

North Middleton Township Planning Commission

Township Building
2051 Spring Road
Carlisle, PA 17013

Minutes of the Planning Commission Tuesday, April 7, 2015

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** (Secretary), **Dennis Hurley** and **Pamela Martin**

Codes Officer-**Rodney Borda**

Brehm-Lebo Engineering-**Doug Brehm**

Solicitor-**Mark W. Allshouse**

Cumberland County Planning Department-**Steve Hoffman**

Visitors

Matt Cessna-2378 Hoffman Road, Greencastle, PA 17225
Wes Madden-Madden Engineering
Doug Thomas-806 Longs Gap Road, Carlisle, PA
Andrew Shaw-Carlisle, PA

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)

No members of the public came forward and no non-agenda items were presented at this time.

Approval of the Minutes for Tuesday, February 3, 2015

Mr. Kelso asked for any changes, corrections, or additions to the minutes from the Tuesday, February 3, 2015 Planning Commission meeting. None were requested. Mr. Kelso asked for a motion.

Ronald Anderson moved to approve the February 3, 2015 minutes as presented. Pamela Martin seconded. All votes were in favor, and the minutes were approved as written.

Pending Applications

#14-02: Rails-To-Trails, Cumberland Valley, Final Subdivision, Zoned Neighborhood Commercial, Total Acreage: 0.37 (+/-), Revised Expiration Date: July 10, 2015

From the agenda:

This is a small subdivision plan for the Cumberland Valley Rails-To-Trails property along Allen Road, near the intersection of Allen Road and Newville Road. The project is to adjust the property boundaries with northern neighbors as well as an access easement. This plan was tabled at the June 3, 2014 Planning Meeting.

Matt Cessna came forward to represent this matter. Mr. Kelso asked if a waiver was being requested. Mr. Cessna indicated that this was correct, and that a recommendation for approval was being sought tonight. Mr. Kelso noted that it had been quite a while since the Planning Commission had seen this plan. He asked Mr. Borda to provide a summary of this project.

Mr. Borda summarized that this plan is basically a land swap between the former railroad property, which is now owned by Rails-To-Trails, and the current owner of the mobile home park. Mr. Cessna noted that the owner of the mobile home park is TSL Properties. Mr. Borda further explained that Rails-To-Trails is getting some property to be used as access and a right-of-way, while the owner of the mobile home park is getting some property where the mobile homes are now sitting.

Mr. Cessna identified himself as the surveyor for the project. Mr. Kelso asked Mr. Cessna if it was correct that the mobile home park is going to stay there. Mr. Cessna stated that nothing is changing with the mobile home park. He explained that the property is picking up a small amount of ground where some of the mobile homes are encroaching on the Rails-To-Trails property. He added that in exchange, Rails-To-Trails is picking up a right-of-way into the Rails-To-Trails property.

In response to a question from Mr. Mitchell, Mr. Cessna referred to the site plan and explained what is being picked up. He noted that the hatched area on the site plan is the easement that will be going to Rails-To-Trails. He further explained that the easement is just an access easement for Rails-To-Trails to cross over the property that is being given to the mobile home park. Mr. Cessna stated that the easement wasn't there previously, but has always been used as an access to the property, so in exchange, the easement is being granted to Rails-To-Trails so that they have a right to cross it. Mr. Mitchell mentioned an issue with the access possibly needing to obtain a Highway Occupancy Permit at some point.

Mr. Kelso asked Mr. Brehm to go through his comments. Mr. Brehm acknowledged that the Plan had been seen before, and that it had gone away for a while. He referred to his review memo of March 19, 2015. Mr. Brehm noted that the memo seems to be long, but he stated that the Applicant has pretty much addressed everything. He discussed a few minor outstanding issues.

Mr. Brehm discussed Comment #3. He asked Solicitor Allshouse if an access agreement has been submitted for review. Mr. Allshouse stated that it had been submitted a few weeks ago and that he had looked at it. He added that he had made a couple of comments on the agreement and that it's fine.

At this point, Mr. Mitchell referred to Comment #2, pertaining to the access drive possibly needing a Highway Occupancy Permit. Mr. Mitchell referred to the notation that the comment had been satisfactorily addressed. He asked how the comment was satisfactorily addressed. Mr. Brehm explained that he had had a discussion with the individual from PennDOT who issues the permits for driveways. Mr. Brehm noted that the engineer for the project had spoken to PennDOT and was told that a permit was not needed. Mr. Brehm then stated that he had spoken with the gentleman from PennDOT personally and had explained to him what may happen there, such as a parking lot. The representative from PennDOT did acknowledge that Rails-To-Trails would have to revisit their permit if something like that were to be proposed. Mr. Brehm explained that a permit was issued for the mobile home park back in the 1960's for the ten or twelve units using the driveway, and that the permit is adequate for a minimum-use driveway. He further explained that if Rails-To-Trails comes in and wishes to construct a parking lot with twelve parking spaces, which will result in more traffic, that will trigger the need for another permit. Mr. Brehm indicated that some notes have been added to the Plan. He stated that if Rails-To-Trails decides to put in a parking lot and the driveway, they will come in with a Land Development Plan and will go through whatever permitting process is required. Mr. Brehm then

mentioned that Mr. Cessna's associate had informed him that Rails-To-Trails may not even build the driveway there, and that other options are being considered for access to the trail, possibly a location across the road somewhere. Mr. Brehm pointed out that the Applicant is not here to get approval for the driveway, and that the Plan is just a land swap at this point.

Mr. Brehm continued with his comments. Comment #4 indicates that the Applicant is proposing to combine lots and that a Deed of Consolidation is required. At this point Mr. Mitchell asked if the old Ordinance numbers are being shown in Comment #4. Mr. Borda stated that they are. Mr. Brehm acknowledged that this plan did come in under the old Ordinance numbers.

Comment #7 pertains to the issue of whether or not the Borough of Carlisle needs to review and/or sign the plans since a portion of the property may be located in the Borough. The comment states that the Borough has indicated that a review is not needed.

Comment #20 asks for additional information regarding the use of the proposed access easement and any proposed improvements. Mr. Brehm stated that the Applicant has agreed to add the requested note to the Plan.

At this point Mr. Mitchell referred to Comment #17 which requests a copy of any deed restrictions. He asked what deed restrictions there are on the property. Mr. Brehm said he wasn't sure there are any. He pointed out that there was no response to the comment. He explained that if there are any, it would be up to Solicitor Allshouse to determine if the restrictions need to be shown on the Plan. Mr. Brehm added that the Township does not enforce deed restrictions, but that it is a requirement in the Ordinance that these be provided.

Comment #33 mentions that the proposed easement may put the driveway within 15 feet of a property line, which is not permitted in the Zoning Ordinance. Mr. Brehm explained that this can't be acted on now, but if a driveway is proposed and it does not meet the requirements in the Zoning Ordinance, a Variance will be needed. He added that this issue is not on the table tonight. Mr. Kelso asked Mr. Brehm if it would be better for the Applicant to obtain the Variance first. Mr. Brehm responded that this would be up to the Applicant. He pointed out that the access is being set aside, but may never be used. Mr. Borda added that this will only be an issue if the driveway goes in.

Mr. Brehm pointed out that the Preliminary Plan waiver had been acted on some time ago, but that there is one waiver being requested for sidewalks. He summarized that he believed the Plan is now clean enough to go before the Board of Supervisors at their workshop meeting. Mr. Kelso noted that there is a portion of the trail that runs from Shippensburg to Newville. He asked what the final intent is for this plan. Mr. Brehm said that the intent is to connect the trail with the Newville portion.

Mr. Hoffman noted that the Commission had seen the County comments a long time ago. Mr. Kelso asked for any other questions. None were offered. The waiver was considered at this point.

Regarding the requested waiver of the requirement to install sidewalks, Section 180-707.A, Mr. Kelso asked for a motion.

Ronald Anderson moved to recommend approval of the requested waiver of the requirement to install sidewalks, Section 180-707.A. Bradley Mitchell seconded. All votes were in favor, and the motion carried.

Regarding the Plan itself, Mr. Kelso suggested a recommendation for approval, based upon completion of the Access Agreement and the satisfaction of the requirement to provide a Deed of Consolidation, as well as compliance with all other comments from Brehm-Lebo. Mr. Kelso asked for a motion.

Bradley Mitchell moved to recommend approval by the Board of Supervisors of the Cumberland Valley Rails-To-Trails Final Subdivision Plan based upon completion of the Access Agreement and the satisfaction of the requirement to provide a Deed of Consolidation, as well as compliance with all other comments from Brehm-Lebo Engineering. Dennis Hurley seconded. All votes were in favor, and the motion carried.

#15-02: 815 Newville Road (Carlisle Developers, LLC), Final Minor Subdivision, NC-Neighborhood Commercial, Total Acreage: 3.18, Revised Expiration Date: June 30, 2015

From the agenda:

This is a plan to subdivide the existing property into three (3) commercial lots. There are no plans for development at this time.

Wes Madden came forward to represent this matter. Mr. Kelso asked if this plan had been addressed before. Mr. Brehm stated that it had been seen once before and had been tabled with little discussion. Mr. Mitchell noted that John Madden had been here at that time.

Wes Madden explained that the property before the Commission is the former Seco/Dauphin Oil property on Newville Road. He stated that it is a three-lot subdivision with an existing garage and two other lots being subdivided off. Mr. Madden pointed out that the subdivision could be seen on page 2 of the plans, while page 3 shows the possible driveway locations. He stated that the water line is going to be extended from in front of the Rustic Tavern to the property where it will serve the existing garage. In response to a question from Mr. Kelso, Mr. Madden acknowledged that the existing garage is going to stay.

Mr. Kelso asked Mr. Brehm to go through his comments. Mr. Brehm referred to his review memo of March 19, 2015. The first three comments were under Zoning. Comment #1 notes that the zoning designations are incorrect for the properties across from and west of the site. Mr. Brehm indicated that this has been corrected. Comment #2 states that Level-1 screening is required along any residential zoning or residential use. Mr. Brehm explained that this would apply to the rear and to the east on the property. He said that a note has been added to the Plan stating that Level-1 screening will be provided when someone develops the property. Mr. Brehm added that there is no development proposed at this time. Comment #3 points out that the Neighborhood Commercial Zone only permits parking in the rear or side yards behind the façade of the principle building. Mr. Brehm explained that parking will be dealt with when someone comes forth with a Land Development Plan.

The remaining seventeen comments were under Subdivision and Land Development. Comment #1 notes that a waiver has been requested for the requirement of a Preliminary Plan. Comment #2 states that a digital copy of the Plan must be submitted to the County when the Plan is ready for recording. Comment #3 indicates that the Plans need to be signed and sealed by the Consultant. Comment #4 states that the Owners need to sign the Plan. Mr. Brehm added that these are post-development comments. Comment #5 pertains to some incorrect curve numbers in the boundary, which have been corrected. Comment #6 asks that all existing and proposed utility lines be shown on the Plan. Mr. Brehm mentioned that the Applicant has been in touch with Lee Koch and the North Middleton Authority. Mr. Brehm said he believes that the extension of the water line has been worked out. Solicitor Allshouse noted that a letter from Lee Koch is in the packet of documentation that had been handed out.

Mr. Brehm continued. Comment #8 asks that the driveway for Lot 1 be shown. Mr. Brehm indicated that this has been added. Comment #9 asks that any deed restrictions be shown. The memo notes that the comment has been satisfactorily addressed, as there are no deed restrictions. Comment #10 asks that any waivers granted should be shown on the Plan. Comment #11 has to do with the shared driveway between the two lots. Mr. Brehm explained that this isn't really set in motion until somebody develops the property or sells a lot. He pointed out that there are notes explaining this on the Plan. He added that he believes this comment has been satisfied, at least for the subdivision. Comment #12 has to do with establishing easements for utility connections and for the future development of the lots. Mr. Brehm stated that notes have been added to the Plan. Comment #13 mentions that a waiver has been requested for curbs and sidewalks. Comment #14 points out that the Township will have to make a determination about the recreation fee. Comment #15 asks that a monument be set. Mr. Brehm said that this has been done. Comment #16 asks for clarification of the

parking areas. This has been provided. Comment #17 states that the County comments appear to have been addressed. Mr. Brehm had nothing further.

Mr. Kelso asked Mr. Madden if he agreed with all of the comments. Mr. Madden indicated that he did. Mr. Kelso asked about the letter from Lee Koch at the Authority. Mr. Allshouse noted that the letter submitted by Lee Koch is dated February 20, 2015. He explained that the main subject of the letter is whether the developer will connect to the Borough's water main or the one owned by the North Middleton Authority. Mr. Allshouse asked Mr. Madden if it was correct that the Applicant will be connecting to the Borough of Carlisle's water main in front of the Rustic Tavern. Mr. Madden stated that this was correct. Mr. Madden acknowledged that this will have to be worked out with the Borough. He added that the sizing of the pipe will probably have to wait until some uses come in. Mr. Mitchell asked what uses might be put on the property. He noted that the parcels are oddly shaped. Mr. Madden said he believed the intent of the marketing is "tiny little retail" or "little office space." He noted that the old garage has just been sitting empty and that he wasn't sure what could be done with it.

Mr. Kelso asked about any County comments. Mr. Allshouse mentioned that there are no new comments. Mr. Hoffman said that Mr. Brehm had mentioned a lot of the County comments.

Mr. Kelso asked about the waivers being requested. Mr. Madden stated that three waivers have been requested. They are listed here:

- Preliminary Plan-Section 180-304
- Sidewalks-Section 180-38
- Curbing-Section 180-39

The waivers were considered at this time. Regarding the requested waivers of the requirement to install sidewalks, Section 180-38, and the requirement to install curbing, Section 180-39, Mr. Kelso asked for a motion.

Bradley Mitchell moved to recommend approval of the requested waiver of the requirement to install sidewalks, Section 180-38, and the requested waiver of the requirement to install curbing, Section 180-39. Dennis Hurley seconded. All votes were in favor, and the motion carried.

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

Pamela Martin moved to recommend approval of the requested waiver of the requirement to submit a Preliminary Plan, and to allow the Plan to be considered as a Preliminary/Final Subdivision Plan, Section 180-304. Ronald Anderson seconded. All votes were in favor, and the motion carried.

Regarding the Final Subdivision Plan itself, Mr. Kelso suggested a motion to recommend approval, based upon compliance with all recommendations from Cumberland County, as well as any recommendations from Brehm-Lebo Engineering, and any requirements from the North Middleton Authority.

Ronald Anderson moved to recommend approval of the 815 Newville Road Final Subdivision Plan itself, based upon compliance with all recommendations from Cumberland County, as well as any recommendations from Brehm-Lebo Engineering, and any requirements from the North Middleton Authority. Pamela Martin seconded. All votes were in favor, and the motion carried.

Rezone: 806 Longs Gap Road, Douglas and Randie Thomas

From the agenda:

Request to change the Zoning from Low-Medium Density (R-1) to Rural Resource (RR).

Doug Thomas, of 806 Longs Gap Road came forward to represent this matter. He was represented by his attorney Andrew Shaw, who was also present. Solicitor Allshouse provided a brief background of this matter. The following paragraph is a summary of his comments.

Douglas and Randie Thomas have submitted a rezoning request. They want to change a portion of the Zoning Map from the Low-Density Residential to the Rural Resource. They are out off of Cactus Hill Drive. Their property abuts the back end of the houses that sit up on Prickly Pear, which was Mr. Backenstow's development. The development ended. Originally there was going to be a second phase down over the hill. Mr. Backenstow did not do the second phase. The property was made into larger lots. The Thomases own one of those larger lots. Their property is the last property to the south of the Rural Resource Zone, so they are sitting right on a zone line. They are asking for that line to be drawn over and across their property. The Board of Supervisors has opened a hearing, and has conducted two hearings on this for the purposes of putting on the record the Applicant's testimony. We had County comments come back in. They have now been placed on the record. This, according to Mr. Allshouse.

At this point Mr. Allshouse suggested that Mr. Hoffman discuss the County comments. Mr. Hoffman stated that at first glimpse, the proposed change did not seem to meet the Comprehensive Plan, but when it was looked into a little further, the character and intent was seen to meet the Comprehensive Plan. He said that in general, it was decided that it did meet the intent of the Comprehensive Plan in both the County and the Township. Mr. Hoffman pointed out that the surrounding land uses are either residential or open space, therefore the proposed change does seem to meet the surrounding land uses. He explained that public sewer ends on Longs Gap Road, and that there is no future extension in the 537 Plan. Mr. Hoffman further stated that it suits to almost down-zone the property. He summarized that the County Planning Commission has already reviewed this and has agreed with the comments. He stated that the County Planning Commission has gone ahead and recommended approval.

Mr. Allshouse explained that the last piece of the puzzle is a recommendation from the North Middleton Township Planning Commission. He noted that the Mr. Thomas and Mr. Shaw were here to answer any questions and to aid the Commission in considering their recommendation to the Board of Supervisors.

Mr. Kelso stated that normally zoning isn't changed once it is put in place. He pointed out that this is one lot and that if the change is approved, someone down the street could ask for a zoning change since it was done for Mr. Thomas. Mr. Allshouse replied that this can happen, and that it is discretionary, as long as it is not spot-zoning. Mr. Allshouse explained that Mr. Thomas had good intentions, but didn't get the ordinance quite right when he started developing. He further explained that Mr. Borda has been working carefully with Mr. Thomas's developments to try to resolve some issues. Mr. Allshouse pointed out that the big issue is the front yard, and the limitation that there can't be anything in the front yard, but the front yard is also the side yard. He noted that there is a shed in the front yard, and that this is still sort of an issue. He explained that it was used for a horse barn, but under Mr. Thomas's new proposal, the front shed is not going to be a horse barn, but is going to be a "shed shed." Mr. Allshouse then explained that Mr. Thomas is going to put a horse barn in the back and use it as a horse barn. He stated that what this does is solve a myriad of potential financial hardships for Mr. Thomas, and is also satisfactory to Mr. Borda as the Zoning Officer to resolve the matter. Mr. Allshouse added that there was something along the lines of a suggestion made to Mr. Thomas that he may want to have the property rezoned as a means of solving the problems with the Township.

Mr. Kelso asked about what could happen if the zoning is changed to Rural Resource. He pointed out that Mr. Thomas's house is close to the houses on Prickly Pear. Mr. Allshouse pointed out that the Thomas residence is not in that development and is located in what was supposed to be the second phase of Mr. Backenstow's development. Mr. Mitchell noted that Mr. Thomas is also on a separate road. Mr. Allshouse acknowledged that that was correct. He added that the second phase of the Backenstow plan ended up being a subdivision and not a development. He explained that what would be done would be to move the zoning line to divide the Phase 1 developed plan from the Phase 2, which is undeveloped, and from there the agricultural is all the way out to the mountain. Mr. Mitchell asked if it was correct that all of Cactus Hill is the Rural Resource even though it has more of an R-1 feel to it. Mr. Allshouse acknowledged that this was correct. He stated that the line would be drawn where Mr. Thomas's property meets the back hill of Prickly Pear. Mr. Allshouse explained that it would be difficult to make this property into a housing development similar to the Prickly Pear Phase 1 development. He pointed out that Mr. Backenstow had difficulties with the

natural cactuses there and trying to get the lots to fit. Mr. Allshouse then referred to the Zoning Map and pointed out that the yellow of the R-1 is carved up into the green of the Rural Resource Zone, and that what is being proposed is to carve the green straight across and be part of what is to the north. He referred to the County's observation that this is clearly the intent of the Comprehensive Plan and seems to be consistent with the placement of the utility lines and the water mains, as well as the surrounding uses short of the neighborhood, short of the line being drawn up to Prickly Pear. Mr. Allshouse added that Prickly Pear is a constructed residential development, and that the line has to be somewhere. He stated that what is being requested is just to move the zoning line across the property.

There was some discussion of the lots that are accessed off of Prickly Pear. Mr. Shaw stated that these properties have the look of still being a part of the Prickly Pear neighborhood, while the Thomas's property does not appear to be part of that development. He pointed out that the Thomas's property has a separate entrance off of Long's Gap Road and sits way back off of the road. He also noted that this property is a 9-acre lot, while the other lots are less than an acre. Mr. Shaw stated that this is consistent with the County's comments that this lot does more comply with the Rural Resource when the Comprehensive Plan is looked at. Mr. Mitchell acknowledged that the current use of the property does seem to be more of a Rural Resource use, although he added that he wasn't sure what came first. Mr. Shaw responded that even without the horse fence or barn, when driving by, the Thomas property does seem to have a more consistent look with the properties right next to it that are Rural Resource as well.

Mr. Shaw referred to the photographs that had been provided by Mr. Thomas. Mr. Thomas explained that the photographs show different views of what is to the south of his property as seen from Longs Gap Road. He described it as "basically wide open space." Mr. Kelso said he couldn't recall a situation where one piece of land was rezoned so somebody could comply with something. Mr. Allshouse provided some examples, including B&C Properties. Mr. Brehm noted that this was also done for Rite Aid. Mr. Kelso replied that that was different from asking for it after things are done that probably shouldn't have been done. Mr. Allshouse agreed and said that it has to be decided if Mr. Thomas did that with the intent to come in and ask for it later or if he did it by mistake. He pointed out that people make mistakes all the time and that the Board has to decide what to do.

Mr. Shaw referred to Article #20 of the Declaration of Covenants, Reservations, and Restrictions that apply to the property. He said that Article #20 allows up to one horse for each acre of the property that exceeds two acres. He stated that the Township would have reviewed and approved those restrictions at the time. Mr. Shaw explained that if Mr. Thomas were to have looked at that, he would have thought he was permitted to put a horse or two on his nine-acre lot. He said that with the zoning being what it is, a conflict exists between the two sets of documents. Mr. Shaw again referred to the Comprehensive Plan and what it is to set forth. He stated that the nine-acre lot falls perfectly into the whole concept of the Rural Resource rather than the R-1 Zone up the hill which is more the traditional housing. At this point Mr. Thomas stated that there is one large lot up on Prickly Pear that remained Rural Resource when everything was changed to residential. There was some brief discussion about a portion of the property being located in Conservation under the old zoning. Mr. Borda explained that the zoning line followed the property line rather than the slope when the line was drawn. There was no further discussion.

Mr. Kelso asked for a motion.

Bradley Mitchell moved to recommend approval of the requested change of the zoning from R-1 to Rural Resource. Pamela Martin seconded. All votes were in favor, and the motion carried.

Prior to adjournment, Mr. Hoffman stated that the County is recommending that the Future Land Use Map be changed to reflect the new zoning, if the requested change does go through.

Chairman Kelso asked for any further business. None was offered. With no further business before the Planning Commission at this time, the meeting adjourned at 7:46 p.m.

Respectfully Submitted,

Ronald Anderson
Secretary,
North Middleton Township Planning Commission

Michael S. Medvid
Recording Secretary