

A Brief Overview of Pennsylvania Land Use Planning

Issue: Governor Rendell signed Act 24 of 2008, “The Pennsylvania Appalachian Trail Act” into law in June of 2008. The 11 PA A.T. Clubs have been asked to provide input on the “natural, scenic, historic and esthetic values” of their A.T. sections. Many, if not most clubs, are not well acquainted with the peculiarities and complexities of land use planning in the Commonwealth of Pennsylvania. Because this is arguably new territory for Trail clubs whose focus heretofore has primarily been treadway maintenance, they are challenged by the request.

Background: A developer proposed the construction of a “country club for sports car enthusiasts” in Eldred Township, Monroe County in 2002. This is in AMC-DV’s Appalachian Trail Section. At the behest of The Blue Mt. Preservation Association (BMPA, a then-newly formed local grassroots organization) ATC was asked to bring its icon status and resources to aid in the opposition of the proposed race track. BMPA was concerned that the racetrack would irreparably degrade the serene bucolic nature of their valley and seriously impact the pristine quiet A.T. experience. ATC enjoined BMPA, retained legal council, and filed suit to stop construction of the racetrack. We did not prevail in the lawsuit or the appeal. It became very apparent that the developer chose this location because, in 2002, Eldred Township had no zoning. It does now, including “an A.T. overlay zone.” Not one to take losing lightly, the attorney that represented ATC began drafting an amendment to the PA Appalachian Trail Act that was originally passed in 1978 by then Governor Shapp. Representative Robert Freeman introduced HB1281, now Act 24 of 2008, an amendment strengthening the 1978 Pennsylvania Appalachian Trail Act.

The 2008 Act states; “A municipality as defined in the Pennsylvania Municipalities Planning Code shall have the power and their duty shall be to take such action consistent with applicable law, as at least an interim measure, to preserve the natural, scenic, historic and esthetic values of the trail and to conserve and maintain it as a public natural resource. Such action shall include, but not be limited to, the adoption, implementation and enforcement of zoning ordinances as the governing body deems necessary to preserve those values.” It goes on to require both the PA Department of Community and Economic Development (DCED) and the Department of Conservation and Natural Resources (DCNR) to provide technical and financial assistance. (Because of the legal work required by township solicitors, adopting zoning ordinances can be an expensive undertaking for the municipalities.)

Pennsylvania is what is known as a “home rule” state. All land use management decisions are done at the local municipal level, and must be consistent with the PA Municipal Planning Code (MPC). The A.T. passes through 58 townships and at least three boroughs as it winds 229 miles across the state. Each of those municipalities has an elected Board of Supervisors (typically three to five members) who makes all of the

zoning decisions and adopts a comprehensive plan for their community. It should be noted that ideally the zoning decisions should support the municipal comprehensive plan, but that is not always the case. Most municipalities also have an appointed Planning Commission who serves in an advisory capacity to the Board of Supervisors. The Board of Supervisors has no obligation to heed the advice of the Planning Commission. Each of the 11 counties also has a professionally staffed county planning office, but again, these offices serve in an “advisory only” capacity. All of the decision making power rests with the individual township’s Board of Supervisors.

Several PA A.T. clubs have asked how much additional protection we can expect from Act 24 of 2008, The Pennsylvania Appalachian Trail Act. It’s going to depend entirely on the individual Board of Supervisors. Some will value the Appalachian National Scenic Trail and what it brings to their community and welcome the additional authority that the Act affords them. Others will not. The A.T. community should be aware that Pennsylvania Appalachian Trail Act provides no punitive measures in the event that a municipality fails to comply with its provisions. We believe that most municipalities will want to comply and that we as the managers of the A.T. have an obligation to help them understand the resource that we care about so deeply. The Pennsylvania Appalachian Trail Act purposely does not stipulate zoning protection for a specified distance from the footpath. This is because the protection measures need to be based on the “natural, scenic, historic and esthetic values of the trail.” Most (though certainly not all) township supervisors will not be familiar with the A.T., the significant public investment that has already been made to protect the corridor, or the enormous commitment that the volunteers have made. Typically, their highest priority will be plowing their roads and fixing potholes. For the most part they are good people who are trying their best to serve their community.

Recent Actions: An “A.T. Zoning Implementation Interagency Task Force” with representation from DCED, DCNR, DEP, and ATC has been convened to strategize ways to inform and engage the municipalities. The Task Force has now held several meetings including two meetings where each of the county planning offices were briefed on Pennsylvania Appalachian Trail Act and invited to offer their suggestions on the best way to engage the townships. The next step is for DCED to inform the municipalities that Pennsylvania Appalachian Trail Act becomes effective on 10 August. This will be done in the form of a letter from DCED Secretary Yablonsky to each of the 58 Boards of Supervisors. In the meantime, the Task Force will retain the services of a consultant (or team of consultants) to begin drafting sample defensible ordinances that could be used to protect particular trail values in a variety of settings. The plan is to have a consultant under contract by early October. The Pennsylvania Appalachian Trail Act states that the municipalities have one year, until 10 August 2009 to enact zoning “as the governing body [the township supervisors] deems necessary to protect trail values.” Again, the decision is entirely in the hands of the township’s Board of Supervisors.

Most clubs are now actively engaged in gathering information from their members to begin articulating and mapping “special places” in their club’s section. Clubs are encouraged to think beyond the footpath and corridor, and even beyond viewsheds,

though they are certainly important. Keep in mind that the impetus for this amendment came from the potential sound impact of a race track 2000 feet from the footpath. This valuable input will be shared with the Interagency Task Force and the consultant.

While clubs are NOT being asked to contact the municipalities yet, at some point it is very likely that they will be invited to participate in such effort if club leaders choose to do so. Engaging the local communities through which the A.T. passes is truly one of the first very significant efforts of the next era of A.T. management, and ATC is proud to have the Keystone State lead the way.

The leadership of each PA club has been sent an electronic copy of a map depicting their section and certain features, including the viewshed. A paper copy of the map will also be provided and clubs have been asked to mark up the map with the values they deem important to the A.T. experience in their section and return it to Regional Director Karen Lutz.

Thank you for completing this important piece of A.T. management work by defining the significant natural, scenic, historic and esthetic values that define the Appalachian National Scenic Trail in the section that has been delegated to your club!