

CUMBERLAND TOWNSHIP PLANNING COMMISSION

Minutes of the May 9, 2013 Regular Meeting

CALL TO ORDER

The meeting was called to order at 7:02 p.m. by Chairperson Jim Henderson. The meeting was recorded.

ATTENDANCE

Present were Jim Henderson, (*Chairperson*) Barry Stone, (*Vice Chair*), Steve Tallman, William Naugle (*Township Code Enforcement/Zoning Officer*), Michele Long (*Planning Commission Secretary*), Leah Heine (*Township Engineer*), Sam Wiser, (*Township Solicitor*).

APPROVAL OF MINUTES

Approval of the minutes from the April 11th Planning Commission Meeting.

Mr. Stone made a motion to approve the minutes from the April 11th, 2013 Meeting. 2nd by Mr. Tallman.

Vote: Yea-3 Nay-0 (Hickethier Absent)

Motion Carried

PUBLIC COMMENT

Mr. Henderson stated that they did have a quorum and would be able to open the meeting and legally conduct business. Mr. Henderson added that when the Keller Plan is to be discussed Mr. Stone will recuse himself but the Commission can still act on the plan since there was a quorum to open the meeting.

Mrs. Jean Stone, 1745 Mummasburg Road, asked why the changes to the text of the zoning ordinance were not on the agenda for review by the Commission since the Hearing is scheduled for June 6th.

Mr. Thomas stated that he does not think the Ordinance requires the Planning Commission to review the text changes and these are just an abbreviated section of what the Commission already reviewed last year.

Mrs. Stone said they are not the same changes as the previous text changes which the Planning Commission seen last year.

Mr. Wiser stated that the text amendments could be added to the agenda under new business and Mrs. Stone's comments could be heard if the chair agrees.

Mr. Henderson agreed.

Mrs. Stone continued to read her comments regarding her opposition to these proposed text amendments.

Mr. Paddock asked if the Planning Commission would have to make a recommendation this evening on this or would they be able to have another meeting to discuss this. Mr. Wiser stated that the hearing is June 6th which would be before the next meeting Planning Commission Meeting. Mr. Paddock felt that the Planning Commission needed ample time to review this before the Board makes a decision.

Mr. Tallman asked for the staff's input on these changes and why they wanted them to happen.

Mr. Thomas responded that this is a consolidation of what was heard by the Commission last February.

Mr. Henderson stated that this item would be further discussed later under New Business.

ACTIVE BUSINESS

Keller Poultry Barns

Construction of two poultry barns, two roofed waste storage areas, a packing room, a gravel/paved access drive and a bio-retention basin on a 50 acre lot in the A/R zoning district located on Mummasburg Road.

Mr. Stone recused himself from the table.

Ms. Leah Heine, Township Engineer, reviewed the comments. Ms. Heine stated they needed a signed and sealed landscape plan.

Mr. Keener responded a signed and sealed copy was dropped off at the Township Building.

Leah added that they need to make sure that the signed copy be submitted with any future submissions.

Ms. Heine also stated they would need a waiver for a preliminary plan submission and she was in agreement with that request.

Mr. Tallman recommended that the waiver for the preliminary plan be granted. 2nd by Mr. Henderson.

**Vote: Yea-2 Nay-0 (Hickethier Absent) (Stone Recused)
Motion Carried**

Mr. Keener stated that the Penn Dot Highway Occupancy Permit (HOP) has been submitted to the county and the district office. Mr. Keener added that he has a meeting scheduled to discuss the application with district personnel and the traffic engineer.

Mr. Wiser asked if the plan had a note stating a HOP is required. Ms. Heine stated that it is note 13 on the plan.

Mr. Keener did not have any objection to adding a note stating no wastewater will be generated on site. Mr. Henderson asked how there was not going to be any wastewater generated. Mr. Keller responded that there will not be any sinks in the barn. Mr. Tallman asked how the barns would be cleaned. Mr. Keller stated the barns are dry cleaned due to bacteria if water is used. Mr. Keller added that they will be cleaned with a simple leaf blower. Mr. Tallman questioned the pollutants that would be generated from blowing these items into the air and stated this was a huge concern of his for the community. Mr. Keller added that this would be a question for Dr. Martin.

Ms. Heine stated that she did get answers to the Water Feasibility Study questions which she had originally placed on the comment sheet. After speaking to the water geo-scientists she feels these comments are answered and this does now meet the requirements.

Mr. Wiser stated that if there is typical financial security a developers agreement would not be needed but if it is non-typical such as cash or CD then a developers agreement would be required.

Mr. Tallman asked what capacity the people from Hillendale had. Mr. Keller stated they are the go to guys when there are agricultural problems.

Mr. Henderson questioned the cleaning and what pollutants are being put into the air. Mr. Henderson asked if Mr. Martin could be available at the next Planning Commission Meeting.

Mr. Keller said he could call and check with Dr. Martin and let them know.

Mr. Wiser asked what clarification the Commission was looking for in relation to the Cumberland Township Subdivision and Land Development Plan (SALDO). Mr. Wiser cautioned the Commission that they are not rehashing the conditional use hearing and sticking to the review of the plan in relation to the SALDO.

Mr. Tallman stated that the plan should be tabled due to items 6&8 on the KPI comments. Mr. Wiser stated that the note on the plan stating the HOP will be required will satisfy the planning commission comments.

Mr. Henderson reviewed the KPI comments for completeness.

Mr. Henderson summarized that the items to be still addressed from the KPI comments are 3,4,5,8,10 & 12B.

Mr. Tallman made a motion to recommend approval to the Supervisors based on the completion of actions based on KPI comments that have not been addressed, 3,4,5,8,10,& 12B.

Mrs. Stone asked a question regarding the HOP and if the plan has to be revised will the plan need to come back to the Commission?

Mr. Wiser stated that if the plan would be revised it will come back to the Planning Commission and the Board of Supervisors.

2nd by Mr. Henderson

**Vote: Yea-2 Nay-0 (Hickethier Absent)(Stone Recused)
Motion Carried**

Mr. Thomas suggested that the question regarding the dry cleaning and pollutants in the air was going to be answered that Mr. Keller contact Dr. Martin and provide that information.

Mr. Keller stated that he would give Dr. Martin a call. Mr. Keener added he would get a written response to the Planning Commission and the Board before the Board meets.

Mr. Stone returned to the Commission table.

NEW BUSINESS

James H. Delaney, Jr./Oak Lawn Memorial Gardens Zoning Map Change

Request for a zoning map change located at the junction of Kinsey Drive and U.S. Route 30.

Mr. Wiser reviewed Mr. Delaney's rezoning request.

Mr. Tallman asked if there was a certain amount of land that needed to be provided for the Institutional (INS) zone.

Mr. Naugle explained the zoning reasons for this request. At the current time the piece of property is of no use to Mr. Delaney.

Mr. Tallman asked if this had anything to do with the comprehensive plan review that was currently going on.

Mr. Thomas stated that there are a lot of inconsistencies with zoning throughout the Township that the staff hopes to work on those.

Mr. Thomas also pointed out the comments from Adams County and that they based their comments on the comprehensive plan from fourteen years ago. The staff is trying to look in the future and the highest and best use for today and tomorrow not 14 years ago. This is not for just this property but any property within the Township.

Mr. Tallman made a motion to recommend approval to the Board of Supervisors.

2nd by Mr. Stone .

Vote: Yea-3 Nay-0 (Hickethier Absent)

Motion Carried

NEW BUSINESS

Rupa Engineer Zoning Map Change

Request for a zoning map change located southwest of the existing Oak Lawn Memorial Gardens Cemetery and Lincoln Estates Mobile Home Park. In the vicinity of Kinsey Drive and U.S. Route 30.

Mr. Wiser stated that Mr. Naugle would handle this case since he could not speak to this item due to conflict of interest based on other work that this applicant has done with Mr. Wiser's office. Mr. Wiser added that he would ask the Board of Supervisor's if they would waive any conflict of interest issues but he could not speak on the item until that time.

Mr. Bob Sharrah, representing the applicant, explained the reason for their zoning map request.

Mr. Thomas mentioned the comments from Adams County Planning based on the Comprehensive Plan from fourteen years ago. Mr. Thomas noted that this particular area has changed a great deal with the availability of public utilities; water and sewer are now available.

Mr. Tallman asked about the airport in relation to this proposed change. Mr. Sharrah stated that any development that would happen would have to obey the FAA rules and regulations due to the airport overlay section.

**Mr. Stone made a motion to recommend approval to the Board of Supervisors
2nd by Mr. Tallman.
Vote: Yea-3 Nay-0 (Hickethier Absent)
Motion Carried**

NEW BUSINESS

William H. Scott Subdivision

Subdivision plan proposing to subdivide the existing 31.4 acre lot into two lots, located on Herrs Ridge Road.

Ms. Heine, Township Engineer, reviewed the plan along with Mr. Sharrah, the applicant's representative.

Ms. Heine added there is a zoning issue which Mr. Sharrah will elaborate on.

Mr. Sharrah's interpretation in the zoning ordinance Section 403 states that lot width has to be 200 ft. at the right of way line and then it goes on to say it has to be 200 ft. at the building setback line. The definition of lot width states that lot width is measured at the required or proposed building set back line. Mr. Sharrah continued to state his issue is, that the proposed set back line on his plan far exceeds 200 ft. Mr. Sharrah added that he feels the ordinance has a conflict within itself and he wants to suggest that it is interpreted in favor of the applicant.

Mr. Wiser stated the ordinance has 2 requirements at Section 403. Mr. Wiser added that Mr. Sharrah is right with the definition of minimum lot width at the building set back line, the definition of lot width says the horizontal distance measured between the side lot lines at the required or proposed building set back line. Section 403 also says that minimum lot width at the right of way line is 200 ft and the right of way line for this purpose would be the street right of way. Mr. Wiser continued with the purpose and intent of this requirement was to prevent or prohibit future panhandle lots which are generally disfavored in planning concepts. Mr. Wiser added that while there may be a distance measured from between the side lot and the proposed set back line the set back line has to be located from a right of way line.

Mr. Sharrah feels that Mr. Wiser's opinion is open to interpretation due to the Ordinance definition stating 'required OR proposed' not just required.

Mr. Sharrah then showed the Commission what was preexisting on the plan and what they want now.

Mr. Sharrah asked if he should request an interpretation from the zoning officer in order to move forward.

Mr. Wiser stated there are three options available, 1) a variance request, 2) a determination from the Zoning Officer, and 3) then based on that determination he could either go with that determination or appeal that determination to the Zoning Hearing Board.

Mr. Sharrah asked if it could be added to the zoning text amendments currently being proposed. He feels there is a lot of language misinterpretations in the ordinance that needs cleaned up.

Mr. Naugle added that from a zoning stand point based on the language in the ordinance he feels it would also be nice to have it cleaned up.

Mr. Stone stated that most municipalities frown on flag lots and he thinks that maybe the language should be cleaned up on flag lots.

Mr. Paddock mentioned that from his experience that panhandle lots are useful in preserving important parts of property and getting development. He suggests that they do not just wipe out panhandle lots.

Mr. Henderson asked Mr. Sharrah if he would want to bring this back after the comprehensive plan is completed. Mr. Sharrah said he would not due to the extended length of time that it will take to complete the update. Mr. Sharrah also stated he did not feel the zoning hearing board would approve this case due to it being a self-created hardship.

Mr. Tallman made a motion to table the plan for an opportunity to review this with the Zoning Officer.

2nd by Mr. Stone.

Vote: Yea-3 Nay-0 (Hickethier Absent)

Motion Carried

NEW BUSINESS

Misty Ridge Recreational Lot

Subdivision of a 1.225 acre lot with a 40'x60' pavilion to be constructed.

Ms. Heine, Township Engineer, explained the plan to the Commission. Mr. Pete Martin and Mr. Sharrah, the applicants, discussed the plan with the Commission and Ms. Heine.

The Commission and the applicant's discussed Palace Drive and any agreements they may have with the road being extended through and having a recorded right of way.

Ms. Heine stated it was the Townships understanding that at the time of the Misty Ridge plan approval Palace Drive was to be an actual recorded right of way and that there was an agreement or was to be an agreement. Ms. Heine stated that this is something that needs clarified.

Mr. Wiser reviewed the final recorded plan

Leah stated there are two main issues 1) that they need any and all agreements for the future of Palace Drive and 2) with the park n rec fees being returned would this be considered a public township park in which would change the parking requirements.

Mr. Thomas stated that the Township has been wondering about the agreements for Palace Drive for a while and is now asking for something in writing.

Mr. Wiser asked for the written easement that was recorded with Adams Electric at Palace Drive.

Mr. Sharrah questioned the Township as to what they wanted them to do if they find no agreement.

Mr. Thomas added then what they have to deal with is what was recorded on the plan and is in front of you.

Mr. Wiser read the Board of Supervisor's approval of the original Misty Ridge plan from Oct 28 2008.

**Mr. Stone made a motion to table this plan for further review
2nd by Mr. Tallman .**

**Vote: Yea-3 Nay-0 (Hickethier Absent)
Motion Carried**

NEW BUSINESS

Proposed Zoning Text Amendments by the Township.

Mr. Wiser, Mr. Naugle and Mr. Thomas reviewed and explained the proposed Amendments with the Commission.

The Commission had open dialogue with the audience regarding the proposed amendments.

Mrs. Jean Stone, 1745 Mummasburg Road, feels people need written notice and the opportunity to be heard in regards to any amendment or hearing. She also does not feel any item should be done by resolution but all items should be in the ordinance.

Mr. Stone asked why the Township couldn't keep what was currently in the ordinance and just tweaked a little bit.

Mr. Thomas felt that this is stronger than what we have now.

Mr. Paddock stated the Planning Commission needs to consider their recommendation to the board and there are some significant issues. Mr. Paddock added that the Commission needs to realize that no one reads public notices.

Mr. Stone made a recommendation that Section 2, the notice provision, be modified to include written notice of any hearing be sent by first class mail to all property owners within an area within 500 feet of the affected property.

2nd by Mr. Tallman

**Vote: Yea-3 Nay-0 (Hickethier Absent)
Motion Carried**

Mr. Stone made a motion to recommend Section 27-2001 (4) should remain in the ordinance, opportunity to be heard at a public hearing.

2nd by Mr. Tallman

Vote: Yea-1 Nay-2 (Henderson and Tallman) (Hickethier Absent)

Motion Failed

Mr. Stone made a motion to recommend the entire ordinance changes with the modification that have been stated above.

2nd by Mr. Tallman

Vote: Yea-3 Nay-0 (Hickethier Absent)

Motion Carried

OTHER BUSINESS

Zoning/Code Officer's Report

Mr. Naugle gave a report for the April, 2013 building/zoning activities within the Township.

Mr. Thomas stated that the board did received two letters of interest for the vacancy on the Planning Commission which will be heard at the May 28th meeting and he welcomed the members to attend.

Mr. Thomas added for an update on the comprehensive plan the Board will appoint a planning review committee as we join Gettysburg Borough to work with Adams County Planning. The Chair will make that announcement at the May 28th Supervisors meeting also.

ADJOURN

There being no further business, the meeting was adjourned at 10:00 p.m. by motion of Mr. Tallman. Seconded by Mr. Stone.

Vote Yea-3 Nay-0 (Hickethier Absent)

Motion carried.

Michele Long, Secretary