mr. Gettys replied, "We recognized that a long time ago." Mr. Koch stated that this is the first that the plan has been seen. He asked Mr. Gettys how this could have been recognized. Mr. Gettys stated, "This plan, Phase I as a matter of fact, was approved with an 8-inch line." Mr. Koch noted that everybody understands that. Mr. Gettys then said that after it was approved, it was really a change that was brought about after approval. He added, "But we acceded to your concerns about water flow, and we have no issue with this back here."

Mr. Clark then spoke:

I think that what Fred is saying it this. So that the Planning Commission can hear it, is is that you're okay with this plan and they can recommend approval of this plan and you can still get what you need because of the Phase 1 requirement. When this is being built, you need to have this line extended. This shows all the interconnections that you need up to this point to be able to extend this into Phase I of Mountain View.

Mr. Koch responded:

That's absolutely correct. That's what I stated, and what I stated, right in here (the December 31st letter), "With this in mind, the Authority is recommending additional waterline extensions be included in the construction of Phase I-Mountain View Estates." Okay, that's what I want everybody to understand.

Solicitor Allshouse then spoke:

Okay, here's the bottom line. Here's the way you memorialize it. John, if you would, draft a letter in response to Lee's acknowledging that when Phase I of Mountain View is done, those extensions and those new pipes will be put in. Everybody's got a copy of it. It can be placed in Mountain View, etc., etc. That's the easiest way to do it. It doesn't have to do a plan change.

Mr. Kelso asked Mr. Gettys why it is so important that this thing be done this month.

Mr. Gettys responded to Mr. Kelso:

I've been here I guess two, three years now on this project, and I don't know whether any of you have a concept of what's going on out here in the economy. I have invested hundreds of thousands of dollars. I've contributed. Now money means nothing in what a developer does. I know it's important to your taxpayers, but Harry, and I can tell here in the D.E.P. and more recently here with the water capacity, we went ahead and did a lot of things based on the fact that we would have a capacity for Mountain View Estates. That came through back in September. Now nothing has occurred since that, and all I'm trying to say is that we are in an economic environment here that time is of an essence. So, it may be easy to sit back here and let it float by, but you guys still want to act on this before you leave office and I don't want to leave here before I leave...we can, as a matter of fact put this aside if we wish to and don't do anything, and that might be the smart thing to do, in what we're trying to do here in the economy today with development but that isn't my particular nature. I'm indeed aggressive to the standpoint that I want to respond and I've responded to all of the things here. So I don't know if there is a need to stall, as long as we respond to you with what you want and what you demand. We've always tried to do that...time goes by, but there's a lot of time going by, and I've never had a problem or issue with the Township; speed-wise or otherwise, and I'll be glad to respond to anything here with regard to an issue just as I did with Lee. We don't have an issue. Never have. We're here to talk with you, and there is a time element and it is important.

Mr. Kelso asked Mr. Brehm how major these things are. Mr. Brehm said that the way he looks at, they can fix all of this stuff, and that it is the sequence of the process, as far as when the workshop comes up next. He pointed out that they can't go to the workshop until everything is cleaned up. Mr. Brehm asked Mr. Fegley if this was correct. Mr. Fegley acknowledged that that was correct, and noted that there is a set guideline for time submittal. Mr. Brehm said he didn't see anything that the Planning Commission necessarily needs to worry about. Mr. Kelso asked Mr. Brehm if he felt that the Planning Commission didn't need to see it again. Mr. Brehm replied, "I would say not." Mr. Brehm summarized that the biggest thing was Mr. Koch's issue, which he has explained and which sounded like they were going to get sorted out, and also the way street connections and cul-de-sac are going to be handled. He added that the rest of the stuff is just "little technical things." Mr. Brehm explained that he will get a revised plan and try to review it before the workshop. Mr. Kelso asked about the letter from Mr. Koch that had just been discussed. Mr. Allshouse explained that the letter should be to the Board of Supervisors acknowledging Mr. Koch's letter so that when they Board sees Mr. Koch's comments, they will see a letter in response to Mr. Koch's comments, just as is done with the Engineer.

Regarding the Plan itself, Mr. Kelso suggested a motion to recommend approval, based upon the full satisfaction of all the engineering comments and Mr. Clark's letter to the Supervisors addressing Mr. Koch's comments.

Bradley Mitchell moved to recommend approval of the Villages at North Ridge Phase II Final Subdivision Plan based upon the full satisfaction of all the engineering comments and Mr. Clark's letter to the Supervisors addressing the comments from Lee Koch and the Authority. Pat McDowell seconded. All votes were in favor, and the motion carried.

Mr. Fegley noted that the submission deadline for the workshop meeting is 4:00 p.m., Tuesday January 13, 2009.

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 Bradley Mitchell, and the meeting adjourned at 8:14 p.m.

Respectfully Submitted,

Pat McDowell
Secretary
North Middleton Township
Planning Commission

Michael S. Medvid
Recording Secretary