

Hamiltonban Township Planning & Zoning Commission
23 Carrolls Tract Road, Fairfield, PA 17320

May 22, 2012

Commission Members Present: Chairman Russell Ryan, Secretary Doreen Premo, William Shriner and Michael Pastovic. Vice Chairman Stephen Jacobs had an excused absence. A Quorum was present.

Staff/Consultants Present: Rob Thaeler from ACOPD, Township Planning Consultant, and Jason Reichard, Township Engineer.

Developers and/or Representatives Present: Mr. Richard Robinson.

Public Present: Supervisors Robert L. Gordon and Harry Rood, and Arthur and Thomas Oleskey, and Pat and Tracy Murray.

Chairman Ryan called the meeting to order at 7:00 PM.

The Agenda was reviewed with the following changes: #6 Old Business – Sewage Module should be Stormwater Management; #8 Continuing Business b. – May 26 should be May 31; Township Meetings should be numbered as 12, and Adjourn should be numbered as 13. These changes will be made for the official copy of the May Agenda.

Rusty then called for a motion to approve the April 17, 2012 minutes, pending any additions or corrections. The correction on page one was to change NPDS to the correct acronym of NPDES. Michael Pastovic motioned to approve the minutes with that change, and Bill Shriner seconded. The motion carried unanimously. The minutes will be forwarded to the Webmaster for inclusion on the Township webpage.

Under Public Comment Mr. and Mrs. Murray asked a few questions about the proposed structure that Mr. Kevin Brown would like to build on his property on Fairfield Rd. A short discussion ensued but was continued later in the meeting under New Business.

Plans: The status of these plans will continue to be monitored in the Minutes of this Commission under **Pending**, until the plans are finalized.

Current Plans: None.

New Plans: None.

Pending Plans/Zoning:

Iron Springs Plaza Preliminary Plan.

Stormwater Plan requires DEP approval/permit for a drainage pipe outfall (Small Projects Permit Application for Water Obstructions & Encroachments – Hamiltonban Township, Adams County, SDGI File 1048. Notice to township dated 14 April 2012).

New Information: The Township received a report on May 8, 2012 from Deb Musselman of ACCD indicating this plan has been found to be INADEQUATE to meet erosion control requirements of PA Title 25, Chapter 102. Report on file in Iron Springs Plaza folder.

Strawberry Hill Master Site Conceptual Sketch Plan. On hold until future notice by developer.

Orchard Estates Preliminary/Final. On hold until future notice by the developers, Mr. & Mrs. John & Kathe Baker.

Under Old Business, the **Jeff and Lori Waite Property Stormwater Management Plan** with the purpose of building a seven bedroom home on land that was subdivided in 1972, but not built upon at that time, was briefly discussed. This property is located on a private drive off Orchard Hill Drive. Part of the property lies in Highland Township, but the area to be disturbed is located in Hamiltonban Township. The property owners have submitted a completed Sewage Planning Module to DEP, and now have a Stormwater Management Plan under consideration. This plan was reviewed by the C.S. Davidson engineering firm in a report dated May 10, 2012. The owners have 10 items to address. The property owners have also filed a request for an NPDES Permit with the Adams County Conservation District. This will be carried under **Pending Plans** in the future.

Under New Business, upon request of the Township Zoning Officer, we reviewed Kevin Brown's application for a variance for the expansion of a non-conforming use of an Agricultural structure in a Commercial Zone located at 3809 Fairfield Rd., Fairfield, PA. He is applying to build a 60 x 120 square ft. structure for horses. Mr. Brown has already applied for a public hearing with the Township Zoning Hearing Board scheduled for June 6, 2012 at 7 PM at the Township Office. This body of three members and one alternate has its own solicitor and a stenographer. Neighbors to this property have been informed of the proceedings and have the right to speak at the Hearing. The Planning and Zoning Commission is an automatic party to this case and has the ability to be involved if it so chooses and to make any recommendations during the hearing it feels appropriate. The decision of this Board is final and may only be overturned by appeal through the State Court System - the Court of Common Pleas and on higher up in the court system if wanted. Since Mr. Brown was not present to answer our questions, we are merely discussing what might occur or might be points of discussion at the Hearing.

This is not a conditional use application, rather it appears to be a variance request. Typically variances are issued to allow an applicant to do something that the Zoning Ordinance does not permit such as a smaller side setback to the property line. The Nonconforming Use section allows for expansion of nonconforming uses pending approval by the ZHB. As this is a nonconforming use (Agricultural) in a Commercial Zone, probably the item before the ZHB is a special exception. Per Mr. Thaeler, Township Planner, it is curious that the Zoning Ordinance, in particular Article IV, does not specifically reference what type of application is before them (ZHB) when dealing with expansions of nonconforming uses. What the applicant is asking for is not exactly specified on the application as presented to the P&ZC. Therefore, Mr. Brown may need two approvals under (Section) 400 C.1. of the Zoning Ordinance: a special exception approval to allow any for any expansion on his property and a variance approval to allow for more than the 25% expansion as allowed in this location under the

Township Zoning Ordinance. If other farm buildings already exist, someone must have measured all the existing buildings to determine the size will be over the specified allowance of more than a 25% limit of the existing buildings. The ZHB has the right to apply conditions to an approval to ensure that this request is in the interest of public health, safety and welfare, and that specific concern must be brought up at the public hearing to support any opposition to the approval of the application. If the Zoning Hearing Board should approve this request, the Board members may attach conditions to the approval, such as his need to provide a land development plan, to provide for stormwater management and erosion control, and to devise a manure management plan as well as a requirement the applicant meet any other Township regulations as may apply.

Just because the applicant wants to build that large of a building does not necessarily mean that it is a variance. There must be something unique about the property that would make compliance with the ordinance standards difficult. The Board must take into account the Zoning Ordinance, public comment, and any other documentation presented. Mr. Brown will need to prove a hardship exists for the variance portion of his application.

The Zoning Hearing Board will rely on the Zoning Ordinance, and any comments, testimony or documentation presented by others, including the Planning and Zoning Commission. The ZHB may require Mr. Brown provide a sketch of what he plans to build. This is part of a land development plan, and this sketch will show the amount of acreage, the buildings, setbacks, etc. on this property. This aspect will address the nutrient management plan, as a manure management plan requires 25 acres, and Mr. Brown does not have that much land.

The P&ZC decided we did not need to make a motion as we had not received comments from the applicant, and we do not have enough information, so the appropriate place to make decisions is at the Zoning Hearing Board.

Mr. Wilbur Slothour prefers to advise this Commission of any applications that refer to building in a commercial zone or for a commercial use. Wilbur, the Zoning Officer, stated the application deals with Sections 602 and 400 C.1. of the Zoning Ordinance. Section 602 refers to the hearing process, but does not specifically mention the P&ZC. However, Mr. Thaeler discovered in Section 602 that the Township Zoning Hearing Board is required to notify the County Planning Commission but not the Township Planning Commission. It was suggested this might need to be addressed in the upcoming Hamiltonban Township Zoning Ordinance revision. *(However, after the meeting, the P&ZC secretary researched the 600 Section and discovered that Section 604.2. does mention the Board of Supervisors and the Planning & Zoning Commission role in some instances. The main reason this was probably referred to the PC was to be aware of this plan provided the ZHB grants approval to the plan and 604.2.g. becomes relevant.)*

Tracy Murray asked about the commercial zoning of her property and how this was allowed to happen back when it was first zoned. Rob stated that the initial or prior use of a property is allowed to continue after the adoption of a zoning ordinance, even though the existing use does not conform to the new zoning. There is nothing illegal with this. (This is called

grandfathering.) However, the number of nonconforming uses should be minimized. It would be a mess to try to accommodate everyone.

Under New Business, Mr. Richard Robinson, 697 Gum Springs Rd., Fairfield, PA appeared to ask questions on subdividing his 9.96 acre property to create a one (1) to two (2) acre second building lot. He is representing his wife and two sons who own the property jointly with him. The family wants to install a mobile home on this property for one of the sons, but Mr. Robinson was told that he could do this only if the mobile home was attached to the existing home as this property is located in R1 zoning. A second option would be to subdivide this property into two lots, and that would trigger a land development process. (Two single family residences on a single property are not permitted in R1 (see Section §901 Permitted Uses), so they would need to subdivide the property into another lot. This property could be subdivided into several one acre lots.). Mr. Robinson said he was not proposing subdivision at this point, but he would like to discuss the 2nd option of subdividing to find out the process. He was advised that he would need to contact a local surveyor. Mr. Slothour did give him some of the dimensions of the property requirements (setbacks) and advice about a surveyor. Mr. Robinson provided the P&ZC with a GIS map indicating the subdivision he might create. He was advised that he would need to subdivide, follow all the rules in the SALDO, hire a surveyor, have a valid perc and a well site, and then he can plan house. However, he should contact someone to do the testing first to find out if they have a perc. He might need two percs (a second one as a backup), and the soils need testing. Mr. Robinson thought he might need a sand mound. He asked if he could dig the holes with his own backhoe. He was told he could, and that Gil Picarelli, the Township SEO, would do the inspections and soils approval for septic installation. He should check the well ordinance (available online). Then he could plan the subdivision and location of the mobile home, meeting setbacks and all other usual requirements of the SALDO.

Under Continuing Business, discussion was held on three topics. The first item on the table was the SALDO revision. Jason stated that Rob has worked through his (Jason's) comments and P&ZC comments and combined them into the most recent revision. This version was sent to the Township Secretary.

Jason next asked for clarification of street width specifications. There is a table around p. 63 of the SALDO revision for our reference. Types of roads mentioned were arterial (Rt. 116), collector (Carrolls Tract), and minor roads (Bullfrog), and private lanes. Discussion covered mainly minor roads with the features of this type road discussed were cartway (lane) widths, curbing or not, width of shoulders to allow 4 foot shoulders on one side only or both or allow for parking on one side only necessitating an area wider than 4 feet, and what do we want the shoulders to be made of – either paved, grass, or stone. It was mentioned that a pervious surface was preferred. These standards would apply to any minor street anywhere in the township. It was mentioned that we had wanted to conform with Fairfield (especially where we abut Fairfield). As any new street in Fairfield will have curbing and sidewalks, Jason said that since Fairfield has curbs, and Hamiltonban doesn't, this complicates things. Pictures of sample streets were requested. The new State requirement for double lines to be painted on all streets in a Township was mentioned as to the impact for street width. This would only involve 4 inches and wouldn't matter significantly. CS Davidson is going to be doing a

materials specification list for the township later. The cartway widths can be allowed to be narrower in a subdivision to provide options for the developer (the specified standard widths can be waived in a subdivision). However, one problem would be that differing standards for subdivisions as compared to Township roads would create a problem at the connecting point. How would emergency services be affected if a developer would like to address stormwater management by having narrower roads with grass swales? The Township has to consider what is safe, environmentally sound, keeps speed down, provides for parking, etc. Speed bumps were suggested, but the opinion was that this only encourages speeding as people tend to speed in between the bumps and then slam on the breaks.

Other topics were discussed next. Charging a fee in lieu of for a traffic study where required by ordinance was brought up for consideration. If a traffic study already exists, why require spending the money for another study? Is a timeline necessary or can it be taken out? A timeline requires tracking, and then who handles that? A requirement for structural integrity is in the final section – this is a process that requires a major final plan review. The MPC includes language about surety, and Rob thinks we're covered on this. Comments on as-built plans were next. When are these required and what are they used for? Current language requires the developer submit the as-built plans first, and then the plans are reviewed to release all the financial security. Rob said this was discussed as being reversed in the new version. Most of the money will be released, but part of the money will be reserved till the as-builts are turned in. Specific financial language has been added to the new document. Jason and Rob will finish up with the revision work and get the final version to the PC, soon.

Harry Rood, Supervisor, had a couple of comments on private lanes. There are 76 private lanes now – 5 type A-1's, 55 A-2's, 16 A-3's. He wondered if all existing private lanes were going to be required to install pedestal type mailboxes as included in the revision. Rob said this would be required of new lanes. Harry thought this should be part of the SALDO. Now each lane has several mailboxes, but no central pedestal boxes. He is concerned that all would be required to comply if someone were to subdivide a large lot (say 10 acres) off of a private lane. How would this be dealt with as there would be more mailboxes? Would this require the new standard of one central box at the intersection be used or would this be grandfathered? It was thought the Post Office might want a consolidated box. A review of the types of lanes was brought up. Currently, there is no limit of the number of houses on A-1 lanes. A-2 is limited to 10 lots only. On A-3 no new lots or uses may be created. Type B (or newly created lanes) includes no language on the type of usage. The language will be checked out to see if it clarifies the existing usage vs new usage. Harry thought some language should be added to indicate grandfathering and that anything that comes after the effective date of the ordinance is not grandfathered. However, if more properties are developed on a lane, then the lane will need to be brought into compliance with street standards. The lane now will be held to higher standards. If the property has already been in existence, and it is built on, that is not a new use even though it goes over the 10 house limit on the lane. It was felt this needs clarification in the revision. Rob said he will review the language to see how to allow the 11th lot. If someone already owns the lot, the owner would be considered a user, and it was felt that the language would not apply to this situation.

Another item brought up was how to handle a request to relocate a lane. Harry suggested there be language added to address this situation. For instance, the BB Section off of Iron Springs Road has 100 lots with only one way out. To avoid this in the future, language should be added to require a second way in and out of a subdivision over 25 houses. Jason said this would be covered, but Rob said he thinks this comment is referring to private projects. This could hamper emergency rescue efforts. Jason agreed there should be two means of access for this purpose. Jason said only one point of access is defined as a cul-de-sac. Rob said we don't allow cul-de-sacs in subdivisions. So, they will work on this area for the revision.

The next item was the final review of the Act 167 proposed Model Ordinance with addition of a Simplified Approach to send to the Board for its May 31 meeting. This version is consistent with the model Act 167 Stormwater Management Plan. Jason explained the highlights of the changes. The changes provide guidance for the homeowners to do their own stormwater management plan with cookie cutter type designs. Section 1 is pretty much the same, Section 2 has some added definitions, and Section 3 was streamlined so that under 5000 square feet of impervious surface allows immediate recourse to the Simplified Approach in Appendix E. This is intended to help the homeowner select a simple design or ways of providing for stormwater management without the expense of hiring an engineer. Every project proposing impervious coverage will be logged with the township. The building application should be accompanied by a site plan with property boundaries, soil types, contours, the house (or building) that will be on the land needs to be measured as well as the driveway. The County Mapping Department will provide the homeowner with a site plan, an aerial overlay of the applicant's property (GIS map), etc. for a \$7 fee as detailed in Appendix E. This "plan" with the home included will need some editing by the applicant, and may be taken in to the township for a building permit. The township will need to decide by internal policy as to whom the applicant will contact for the building permit. It may be the Planning Commission, the township engineer, the zoning officer or whoever else is assigned the oversight. There is a worksheet in the Ordinance for the applicant to use. The zoning officer or whoever will administer the application is provided with a worksheet to log in the project. (There will be a cumulative record of the properties impervious structures.) It was suggested that the Township Solicitor, Matt Battersby, review Sections 1, 2, 5, 6, 7, and Appendix A, and also check the legal language in the Declaration on Worksheet 1 on page 4 of the Simplified Approach. There is a chart to determine BMP storage options in terms of a rain garden, rain barrels, below ground stone pit, small berm to create a small pool, etc. or a combination of these assuming on average a one foot depth. The design chosen will have been of those approved by the township so that all designs are standard. The township will inspect the installations. Any disconnected runoff larger than 5000 square feet would be difficult for a homeowner to control without an engineer's help, so the homeowner will need to comply with the full ordinance measures. At this point, it becomes a full-blown land development plan. Jason remarked that engineers need an ordinance that says what can put in a comment letter and be enforced. This ordinance would allow the township to waive stormwater or to reject any exemption. If proposed improvement does not jeopardize the purpose of this ordinance – which is to preserve natural drainage systems, manage stormwater, maintain groundwater recharge, prevent scour, implement BMP measures, and meets the standards of NPDES permitting, the township has the ability to waive it (the stormwater management plan). Sections were added in dealing with PennDOT standards, requirements for what needs to be

on a plan graphically, and other items that help with the stormwater review of a plan. The township should be involved with the redevelopment of a lot. That is, a homeowner who tears down a garage and rebuilds now will need to manage 20% of the old area added to the newly disturbed area. Therefore, this should be on the log worksheet. Another section governs sump pump discharge. This should not impact neighbors when new construction occurs.

This discussion ended with a motion of recommendation to send the proposed Ordinance to the Board for the May 31 Supervisors Workshop. ***Secretary Premo motioned to recommend the Board of Supervisors grant approval of the Hamiltonban Township Stormwater Management Ordinance currently known as DRAFT 5-10-2012 provided the recommended changes to this document as discussed at the May 22, 2012 Planning and Zoning Commission meeting are made prior to the Board of Supervisors Workshop meeting on May 26, 2012. Bill Shriner seconded. Motion carried unanimously.***

During Public Comment, Supervisor Gordon inquired if a fence is needed around a two (2) foot depth retention pond? The reply was that if there is not stored water, a fence is not required. He also questioned if during the pre-application meeting, it should say the applicant should also meet with the township engineer. It could also say designee. Who will construct letter to the applicant advising of the township decision on the stormwater plan. Also, he raised a question about the escrow statement in section 504.

The last item was Chairman Ryan's mention of Doreen Premo's resignation from the Planning Commission, thanking her for her service.

Township Planner's Report: Comments provided during the meeting.

Township Engineer's Report: Comments provided during the meeting.

Township Meetings: The following public meetings will be held at the Township Office at 23 Carrolls Tract Rd. at the local prevailing time of 7:00 PM.

BOS Workshop – May 31, 2012.

BOS Regular – June 5, 2012.

ZHB Special Meeting – June 6, 2012. Kevin Brown application.

Recreation and Parks Meeting – June 13, 2012.

Planning Commission – June 26, 2012.

The meeting was adjourned at 9:25 PM upon motion by Mike Pastovic and seconded by Bill Shriner. The motion carried unanimously.

Respectfully submitted,

Doreen C. Premo, Commissioner/Secretary