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Middle Paxton Township

**MIDDLE PAXTON TOWNSHIP
Planning Commission
Meeting Minutes
June 14, 2021**

The June 14, 2021 meeting of the Middle Paxton Township Planning Commission was called to order at 7:00 p.m. by Chairperson Liz Rodda. The following members were present: Ralph Stone, Jeffrey Smith, Bill Kotkiewicz, Chip Brown, and Gary Deimler, Donald Morse,

Also present were Julie Seeds, Recording Secretary, and Ed Fisher, Representative with Light-Heigel & Associates.

Following the Pledge of Allegiance to the Flag, Chip Brown moved to approve the meeting minutes for May 10, 2021; seconded by Ralph Stone. The motion passed unanimously.

OLD BUSINESS:

Application for Zoning Amendment – Pocono Business Park, LLC

Salzmann Hughes, P.C. attorney Isaac Wakefield, representing Pocono Business Park, LLC (“Applicant”) introduced the following; Nathan Pipitone, on behalf of Pocono Business Park, LLC, Eric Clancy on behalf of LDI & Associates (property owners), and Joel Young with Rettew Associates. Mr. Wakefield stated the purpose of the meeting is to fully inform the Planning Commission Members who were not present at the last meeting and members of the public in attendance and to review any misconceptions and conjectures at this time.

Mr. Wakefield briefly summarized the petition requesting to rezone 38.58 acres, proposed Lot 2 that is created by a small portion of the larger tract as noted as the Commercial-Office District and a smaller portion of the R-3 District on property identified as Dauphin County Tax Parcel ID No. 43-020-029, to a Commercial-Industrial District (C-I) and to amend the Middle Paxton Township Zoning Ordinance, specifically Article 2 (entitled “Designation of Districts”), Section 201 (entitled “Zoning Map”), and the Middle Paxton Township Zoning Map.

Mr. Wakefield introduced Mr. Joel E. Young with RETTEW Associates who presented a number of drawings including those of the surrounding area within the large tract of land that already has a contingent approval for 216 apartments and a narrative of the proposed development and displayed a conceptual site plan with an approximate 284,000 square foot

warehouse or distribution facility , with loading to the south of the building, 45 tractor trailer parking spaces and 150 passenger vehicle parking spaces. Allegheny Street access to and from the proposed warehouse facility would utilize the same access drive as the proposed River View at Middle Paxton residential development with a gated emergency access drive extension to Affection Road. Mr. Young stated due to the topography and how the slope falls on this site visibility is very minimal from S.R. 225 and not attractive or conducive to commercial office or retail. In addition, the view shed to residents in the area will be limited. Ample room is proposed around the facility for stormwater detention basins, buffer area and the lighting will be shielded so as not to allow lighting to spill off the property. Also the employees will be at the range of 100-150 employees and Rettew is looking at traffic calculations and traffic patterns.

Nathan Pipitone, owner of Pocono Business Partners, LLC, stated to the audience the Planning Commission members were handed this evening an updated traffic study and wanted to clear up misconceptions. Mr. Pipitone stated there is proposed to be 240 trips per day with 20% of the trips will be trucks or approximately 49 trucks per day. Mr. Pipitone read from the traffic study concludes that the trip generation is substantially less traffic intensive than a 150,000 square foot shopping center that was previously presumed for the property. Based on the site location and the likelihood of GPS Data it is expected all trucks will gain access to and from the site by the adjacent U.S. 22/322 Ramp, Dauphin- Halifax Exit. In addition, where the proposed entrance is located, trucks will only be traveling over 300' of Township Road until it reaches an exit and enters a State highway, S.R. 22/322.

Mr. Pipitone went through points of why this plan is consistent with the Township's Comprehensive Plan and pointed out the area that is currently zoned Commercial-Industrial is not conducive to a commercial industrial use of the plan they are proposing due to wetlands, road configuration and setback requirements per Middle Paxton Township's Zoning Ordinance. Mr. Pipitone explained the acreage proposed for Lot #2 is approximately the amount of acreage lost due to the highway interchange and it is not spot zoning as Commercial Industrial (C-I) District was contiguous to their parcel of land until the highway interchange took large portion of the C-1 District. Mr. Pipitone spoke about no environmental impacts, grading of the property and they must meet all Township, State and Federal requirements. Also downward facing parking lot lighting is always used, and buffering around the building to be less obtrusive to neighboring properties.

Mr. Pipitone went through a list of monetary positive impacts of the project. The School District and Township will generate:

- Additional property tax.
- Transfer Tax
- Building Permit Fee
- Earned Income Tax
- Contribution/ Impact Fee to Township
- Generate 100-175 Jobs

Chairperson Liz Rodda asked if Kyle Snyder with Dauphin County had any comments. Kyle Snyder stated the traffic study was requested at the last meeting was received but no official comments from Dauphin County until the application is sent to them for review.

Ed Fisher, Middle Paxton Township's Zoning Officer stated the applicant did a good job summarizing the project and clarified a few items: Pocono Business Partners, LLC submitted a Petition to rezone the land. There is no plan before the Planning Commission for development, no testing, no reports have been processed and typically are not during a rezoning a petition, so the issue before the Planning Commission is rezoning. Mr. Fisher stated the applicant has been forthright and has expressed their desire to build a warehouse but they were under no obligation to disclose the use. Mr. Fisher also stated the property is currently zoned R-3 High Density Residential, C-O Commercial-Office and R-1 Low Density Residential and is not zoned agricultural. The property at this time may be developed by right without any Hearings for a host of businesses including but not limited to a mortuary, offices, convenience store with gas dispensing, big box stores, shopping centers, automotive and trailer sales. Mr. Fisher also reminded the members of the audience and the Commission members the property already has contingent approval to construct 216 garden apartments. Mr. Fisher also stated the Township is required per the Municipalities Planning Code to provide for all uses and cannot just say 'we don't want a warehouse'. Mr. Fisher again reiterated the Township must provide for all uses per the requirement of the Municipalities Planning Code of Pennsylvania. Mr. Fisher also stated that zoning decisions can be appealed to the Commonwealth Court which could lead to less discretion and oversight by the local municipality. Mr. Fisher also stated that any use that goes on 'this' property will have stormwater, lighting, and traffic issues and they all have to be mitigated during the development process.

Chairman Rodda asked the Planning Commission for comments;

Don Morse asked if Mr. Pipitone had other warehouses. Mr. Pipitone stated he has acted as a consultant/subdivider for several warehouses, one recently in Londonderry Township, & East Lampeter Township and has been in business for 40+ years and does more consulting work. Don asked how they could calculate truck trips when they do not know the business that may go into the warehouse building. Mr. Pipitone stated trips are based on truck docks and other factors. Mr. Morse concerned they are taking away about 60% of the C-O Commercial Office District on the 'LDI' Tract. Mr. Morse also asked about the possibility of an entrance/exit off of S.R. 225.

Bill Kotkiewicz asked if the Township has to provide for a C-I Commercial-Industrial District. Mr. Ed Fisher, Zoning Officer answered in the affirmative.

Chip Brown asked what Ed Fisher meant by litigation. Mr. Fisher clarified that if the Township did not allow for a particular use then a Court/Judge could determine and permit this particular use.

Gary Deimler asked if the Township has to have a percentage of all districts. Ed Fisher stated no, it is not based on percentages.

Don Morse concerned that the proposed apartments may not be attractive to tenants due to a warehouse potentially being constructed nearby and sharing the same access drive as the trucks that will be delivering to the proposed warehouse.

Jeff Smith spoke about what is before the Planning Commission is an application to rezone from C-O to C-I and if a warehouse was constructed and then something would happen with this proposed warehouse then all the other uses listed in C-I could potentially go in this area and do they make sense and the Planning Commission should analyze all the types of uses.

Liz Rodda asked if this is considered spot zoning. Mr. Fisher stated he believes the applicant has shown good cause for their case and did not believe it was spot zoning due to the C-I is across S.R. 225.

Kyle Snyder with Dauphin County Planning Commission stated that spot cases are typically while there is legal precedent; each spot zoning case must be ruled on its own merit for each specific case.

Liz Rodda also stated that the Planning Commission also must follow the Township's Comprehensive Plan and it mentions on Page 25 that the area around the interchange is recommended to be Mixed Use 2 District.

Ed Fisher stated the Middle Paxton Township Comprehensive Plan Mixed-Use District is proposed along Allegheny Street and typically is not a use that is located at an interchange.

Don Morse asked LDI about the master plan for the property for the Commercial-Office District. Mr. Clancy responded that in 2007 the plan proposed 185,000 square feet of retail and 800 parking spaces. Parking is calculated by square footage for retail and the Middle Paxton Township Zoning Ordinance also has requirements for how many parking spaces are required for each use and then the traffic study company hired to look at this parcel perform calculations using trip generation and comparative analysis and follows PennDOT protocol for traffic studies.

Jeffrey Smith spoke about spot zoning and the questions to ask:

- Is the request or amendment consistent with the Comprehensive Plan?
- Is the zoning use or district significantly different from the surrounding area?
- Will the use or district benefit a few land owners while creating negative impacts to surrounding land owners?
- Will the amendment affect a small area and will provide private rather than public benefit?

Chairperson Liz Rodda asked for comments from those in attendance.

The following individuals addressed the Planning Commission citing their concerns and objections to the proposed Rezoning Amendment application Petition to Rezone a portion of property identified as Dauphin County Tax Parcel #43-0202-029 from the Commercial Office District to the Commercial Industrial District and to Amend the Middle Paxton Township Zoning Ordinance of 2000, As Amended, specifically Article 2, Designation of Districts, Section 201, entitled Zoning Map, and the Middle Paxton Township Zoning Map, and is intended to enable construction and operation of a Warehouse/Distribution facility on a 38.58 a

parcel of land. The parcel is currently zoned C-O Commercial-Office and R-3 High Density Residential.

Maureen Heberle – 710 McKelvey Road, Dauphin

Robert Klutas – 500 Stony Creek Road, Dauphin

Patty Smith, Rock the Capital – Susquehanna Township

Todd Fry – Boston, Massachusetts

Mike Kraft – 1301 Red Hill Road, Dauphin

Kirkland Gibson – 2441 Fishing Creek Valley Road, Harrisburg

Lisa Lighter, Swatara Township

Mike Tuckey, Swatara Township

Ryan Evans – 1211 Clarks Valley Road, Dauphin

Paula Zankel – 321 Clarks Valley Road, Dauphin
Clarks Creek Watershed Preservation Association

Brett Zankel – 321 Clarks Valley Road, Dauphin

Gene Stilp – Fishing Creek Valley Road, Harrisburg

James White – 1110 Hecks Drive, Dauphin

Brennan Kaye – 604 Erie Street, Dauphin

Julie Carr – Gingrich Lane, Dauphin

Bethany Smith – 1124 Red Hill Road, Dauphin

Shawn Smith – 1177 Heather Lane, Dauphin

Michelle Hull – 1101 Hagy Lane, Dauphin

Robert Goode – 1110 Hagy Lane, Dauphin

Michael Hornung – 1370 Lyter Lane, Dauphin

Ronald Hull – 910 Sprucewood Avenue, Dauphin

Travis Rosmus, 713 Charles Road, Dauphin

Wilbur Evans, 111 Affection Road, Dauphin

Chairperson Liz Rodda asked for additional comments from the Planning Commission

Donald Morse expressed concerns of a building this size and the need for additional Fire Fighting Apparatus.

Jeffrey Smith repeated points per the request of Donald Morse in regards to what constitutes spot zoning;

- Is the request or amendment consistent with the Comprehensive Plan?
- Is the zoning use or district significantly different from the surrounding area?
- Will the use or district benefit a few land owners while creating negative impacts to surrounding land owners?
- Will the amendment affect a small area and will provide private rather than public benefit?

Ed Fisher, Zoning Officer, was asked by Chairperson Rodda to review options. Mr. Fisher stated the application for the Petition to Rezone was passed on to the Planning Commission by the Board of Supervisors and at this time the Commission can recommend to deny or approve the Zoning Amendment Petition. If more time is needed, the Planning Commission can table the application.

Nathan Pipitone with Pocono Business Partners, LLC summarized and addressed a few concerns with truck traffic and explained the traffic report that was submitted as required by PennDOT. The Department of Environmental Protection will require mitigation of all stormwater runoff that filters all pollutants, and the proposed building will have a sprinkler system.

Chairman Rodda asked for a recommendation from the Planning Commission.

Bill Kotkiewicz and Chip Brown asked the members of the audience for respect of the process and explained the Planning Commission is an all volunteer commission.

Jeffrey Smith explained this is the beginning of the process and Mr. Smith recommends the Board of Supervisors seek a legal opinion on the spot zoning.

Motion was made by Jeffrey Smith to recommend the Board of Supervisors do not consider or take any action on this proposed zoning amendment for the following reasons:

1. The ordinance does not appear to be consistent with the Comprehensive Plan.
2. The ordinance could constitute “spot zoning” and open the Township up to future litigation.
3. The ordinance would create objectionable traffic and potential environmental conditions; and

4. Changing the “CO” to “CI” could open the Township up to future challenges if the “CO” is not replaced.

The Motion was seconded by Ralph Stone. The motion carried unanimously.

Chairperson Liz Rodda reminded everyone to come to Heritage Day as this is the 250th year to celebrate the Town of Dauphin.

Don Morse thanked everyone for coming to the meeting.

Having no additional comments, motion was made by Mr. Chip Brown to adjourn the meeting, Seconded by Mr. Bill Kotkiewicz. The motion carried unanimously.

The Meeting adjourned 9:20 P.M.

Respectively Submitted,
SIGNATURE ON FILE
Julie A. Seeds
Recording Secretary