

CRITICAL ISSUES/CONCERNS

Based on comments received at the first Public Meeting and Study Committee Meetings and responses to the various Surveys/Questionnaires conducted during the Feasibility Study (**Appendix C**), the following principal Issues/Concerns have been expressed by the public. Considerable research has been conducted with regard to these Issues/Concerns. The results of this research are provided below each stated Issue/Concern.

1. Ownership of the Rail Corridor and Acquisition of Interest for Trail Usage

Issue/Concern: Who owns the rail corridor? Based on the ownership of the corridor, how would the municipalities acquire an interest in the corridor for purposes of developing a rail-trail?

Findings: **Appendix D** provides the basis of the research that has been completed with regard to this Issue/Concern. **Appendix D** can be summarized as follows:

- A. It is beyond the scope of this Feasibility Study to complete thorough title or deed searches for the entire rail corridor. Just the same, considerable effort was expended in trying to gain an understanding of the title conditions along the corridor. However, the records are not complete or clear.
- B. Much of the rail corridor is purported to be owned by Pagnotti Enterprises (trading as the Reading Company) by virtue of a quitclaim deed obtained from the Reading Railroad Company after it went bankrupt. To the extent that Reading Railroad Company had the right to convey title to Pagnotti, Pagnotti has title to that same extent. It is also noted that Pagnotti pays taxes on a considerable portion of the rail corridor.
- C. Notwithstanding Pagnotti Enterprises' quitclaim, many of the adjoining landowners claim that they own or have an interest in the rail corridor. Several landowners believe that they pay taxes on the same land area upon which Pagnotti Enterprises pays taxes.
- D. The preferred means of obtaining an interest in the corridor for purposes of developing a rail-trail would be by negotiating with each landowner, including Pagnotti Enterprises. In reaching an amicable resolution as to the value of the corridor, the municipalities would also obtain an interest in the rail corridor ranging from fee-simple title to an easement interest.
- E. If necessary, the municipalities could invoke eminent domain to attain the necessary interest in the corridor. However, this is not encouraged as the first means of attaining the necessary interest in the corridor, but possibly where existing title to the corridor cannot be readily determined.

2. Impact Upon Agricultural Preservation Easements

Issue/Concern: If a rail-trail were to be developed, how would such a trail impact agricultural preservation easements existing on several farms adjacent to/adjoining the rail corridor?

Findings: **Appendix E** provides the basis of the research that has been completed with regard to this Issue/Concern. **Appendix E** can be summarized as follows:

- A. In large part, the answer to this question relies on the title conditions described above.
- B. To the extent that the rail corridor is specifically "excepted out" of the preserved farms, the agricultural preservation easement on the adjoining farm would not apply to the rail corridor. Hence, the rail-trail would not compromise the preservation easement or vice versa.
- C. To the extent that the rail corridor might be included in the deed area of the preserved farm, the rail-trail could not be developed.
- D. Specifically, the Lancaster Farmland Trust has a preservation easement over one farm adjoining the rail corridor. However, since the rail corridor was excepted out of the farm, the agricultural preservation easement does not apply to the rail-trail. Therefore, the rail-trail could be developed through this (Wenger) farm without implication to the preservation easement.
- E. The Lancaster County Agricultural Preservation Board maintains preservation easements over six farms adjoining the rail corridor. They maintain that several of the properties present possible impacts on potential development of the trail. Please refer to **Appendix E**.
- F. In acquiring an interest in the rail corridor by which the rail-trail could be developed (either by negotiated settlement or by eminent domain), the municipalities should resolve this matter with the farm owners and preservation entity.

3. Adjoiners' Concerns

Issue/Concern: How would/could the range of adjoining landowners' concerns be addressed?

Findings: **Appendix F** provides data from national sources that address the following areas of concern:

A. Loitering/Mischief/Theft/Vandalism

It is reported by several sources that these incidents actually decline with the inception of a public trail or greenway. Please refer to **Appendix F** for study data recorded from various trails around the United States.

B. Privacy/Trespass

Adjacent landowners in several sections will have less problems than others with privacy issues since their lots are grade-separated, particularly those above the rail bed. In any case, a privacy fence or the “green” alternative, a hedgerow, or both would be viable options for providing the amount of privacy required by each landowner.

As a public recreation facility, the rail-trail would also provide for police surveillance and access, should acts of trespass occur and be reported.

C. Number and Types of Users

There can only be restrictions on types of uses and hours of operation. The higher the density of populations that the trail serves, as well as the attractors and length of the trail system, the more potential users it will have.

No parallels can substantially be drawn between different trails even within the same County because of the many factors that make up an individual trail such as attractors, local community, trail length and amenities to name a few. Lititz/Warwick Trailway generates usage of approximately 100 persons per day. Due to similar population characteristics in Akron and Ephrata Boroughs, as well as the proposed trail being an extension of the Lititz/Warwick Trailway it could be assumed that the proposed trail would generate usage of approximately 100 persons daily.

D. Maintenance/Upkeep/Cleanliness

As part of this Study, we have included expected maintenance procedures and their respective costs. Please refer to the Design Standards (**Tab 6**) for general maintenance procedures and **Appendix G** for the estimated maintenance costs.

E. Hours of Operation/Lighting

It is anticipated that, similar to already established sections of trails, at least the rural portions of the proposed trail would be open from dawn to dusk. As for the more urban sections (such as within Akron Borough and Ephrata Borough) lighting may be installed on these sections to provide nighttime use as well.

F. Impact on property values

Several studies have shown that, if anything, property values increase when they are located on/next to a public trail with green space. One such case comes from a realtor, who states that houses that backed onto the trail commanded \$5,000 more than houses that did not within one particular development located in North Carolina. A 2002 Study sponsored by the National Association of Realtors and the National Association of Homebuilders ranked trails as the second most important community feature out of a list of eighteen items.⁽²⁾ These statistics along with many other case studies can be found on the Rails-to-Trails Conservancy website. (<http://www.railtrails.org/index.html>)

F. Rules and regulations

Rules and regulations would be decided upon by each municipality or an appointed trail authority dependent on the intent of each section of trail. Some rules will be specific to a section of trail, where others are overriding for the entire trail system. Examples of regulatory signs may be seen in the Trail Design Standards (**Tab 6**).

4. Cost (initial and long-term)/Use of Taxpayer and Public Funds

Issue/Concern: Why would the municipalities want to spend taxpayers' money on this project?

Findings: Two basic answers address this Issue/Concern:

- A. The various planning documents of the participating municipalities (Comprehensive Plans and Comprehensive Recreation, Park, and Open Space Plans) indicate that trail-type recreation facilities are desirable for a wide cross-section of age groups.
- B. Relatively speaking, trails represent a frugal investment of initial construction funds and long-term maintenance budgets. For the breadth of populations served, trails represent some of the least costly facilities to construct and maintain.

5. Liability/Users' Safety

Issue/Concern: Am I, as an adjacent landowner, liable for someone injuring himself or herself on a portion of trail next to or on my property?

Findings: Several items are pertinent to adjacent landowners in order to answer this question:

- A. Liability may depend on the ownership of the trail. Should the trail be an easement granted to a municipality or carrying agency, the liability can still fall on the landowner who holds the title to said piece of land. There are two ways of addressing this issue:
 - 1) The first option to relieve liability would be to sell the easement rights to the municipality outright. This would make the land the trail resides on a 'fee-simple' parcel that makes its' owner liable. Simply put, an adjacent landowner cannot be held responsible for the condition of a property that he or she is excluded from (Montage 1989, p.128).
 - 2) Second, if only an easement is provided, a provision should be created stating that the entity owning/maintaining the trail takes legal responsibility for liability issues for the portion of land that the trail is constructed upon.
- B. Should there be a potential hazard that resides on a property adjacent to the trail, efforts (listed below) should be taken to prevent access or warn trail users.
 - 1) Work with the trail designer to realign sections of the trail that pass by or through hazards that cannot be corrected.
 - 2) Provide signage, vegetative screening or fencing to make it clear to trail users that they are not invited onto land adjacent to the trail.
 - 3) Hazardous conditions that exist that cannot be mitigated shall have signage to warn trail users of the danger and how to avoid risk of injury.
- C. As a general rule, adjacent landowners are not at a liability risk as long as they abstain from "willful and wanton misconduct" against trespassers such as recklessly or intentionally creating a hazard. ⁽⁹⁾