

North Middleton Township Planning Commission

Township Building
2051 Spring Road
Carlisle, PA 17013

Minutes of the Planning Commission Tuesday, September 6, 2016

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

Codes Officer-**Rodney Borda**

Brehm-Lebo Engineering-**Greg Lebo**

Cumberland County Planning Department-**Steve Hoffman**

Solicitor Mark W. Allshouse was not present this evening.

Visitors

Douglas George-P.O. Box 20249, York, PA
Nancy R. Augustine-222 Overfield Drive, Carlisle, PA
Nancy S. Tritt-33 Silver Maple Drive, Boiling Springs, PA
Pat Grabey-15 Hendel Loop, Carlisle, PA
Richard Tritt-33 Silver Maple Drive, Boiling Springs, PA
Trudy Bailey-10 Donegal Drive, Carlisle, PA
Dennis J. Rydberg-147 East High Street, Carlisle, PA
Robert Visniski-RAV Associates
Marcus A. McKnight, III, Attorney-60 West Pomfret Street, 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 at this time with any non-agenda items.

Approval of the Minutes for Tuesday, August 2, 2016

Mr. Kelso asked for any changes, corrections, or additions to the minutes from the Tuesday, August 2, 2016 Planning Commission meeting. None were requested. Mr. Kelso asked for a motion.

Ronald Anderson moved to approve the August 2, 2016 minutes as presented. Pamela Martin seconded. All votes were in favor, and the minutes were approved as written.

Pending Applications

#16-01, Brubacker Property, Final Subdivision-Phase 1, Zoned: R-1, Sub-Residential, Total Acreage: 98.72

From the Agenda:

This plan is Phase 1 of Final Subdivision of the Brubacker Property. The Brubacker Property is located on Waggoners Gap Road (western side, north of I-76) and is a total of 98.72 acres. Phase 1 is planned to be 37 single-family units.

Robert Visniski and Craig Hasson came forward to represent this matter. It was noted that no response letter had been received from the Applicant, other than a letter dated August 29, 2016, which discussed only the requested waivers. Mr. Visniski stated that he had reviewed the latest comment letter from Brehm-Lebo Engineering, which he pointed out was dated August 26, 2016. He stated that he didn't have any issues with the Engineer's comments, and that all of the comments can be addressed. Chairman Kelso stated that he didn't want to address all of those comments this evening. He said it would be preferable to have another meeting, possibly with the engineers so that only a few things need to be discussed when the Plan is before the Planning Commission. Mr. Visniski stated that a number of the comments can't be addressed until the Plan is approved. Mr. Kelso indicated that he knew that, but pointed out that certain other issues like stormwater need to be addressed.

Mr. Visniski asked Mr. Kelso how he would like to proceed. Mr. Kelso asked for a summary. He indicated that he was interested in the phases and so forth. Mr. Visniski introduced himself as Rob Visniski of RAV Associates. He also introduced Craig Hasson, who Mr. Visniski said was here to represent the Developer. Mr. Visniski indicated that he would briefly run through the project. The following paragraph is a summary of Mr. Visniski's comments at this point.

There is some history to this. It was last seen in 2006, and was a much bigger project at that time. There was a Preliminary Plan that was approved. It went to the Final Plan stage, and what was called Final Plan Phase 1 was the site that you will be looking at tonight. The plan (Mr. Visniski said he believed) was conditionally approved, but was never recorded. There was an approved NPDES permit and an approved PennDOT permit for the improvements to Waggoners Gap Road. Since that time, the original developer had some issues and the property was then owned by the bank. While the bank was holding the property, the NPDES permit expired and so did the PennDOT permit. An extension was not requested. That did create some issues because when the new developer took over the project, there was an approved Preliminary Plan from the original project, but the NPDES and PennDOT permits had expired. As part of this project we have the approved Preliminary Plan. Some changes to the phasing will be discussed tonight. The status of the NPDES permit will also be discussed.

Mr. Visniski again noted that this plan had first been seen in 2006. He stated that the Plan was approved under the previous ordinances. He stated that the requirements that have to be met are based on the ordinances that were in effect at the time the original plan was approved. He added that there may be some differences from what is in the current ordinances.

At this time Mr. Visniski compared the current proposed plan to the original plan. He stated that no changes have been made to the street layout or the lot lines. He explained that the houses are slightly smaller than those that were proposed on the original plan. He further explained that the driveway locations for the houses have not changed. Mr. Visniski added that the Developer has tried, as much as possible, to keep the current plan consistent with what was approved originally.

Mr. Visniski then stated that one thing that had been discussed with Township Staff, including the Public Works Director, was the issue of phasing the project. He noted that the original project had a phasing plan. He stated that the Developer would like to phase this project, which will be a little smaller than what was previously approved. At this time, Mr. Visniski referred to a displayed site plan and pointed out the location of Waggoners Gap Road at the bottom of the drawing. He said that four (4) phases are being proposed, and that Phase 1 is what the Commission is being asked to consider. Mr. Visniski explained that Phase 1 is going

to be forty (40) lots, and that the entire subdivision is to be 150 lots. He said he believed that the original 2006 plan was for two to three hundred lots. He added that this is a much smaller project than what was originally proposed. At this point Mr. Kelso asked if it was correct that the original plan had all three plots of land shown on the same plan. Mr. Visniski indicated that that was correct. He stated that the current plan is Phase 1 of the original plan. He explained that what was Phase 1 of the original plan is being broken down into phases. Mr. Mitchell asked Mr. Visniski to go into some background about the other two parcels. Mr. Visniski pointed out where there had been a connection road to one of the other lots. He also pointed out the location of the remaining lot. Mr. Visniski explained that there are still some vacant lands in the other areas that are not part of this plan.

Mr. Visniski stated that the right-of-way is being extended out to the property lines, so that in the future, if those other properties are developed, there can be a connection. He further noted that an attempt has been made to eliminate cul-de-sacs. He explained that the intent was to come up with a phasing plan that wouldn't have any cul-de-sacs and would be a continuous loop. He added that this plan has been broken up into different areas so that there will be a continuous loop.

Mr. Visniski summarized to the Commission that what is currently being proposed is Phase 1, with forty (40) lots along Waggoners Gap Road and improvements to Waggoners Gap Road. He again stated that the road layout and street connections have not changed. He stated that one thing that has changed is that this plan has the same number of lots, but a smaller number of housing units. He explained that three lots are going to be taken up with detention basins. Mr. Visniski stated that there were a number of changes to the NPDES permit requirements, and that a lot of the basins and stormwater comments are the result of changes to the state regulations. He described a few of these changes, and the effort to improve water quality.

Mr. Visniski indicated that one difference between the original plan and the current plan is that the original plan had a high point that runs through the middle of the site and had no stormwater detention going back into the creek and was just a direct discharge. He explained that what is being proposed, although it is not in Phase 1, is that the rate control will be managed for the whole site, as well as water quality being provided. He added that there will be less runoff with this project than what was originally proposed. Mr. Kelso asked who will own the detention ponds. Mr. Visniski replied that the homeowners association will own and maintain all of those lots.

At this point Mr. Visniski described another change to the Plan. He explained that a pump station for the sewer had originally been proposed for the lower corner. He further explained that some changes have been made to the grading and the gravity flow to the sewer line, which has eliminated the pump station. He pointed out that the Developer has been working with Lee Koch and the Authority on that. He indicated that that is pretty much it for the changes.

Mr. Visniski said he had reviewed the memo from Brehm-Lebo Engineering, and that he did not have any issues with the memo. He said he felt that all of the comments can be satisfied. He noted that a total of seven waivers are being requested. He asked for any questions. Mr. Kelso asked Mr. Visniski to point out the locations of the phases on the site plan. Mr. Kelso then noted the visitors present who are interested in the nearby cemetery. He asked Mr. Visniski to point out the location of the cemetery. Mr. Visniski pointed out this location. Mr. Mitchell asked Mr. Visniski to indicate the current access road to the cemetery. Mr. Visniski pointed out the location of the existing gravel driveway. Mr. Mitchell asked if this is shown anywhere on the plans. Mr. Visniski replied that it is shown as a dashed line on the Existing Conditions, which is sheet 2. He came forward and pointed this out. Mr. Mitchell noted that the gravel drive goes back through what will be Phases 2 and 3, and some of Phase 4. Mr. Visniski referred to Phase 2 and pointed out where the street will connect to the temporary drive. He explained that with Phase 1, a stone connection is being proposed. He pointed out where this will be. Mr. Mitchell asked what will happen in Phase 2. Mr. Visniski replied that another access drive will be discussed and provided at that time. Mr. Kelso referred to the discussion of the original plan. He said his recollection was that at that time a direct way to the cemetery was shown. Mr. Kelso noted that there do not appear to be any direct streets shown. Mr. Visniski replied that there is an agreement that the Developer will provide an access to the stone drive as each phase is developed. Mr. Hurley asked where the access will be when Phase 4 is completed. Mr. Visniski responded that when the Developer comes in with Phase 4, an access to the stone drive will be provided at that time. Mr. Mitchell pointed out that a theoretical access could be provided off the street on the far right, and farthest north, that

runs off of Waggoners Gap Road. Mr. Visniski acknowledged that this is a possibility. He again stated that an access to the stone drive through the property will be provided with each phase. Mr. Kelso asked if it was correct that eventually one of the lots will have to be taken to provide access to the cemetery. Mr. Visniski's response was that this will be planned out when Phase 4 is done. Mr. Borda had some comments about the legal right-of-way that is there and the right of that right-of-way to continue and stay where it is. He explained that the Developer will have to provide some kind of a way to connect to the stone drive when the development is fully laid out. Mr. Visniski acknowledged that one of the lots may have to be opened. Mr. Borda also noted that a neighbor could permit a right-of-way at the end of the shown street, which would allow a right turn toward the cemetery. Mr. Kelso again referred to the discussion of the original plan. He stated that at that time, there was an "end game" of getting to the cemetery, since all of the properties were there. He said he felt that that should be the goal here as well. Mr. Kelso acknowledged that this will take years. Mr. Hurley asked Mr. Visniski if it was correct that there really isn't a plan to maintain the road to the cemetery. Mr. Visniski replied that there is a plan for Phase 1, and that as each phase is brought in, there will be a couple of different options. He added that these options will be presented as the final plans for each phase are brought in.

Mr. Kelso asked if a Preliminary Plan is being reviewed now. Mr. Lebo noted that this is a Final Plan. Mr. Kelso pointed out that Phase 1 is being discussed. He asked if this means that the entire plan is being approved if Phase 1 is approved. Mr. Visniski replied that approval is only being sought for Phase 1. Mr. Kelso asked if the approved Preliminary Plan on file from 2006 is still good. Mr. Lebo stated that if there are changes to that, those changes should probably be addressed now. He noted that Mr. Visniski was discussing the changes to the Preliminary Plan. Mr. Kelso asked Mr. Lebo if he was saying that a new Preliminary Plan should be done. Mr. Lebo said he believed that the Board of Supervisors had already decided not to require another Preliminary Plan. Mr. Kelso pointed out that it seems like it's being said that something will be figured out at various stages in Plan.

At this point Mr. Kelso pointed out that a lot of work was done to the cemetery back there and that it is an asset to the community. He stated that he wants to make sure that the people associated with the cemetery can get back there. He added that it does look like a way will be provided to allow them to get there. Mr. Hasson stated that he will work with them and do whatever it takes to get back there. He added that it will take time to get through what they are doing. Mr. Borda said he felt that the biggest thing is that there be a guarantee that at any time those people need to get back there, they can get back there. He mentioned that in a possible situation where their temporary road is being torn up to put in a new permanent road or a retention pond or whatever, it should be made certain beforehand that there is a way for them to get back there and go on in. Mr. Borda added that at no time can the people associated with the cemetery not be allowed to get in there. Mr. Hasson acknowledged that this was correct. He noted that it may involve a couple of temporary roads.

Mr. Mitchell referred to the discussion about the Plan being approved under the ordinances that were in effect at the time in 2006. He asked if this means that these are the ordinances that need to be provided or if these are the ordinances that the Developer is requesting to be provided. He asked, "Can we just say no, these are our ordinances now, this is what you do?" Mr. Lebo said he wouldn't want to make a call on that. Mr. Borda spoke at this point. He went into an explanation about a law passed by the Commonwealth of Pennsylvania back in 2009 which granted an extension to active plans. He explained that this was extended to July 1, 2016, and that this means that any new ordinances could not change those plans unless a developer requested that the new ordinances be applied. He also mentioned a meeting in which Solicitor Allshouse was involved where this matter was discussed. Mr. Borda said there was agreement that the Developer could apply the old ordinances.

Mr. Kelso suggested that the memos be walked through at this time. He first referred to the memo of May 5, 2016 from Public Works Director Zachary Zook. Comment #2, concerning a 60" culvert under Waggoners Gap Road was discussed. Mr. Visniski stated that a meeting was held with Mr. Zook in the field, and that the Developer had agreed to provide a survey for that area. Mr. Visniski stated that the survey has been done and that this will be sent to the Township Engineer. Mr. Kelso referred to Comment #1, which mentions that the Homeowners Association will be responsible for all maintenance and repairs to all attributes such as pipes, inlets, and basins. The comment requests a copy of the agreement. Mr. Visniski stated that a draft

copy of the Homeowners Association will be provided to the Board of Supervisors and the Solicitor if it is requested.

Mr. Kelso asked Mr. Visniski about letters sent in response to the memos. Mr. Visniski said he thought that responses had been sent to the letters other than the Engineer's memo. Mr. Kelso noted that the Commission doesn't have any response letters. Mr. Kelso then mentioned the Fire Chief's memo and a comment that the fire hydrants should have 4.5" threads and not 5" as shown. Mr. Visniski indicated that this change had been made. He apologized at this point and said a response wasn't sent to each person who sent the letters. Mr. Borda said it wasn't necessarily responses to each letter, but rather that no response comments at all had been received by the Township. He noted that this is what the Commission members were wondering about.

Mr. Visniski stated that a meeting had been held with Lee Koch about the fire hydrant locations, and that Mr. Koch had requested a change in the location of the water lines so that they are located in the street. Mr. Visniski explained that Lee Koch was going to discuss the location of the fire hydrants with the Fire Chief and that a response regarding this issue had not been received yet. He added that the fire hydrants will be located wherever they are requested to be and that this information will be provided.

Mr. Kelso mentioned the comments from Cumberland County. Mr. Hoffman stated that the Applicant has addressed the County comments. Mr. Kelso then mentioned the comments from Lee Koch. Mr. Kelso pointed out that Mr. Koch had quite a few comments. Mr. Visniski said that he had met with Mr. Koch two weeks ago to review the plans again. Mr. Visniski said he had agreed to address any comments that Mr. Koch had. Mr. Kelso mentioned that a memo is usually received from Lee Koch stating that everything has been addressed. Mr. Visniski stated that Mr. Koch's engineer had been on vacation and may not have had a chance to finish the analysis. Mr. Visniski then said that one change that Mr. Koch had made was that he didn't want 8" water mains throughout development and that a response regarding the new sizes had not been received yet.

Mr. Kelso mentioned the memo from the Police Department indicating that the Department was okay with the Plan. Mr. Kelso also mentioned the memo from the Conservation District. Mr. Kelso then asked about a traffic study. He pointed out that there had been a big traffic study done for the previous plan. He asked if there will be a new traffic study. Mr. Visniski said that a meeting had been held with the traffic unit at PennDOT a few months back. He pointed out that the previous development had been a much larger project, and that the current development is under the threshold for requiring a traffic study. Mr. Visniski stated that in exchange for the traffic study, the Developer had agreed to put in a left-turn lane on Waggoners Gap Road, even though it is not warranted. Mr. Mitchell asked if it was correct that the improvements are only being made to the south entrance to the development, and not at both of them. Mr. Visniski acknowledged that this was correct. He displayed a plan showing the improvements and described them.

Mr. Kelso noted the amount of comments that are needed. He asked Mr. Lebo about the possibility of having a meeting prior to the next Planning Commission meeting. Mr. Lebo suggested that it would be a good idea to meet with Mr. Visniski to discuss the stormwater issues to make sure that everybody is on the same page. He also mentioned some other things such as utility easements and drainage easements for future phases to make sure everybody is satisfied with that in case future phases never get built. Mr. Lebo then referred to the issue of the access drive that Mr. Visniski had said would be provided as the phases are built. Mr. Lebo said that he would like to see some detail on the construction of that, and possibly how it will be maintained during construction as things are being moved around, to insure that the cemetery can be used. He noted that this is Comment #7 on the Brehm-Lebo review memo. Mr. Lebo added that he would also like to see the Highway Occupancy Permit and the comments from the Authority Engineer. Mr. Mitchell pointed out a couple of places where there was an error in the grading. He asked Mr. Visniski if those had been looked at satisfactorily. Mr. Visniski said that there had been a couple of questions about the driveway grades. Mr. Mitchell then noted that there had been some questions concerning stormwater runoff. Mr. Lebo replied that there are a couple of things to be confirmed there. He indicated that this would have to be worked through and that he didn't think it would be a "show stopper." Mr. Visniski said that he would have no problem meeting with the Township Engineer prior to going to the Board of Supervisors meeting. He added that he didn't see any comments that are going to affect the overall layout of the Plan or the streets or the number of lots.

Mr. Mitchell asked Mr. Visniski to point out the short block in Phase 1 for which a waiver is being requested. Mr. Visniski pointed out the location that he believed this was a reference to. Mr. Lebo pointed out where there are two streets back-to-back with two lots in between. He explained that this is the way the Ordinance reads, and that a waiver could be considered if this is an issue.

At this point Chairman Kelso stated that he didn't have any problem with the Plan, but that there was no way it was going to be voted on tonight. He noted the amount of issues to be cleaned up, and said that he would recommend tabling the Plan. He pointed out that this would allow a month to get everything cleaned up and should mean that the Plan will go through quickly next time.

Mr. Visniski asked if the waiver requests could be discussed at this time. He referred to his letter of August 29, 2016 to the Board of Supervisors listing the seven requested waivers. Each of these was briefly discussed.

The requested waiver of Section 180-34.A.(2) pertains to minimum block length, which had just been discussed. Mr. Visniski pointed out that the original Preliminary Plan was approved with the same layout.

The requested waiver of Section 180-34.E.1 has to do with landscape screening on reverse frontage lots. Mr. Visniski explained that the lots along the lower portion of the site are reverse frontage lots. He said that there is some landscape screening, but there are some lots with detention basins on them that will not have screening.

The requested waiver of Section 180-78.H has to do with computations for determining runoff and the design of facilities. Mr. Visniski explained that the request is to allow less than one cfs of direct discharge, and that this will be a stable discharge which will not cause erosion. He also stated that the request is to defer the management of this until later phases. Mr. Kelso asked if it was correct that later phases will eliminate this. Mr. Visniski acknowledged that Mr. Kelso was correct.

The requested waiver of Section 180-79 has to do with the requirement that the computations for determining stormwater runoff and for the design of stormwater management facilities for drainage areas in excess of 20 acres shall be calculated by the Soil-Cover-Complex-Method. Mr. Visniski explained that the only area of the site that is over 20 acres is the back portion of the site, and that under the original plan, this area wasn't going to have any stormwater runoff. He further stated that there are different methodologies for calculating stormwater runoff and that a detention basin is being proposed for this area. Mr. Mitchell asked Mr. Lebo if he could comment on this. Mr. Lebo said he felt that it makes reasonable sense, and that this method is accepted and has been used before. Mr. Visniski added that it is a generally accepted method, but isn't allowed under the Township Ordinance.

The requested waiver of Section 180-79.L has to do with the requirement that the minimum velocity of stormwater through runoff channels shall be 1.5 feet per second. Mr. Visniski stated that this is a big change from the previous version of the Plan. He explained that at the time, there was a lot of concern about self-cleaning velocities and swales, whereas today it is more desirable to slow down the water to improve water quality. He summarized that approval is being sought to slow down the water in some of the swales.

The requested waiver of Section 180-79.M.(1) has to do with the requirement for a minimum pipe size of 18 inches in all roadway systems proposed for dedication to the Township. Mr. Visniski explained that a few 15" pipes are being proposed. He stated that calculations have been provided to show that the 15" pipes have the capacity to handle up to the 100-year storm. He added that the reason for the request is that the 15" pipes will make it a little bit easier to deal with some potential utility conflicts. Mr. Mitchell asked Mr. Lebo if this was more his area or the Roadmaster's area. Mr. Lebo responded that the Roadmaster would probably prefer the larger pipes for maintenance reasons. Mr. Visniski said it was his understanding from staff meetings that the Roadmaster was okay with the smaller pipes. Mr. Kelso pointed out that it would be easier if issues discussed in staff meetings would be written down and passed along to the Commission.

The requested waiver of Section 175-12.A.(1) has to do with the requirement to not increase the post-development total runoff volume for all storms equal to or less than the two-year twenty-four-hour duration

precipitation. Mr. Visniski pointed out that this is also an NPDES requirement for a two-year storm. He explained that normally the intention would be to try to infiltrate the water, but that perc tests on the site have shown that the soil is not suitable for infiltration. He stated that in exchange for that, more water quality benefits will be provided. He explained that the basins will have an engineered soil in them to allow the water to settle out, and make the water cleaner. Mr. Visniski summarized that the water can't be infiltrated because the site conditions will not allow it.

At this point Chairman Kelso said that he didn't have any problems with the requested waivers. Mr. Lebo briefly talked about how the waivers tie in with some of the engineering comments. Ms. Martin asked Mr. Kelso if he didn't have a problem with the issue of the 15" pipes versus 18" pipes without directly seeing it in writing or talking to the Roadmaster. Mr. Kelso said he felt that this should be verified to make sure it's okay. He noted that the bigger pipes are easier to clean out, but that if it's okay with the Roadmaster, then it will probably be okay with the Planning Commission. Mr. Mitchell said that the requested waivers all make sense. He said that he wanted to make sure that the "calculation issues" are resolved and that everybody is in agreement on that.

There was some discussion about how to proceed with the comments. Mr. Kelso suggested that something be put in writing indicating that everything has been finalized. Mr. Mitchell asked Mr. Borda if there is any time constraint by which this all has to be processed by before the extensions expire. Mr. Borda responded that the time constraint is October 28, 2016, but that the Applicant can request an extension. He pointed out that it would have to be approved by the Board of Supervisors by October 28th, and that if this matter is to come back before the Planning Commission in October, there will not be enough time for the Board of Supervisors to act on it.

There was some further discussion about the need for an extension. Mr. Visniski said he wants some "comfort" that everything the Commission wants is being provided. Mr. Kelso noted that this should go right through at the next meeting. Ms. Martin pointed out that the Commission members are used to getting something from the Engineer which says that "this comment was satisfactorily addressed." Mr. Kelso said he was assuming that this will all be hashed out when Mr. Visniski meets with the Engineer. Mr. Lebo asked Mr. Visniski about the status of the H.O.P Application. Mr. Visniski replied that it has been split into two applications so that the water and sewer can be done separately from the road permits. Mr. Lebo pointed out that this could delay things as well. Mr. Visniski said to keep in mind that PennDOT is going to approve those plans, and that the Applicant has to do whatever PennDOT asks for. Mr. Borda pointed out that the Plan will not be recorded until everybody is satisfied with whatever needs to be done. Mr. Visniski pointed out that a lot of agencies are involved in this, other than the Township, and that all of the requirements from all of those agencies have to be met. Mr. Borda asked that the extension request be submitted tomorrow.

Mr. Kelso suggested a motion to table.

Ronald Anderson moved to table this matter.

At this point, some of the visitors indicated that they wished to speak and ask questions. Trudy Bailey spoke of the gravel road being used to access the cemetery. She stated that it is only 4 feet from the Condoguinet at one location and is in danger of being washed out. Mr. McKnight added that it is 4 feet from the embankment. Mr. Kelso pointed out that the road has been like that for ages.

Marcus McKnight stated that Meeting House Road has been replaced with a one-lane driveway with no dimensions and no maintenance, and that it is "unacceptable." He stated that the cemetery can't do the job and that this also is a big inconvenience for Mr. George and his family. Mr. Kelso said that hopefully when all of this is done, there will be a road there, but that it won't be for a while. He added that the Applicant can't be forced to put in a paved road back there. Mr. McKnight stated that this is why the matter is in court and also why the Preliminary Plan says that they have to do it. Mr. McKnight said that when Meeting House Road was closed, the Pennsylvania Turnpike Commission promised a paved highway back to the cemetery and back to the George property. He stated that his group doesn't have a problem with tying it into the road network, but that they do have a problem with waiting five years to use the cemetery. He added that they can't use it now, and are unable to have funerals or public events. Mr. McKnight spoke about the Township saying that they have no responsibility over private land after the Township has put it in writing several times that the

Turnpike has promised to fund a road out to Route 74. He stated that this still hasn't happened and that the subdivision has to provide for this to happen.

Douglas George spoke at this point. He stated that Marcus McKnight is his attorney, as well being the attorney for the cemetery representatives. Mr. George acknowledged the cemetery but said he wished to point out that there is also a dwelling and a working farm back there. He said that there is probably more activity associated with the dwelling and the farm on a daily basis than is seen at the cemetery. He pointed out there is a family there with kids who go to school every day and people who have to go to work every day. He noted that the farmer has to be able to get in there every day to get his cattle in and out of the barn. He asked if the Subdivision and Land Development Ordinance provides for the protection of existing residents when development is being undertaken. Mr. Lebo noted that one of the comments was to show how this is going to be provided, since it wasn't clear enough on the Plan. Mr. George asked that it be kept in mind that there are people back there. He then referred to the site plan and stated that a recorded easement is not a defined right-of-way, and is just the right to walk through the land, or drive across it with an all-terrain vehicle. He added that it is a bit of a "sham" to say that there is a recorded easement when there is not a delineated right-of-way. Mr. George said that there has been no conversation about a delineated right-of-way, and that it would be nice to be a party to the development. He then pointed out that the previous owner of the property went bankrupt and the development did not get built. He asked what will happen if that occurs again, or if only Phase 1 gets built. Mr. George asked that the SALDO be explored. He further asked what the enforcement is going to be if a third party ends up owning the property and the situation starts all over again. He also suggested that Mr. Hasson should be required to put up a bond to insure that the road gets built.

Nancy Augustine spoke at this point. She referred to the discussion about the Plan being approved under the old existing rules and being accepted under the new rules. She mentioned the several waivers being requested. She stated that this plan has "drifted somewhat" from the plan that was accepted back in 2006. Ms. Augustine asked at what point does it become a new plan and should be considered brand new. Douglas Rydberg said that this was also his comment. Mr. Kelso referred to Mr. Borda's commentary about how the state has locked-in plans from the past and provided numerous extensions. Mr. Rydberg described a number of changes that have been made to this plan that were not part of the 2006 plan. He stated that this is not the same plan. Mr. Kelso acknowledged that this plan is not the same, but he pointed out that the previous plan was only a Preliminary Plan. He explained that plans do sometimes change somewhat between the Preliminary and the Final. He pointed out that this plan is using the same road network and that the lots are basically in the same place. Mr. Rydberg stated that in this day and age, the citizens should have a plan that should be built well with concerns about sustainability. He also mentioned the amount of flooding that has been seen on the news this summer. He said that this is a big issue due to poor planning decisions.

Dennis Hurley asked Mr. Borda what the State says about plan changes. Mr. Borda responded that the State doesn't get involved in plan changes, and that this is up to the Township how much a plan is allowed to change. At this point Mr. Rydberg referred to the traffic study that had been done in 2006. He stated that there are totally different requirements now because the Plan has been totally changed. Mr. Kelso replied that the plan is not being totally changed. He and Mr. Borda pointed out that the only change is that the amount of traffic is being reduced. Mr. Borda pointed out that the State is not requiring a new traffic study.

Mr. Borda responded to a question from Ms. Augustine about the number of houses. He went into some explanation of how the original plan was for three properties to be developed simultaneously, but that this didn't happen at the time, and that the other two properties have asked for extensions. Ms. Augustine then mentioned that she lives in a development adjacent to property that has gone undeveloped and is a "jungle." She stated that her concern is about having to drive on a dirt and gravel road in the event that Phase 1 is the only phase that gets built. She stated that there needs to be some kind of reassurance that the road will get built quickly.

Nancy Tritt spoke at this point. She commented that she is part of a group of volunteers who operate a cemetery for a church and are in business. She spoke of people who have purchased lots at the cemetery and are afraid to go back there. She commented about the difficulty older people have driving back there to visit the site. Ms. Tritt said that some people have suggested that they don't want the lots they own. She mentioned the amount of time and money spent on the cemetery and said, "You're putting us out of

business." She also asked who is liable in the event of an accident on the gravel road, or what she called a tractor path.

Mr. Rydberg mentioned the geological value of the site, and pointed out that it is a wetland. He said that it needs to have updated stormwater management. He also added that the reason this community is here is because the original settlers in this area chose that location. Mr. George asked that the people involved be considered when conditions are put on this development. He stated that it still has to work. Mr. Mitchell asked the group about how information can be obtained about their meetings pending with the Turnpike Commission. Mr. McKnight replied that the Planning Commission will be kept informed.

Mr. Kelso asked if anyone else wished to speak. There was no further discussion.

Mr. Anderson had previously moved to table this plan. Pamela Martin seconded. All votes were in favor, and the motion carried.

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 8:19 p.m.

Respectfully Submitted,

Ronald Anderson
Secretary,
North Middleton Township Planning Commission

Michael S. Medvid
Recording Secretary