

**DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
May 3, 2016**

CALL TO ORDER

The Tuesday, May 3, 2016 Derry Township Planning Commission meeting was called to order at 6:01 p.m. in the meeting room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA, by Vice Chairman Glenn Rowe.

ROLL CALL

Commission Members Present: Glenn Rowe, Vice Chairman; Matt Tunnell, Secretary; Ned Wehler; Don Santostefano

Commission Members Absent: Joyce St. John, Chairwoman

Also Present: Chuck Emerick, Director of Community Development; Brandon Williams, Assistant Director of Community Development; Aaron Moyer, HRG, Inc.; Diane Myers-Krug, Dauphin County Planning Commission representative; Chris Brown, Derck & Edson; Jenelle Stumpf, Community Development Secretary

Public Registering Attendance: Charles Huth, *The Sun*; Rod and Linda Firestone, 1611 Melrose Drive, Hummelstown; Barry and Toni Buck, 242 Quarry Road, Hummelstown; Ada Folir, 1211 Brookline Drive, Tom and Anne Searer, 2125 Carey Way, Hummelstown; Steve Ramis, 2015B Southpoint Drive, Hummelstown; Dale Holte, 2279 Southpoint Drive, Hummelstown; Kathy and Tim Palmer, 1619 Melrose Drive, Hummelstown; Mike Kushner, 2167 Carey Way, Hummelstown; Sandy Ballard, 650 Cocoa Avenue; Matt Weir

APPROVAL OF MINUTES

On a motion made by Member Wehler and seconded by Secretary Tunnell, the Planning Commission unanimously approved the minutes of the April 5, 2016 meeting, as written.

OLD BUSINESS

- A. Report of the Board of Supervisors' action regarding a request for an extension of the Board's August 25, 2015 conditional approval of the Preliminary/Final Land Development Plan for East Point Trade Center – Building C, Plat #1234**

Mr. Emerick reported that the Board of Supervisors granted an extension until July 2, 2019.

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NEW BUSINESS

A. Review and recommendation of the Preliminary/Final Subdivision and Land Development Plan for The Mill Restaurant, Plat #1267

Mr. Emerick explained that the subject property contains 2.3 acres and includes The Mill restaurant, which is located on the south side of Old West Chocolate Avenue. The plan proposes the expansion of the existing parking area over lands formerly occupied by a millwork shop. The plan proposes an additional 58 parking spaces, supporting the restaurant. The applicant has been granted relief from the Zoning Hearing Board to expand the nonconforming restaurant use onto new property, to encroach into the setbacks with parking, and to be permitted an impervious cover of 68%. The expanded parking is not intended to increase traffic to the site. Stormwater management facilities are proposed for the revised impervious area. Mr. Emerick reviewed the waivers requested by the applicant.

Mr. Emerick; Aaron Moyer, HRG; and Diane Myers-Krug, Dauphin County Planning Commission representative, went over their plan review comments. Mr. Emerick also referenced DTMA's review comments.

Vice Chairman Rowe referenced Mr. Emerick's review comment requesting that the applicant indicate if the railroad has any rights of access through the property. If it turns out that access is required, could that end up changing the plan? Mr. Emerick responded that on the proposed conditions plan sheet, the applicant retained a gravel area that seems to lead to the railroad. There are old record deeds of the property that grant access to some of the other tracts within the property and to the railroad. It also references access to the small tract of land owned by the railroad. The applicant (Tana Properties) purchased the old Fratti mobile home park next door, and they also have rights to use that railroad property as Fratti did. Mr. Emerick does not think the railroad will have anything interesting to say regarding this access, but it should be better documented on the plan.

Member Santostefano noted that the plans state "possible railroad access" and asked if that means no one found any documentation in the County records.

Mark Jones of Hartech Engineering stated that he assisted Burget & Associates with the preparation of the plan, but he personally does not have a lot of information about the disposition of the properties to the west of the site. In response to Mr. Emerick's review comment requesting that the applicant provide details for use of the existing inlet, Mr. Jones stated that they do not know much about the structure and will not know anything until they dig it up. Mr. Emerick expects that they will probably replace the structure. Mr. Jones responded that Matt Bonanno of HRG instructed them to leave it as is and tie into the existing structure with the new one. Mr. Emerick stated that it would be the Township's preference for the applicant to leave the existing inlet as is, but when Mr. Bonanno made that recommendation, it was based on the assumption that the applicant was going to tie into the existing structure by using the same pipe. Mr. Emerick is concerned that some of the structural stability of the inlet will be lost based on the way the applicant is proposing to bring the pipe in at a substantially different elevation. Mr. Jones commented that if it is possible to tie into

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the existing inlet through the existing pipe, they will try it that way. They will work with HRG to get this matter resolved.

Member Wehler asked if the review comments of the Township and HRG are acceptable to the applicant. Mr. Jones answered yes.

MOTION ON WAIVERS

On a motion made by Member Santostefano, seconded by Secretary Tunnell, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that the following waivers be granted from the Subdivision and Land Development Ordinance:

- a. From Section 185-22.D.(3) regarding providing additional right-of-way for West Chocolate Avenue.
- b. From Section 185-22.D.(3).(c) regarding street cartway widening of West Chocolate Avenue.
- c. From Sections 185-12.D.(3).(a).[21], [22], [23] and 185-13.E.(4).(a).[19], [20], [21] regarding providing profiles of all existing utilities that will not be impacted by the proposed development.
- d. From Sections 185-12.D.(3).(a).[9], [35] and 185-13.E.(4).(a).[9], [36] regarding showing all features and contours within 200' and 50', respectively, of the subject property.
- e. From Section 185-12.D.(3).(a).[7] regarding providing metes and bounds for all existing easements.

MOTION ON PLAT #1267

On a motion made by Secretary Tunnell, seconded by Member Wehler, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that Plat #1267 be approved, subject to the following being satisfactorily addressed:

- a. The comments in Item 3 of the Township staff report.
- b. The comments in the April 13, 2016 HRG letter.
- c. The comments in the April 20, 2016 DTMA letter.

B. Introduction of the Draft Zoning Ordinance (an informative overview of the composition, purpose, and function of the draft Zoning Ordinance to aid the Planning Commission and those in attendance in the use and review of the document)

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Chris Brown of Derck & Edson (the Township's planning consultant) explained that the updated and revised draft Zoning Ordinance is a direct outgrowth of the 2015 Comprehensive Plan. This process started as an audit of the existing Zoning Ordinance, which was adopted in 1993. It has been noted over the years that there are a number of issues or deficiencies with the existing Zoning Ordinance regarding current development trends and the nature of properties in the Township.

Mr. Brown stated that Articles I, V, VI, VII, VIII, IX, and X are fairly mechanical in nature and there have not been substantial changes to those sections of the Ordinance. Articles II, III, and IV involve land use, mapping, and design standards. Mr. Brown referenced the Land Use Table in the draft Zoning Ordinance and stated that in the existing Ordinance, one has to go page by page, zoning district by zoning district, to figure out what uses are permitted in each district. The proposed Land Use Table contains the same information but presents it in a much more user-friendly, tabular format. In the Table, 'P' means Permitted; 'SE' means the use is permitted by Special Exception; 'C' means it is permitted by Conditional Use; and 'O' means the use is permitted by an overlay.

Mr. Brown stated that the proposed Ordinance contains a new Zoning Map. It is not substantially different from the existing Zoning Map. There will also be maps showing the overlays. The existing Ordinance has more traditional, environmental overlays such as Airport Safety Zone, floodplain, etc. The draft Zoning Ordinance proposes Thoroughfare, Environmental, and Development Approval Areas overlays. Through the overlays, the Township will be able to provide the incentive to develop in a manner that protects certain things such as the aesthetic or the character of an area of the Township, and empower certain uses that fit the character and nature of place in targeted areas but should not be permitted everywhere within a zoning district.

Mr. Brown explained that each zoning district will also have a "dashboard view" page that provides a more graphic and legible approach to the zoning district requirements. Finally, Mr. Brown noted that another new aspect of the draft Zoning Ordinance is the Master Plan approval process.

Vice Chairman Rowe asked if, overall, the Master Plan approval process will be quicker for the developer than the traditional approval process. Mr. Brown answered yes, and it is a voluntary process for a developer.

Member Wehler inquired if a large portion of the new Ordinance is the same as or very similar to the existing Ordinance. Mr. Emerick replied that many parts of the design standards are the same and many have been updated. What has been working well has been retained and what has not been working well has been updated.

Member Santostefano noted that there is no such thing as an Institutional zoning district and asked if the recent trend in planning is to classify areas such as the Milton Hershey School campus as a Planned Campus district. Mr. Brown said that in planning, 'Institutional' has contained such uses as college campuses. There are many different types of campuses in Derry Township (corporate, entertainment, hospitality, etc.), so the consultants thought that it was more appropriate to use the word 'campus' in the zoning district names for these areas.

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Member Wehler asked how Township staff and the consultants will address comments and questions that are received from the public on the draft Zoning Ordinance. Mr. Brown answered that they will respond in a similar manner as was done during the Comprehensive Plan process.

Vice Chairman Rowe asked if there are any design standards aspects of the new Zoning Ordinance that are form-based rather than use-based. Mr. Brown responded that there are not many traditional form-based Zoning Ordinances in Pennsylvania. Most municipalities take a hybrid approach and that is what Derry Township is doing as well.

Member Santostefano asked if a developer might decide to not use the Master Plan approval process for fear of not being able to change some aspect of the plan 5 years later. Mr. Emerick stated this approval process is also more of a hybrid Master Plan approval process. It is not the traditional kind of Master Plan process in that it is mixed with a preliminary plan, so the approval will give the developer an entitlement.

Secretary Tunnell thinks there are a lot of challenges with a Master Plan approach and the Township needs to make sure that the realization of the approach reaches what the Township wants. That is going to be a key element to comments, discussion, and final drafting of that section of the Zoning Ordinance.

Member Wehler asked if a sincere effort has been made in the draft Ordinance to clarify and provide more guidance for resolving recurring issues related to traffic, stormwater, on-street parking, accessory uses, and nonconforming uses, to name a few. Mr. Emerick responded that the effort has definitely been made, and he hopes that the Planning Commission will offer their comments on anything that may have been overlooked.

PUBLIC COMMENT

Rod Firestone, 1611 Melrose Drive, questioned why the Hershey Trust Company removed several trees and created a dirt road on their 52-acre tract of land located to the east of Mr. Firestone's development. Mr. Emerick responded that he does not know because unless a project requires Zoning Ordinance or Subdivision and Land Development Ordinance approval, there are no restrictions on an owner removing trees on their property.

Dale Holte, Middletown Road, is confused about the overlays and how they are different from permitted uses and conditional uses. Mr. Brown responded that the overlays can allow for additional uses in certain areas of a base zoning district. There are overlays that are use-related and ones that are character-related.

Chuck Gassert, Carol Acres, commented that one of the unique things about Hershey is that it is surrounded by a lot of open space because of the Milton Hershey School. He hopes this process will not change this and that agricultural land is viewed for its usefulness. Mr. Gassert asked how much of direct of a relationship there is between the Comprehensive Plan and the Zoning

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Ordinance. Mr. Brown stated that the Comprehensive Plan had a lot of suggestions about protecting open space and one way to do that in a legislative document is by using the proposed character overlays.

Sandy Ballard, 650 Cocoa Avenue, believes that the Zoning Hearing Board has been a ‘standard operating procedure’ in that most of the requested dimensional variances have been granted. She asked how this will be addressed once the proposed Zoning Ordinance is adopted so that tradition does not continue. Mr. Emerick responded that he thinks the Zoning Hearing Board will take a new look at the new Zoning Ordinance, and there are a lot of aspects of the existing Ordinance that are “broken.” Ms. Ballard commented that the public should be made aware that with the adoption of the new Ordinance, simply applying to the Zoning Hearing Board will not automatically result in the requested relief being granted. Mr. Brown stated that there should not be nearly as many requests for relief after the proposed Zoning Ordinance is adopted.

Secretary Tunnell asked if the Township can include standards in the Zoning Ordinance that have to be met before a variance can be granted. Mr. Emerick stated that there are 5 basic criteria under the Municipalities Planning Code that any application to the Zoning Hearing Board should have to show, and these criteria are already part of the Zoning Ordinance. Secretary Tunnell questioned if Township staff gives a statement of opinion on whether or not the requested relief should be granted for the Zoning Hearing Board to consider. Mr. Emerick responded that staff is available to advise the Zoning Hearing Board. If the Board of Supervisors does not agree with relief that the Zoning Hearing Board has granted, they can appeal the Decision to the Dauphin County Court of Common Pleas.

Mr. Emerick encouraged the public to submit their review comments and questions in writing and prior to the next public meeting so that the consultants and staff can provide thorough responses.

OTHER BUSINESS

None.

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ADJOURNMENT

On a motion made by Secretary Tunnell, seconded by Member Santostefano, and a unanimous vote, the meeting adjourned at 7:27 p.m.

Respectfully submitted,

Matthew Tunnell
Planning Commission Secretary

Submitted by:

Jenelle Stumpf
Community Development Secretary (*stenographer*)