

**DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
June 4, 2013**

CALL TO ORDER

The Tuesday, June 4, 2013 Derry Township Planning Commission meeting was called to order at 6:02 p.m. in the meeting room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA, by Chairman Matt Tunnell.

ROLL CALL

Commission Members Present: Matt Tunnell, Chairman; Joyce St. John, Vice Chairwoman; Gregg Mangione, Secretary; Ned Wehler; Glenn Rowe

Commission Members Absent: None

Also Present: Chuck Emerick, Director of Community Development; Matt Bonanno, HRG; Diane Krug, Dauphin County Planning Commission representative; Jenelle Stumpf, Community Development Secretary

Public Registering Attendance: Yong Yi, 218 West Chocolate Avenue; Jonathan M. Crist, 226 West Chocolate Avenue; Sue Stough, 750 Creek Side Drive; Gary Gilbert, Apple Retail Properties; Keith Heigel, Light-Heigel & Associates, Inc.

APPROVAL OF MINUTES

On a motion made by Vice Chairwoman St. John and seconded by Member Rowe, the Planning Commission unanimously approved the minutes of the May 7, 2013 meeting as written.

OLD BUSINESS

A. Report of the Board of Supervisors action regarding the Preliminary/Final Subdivision and Land Development Plan for Curry Mill, Plat #1223

Mr. Emerick stated that the Board conditionally approved the plan.

B. Report of the Board of Supervisors action regarding Ordinance No. 632, amending Chapter 225 (Zoning) of the Code of the Township of Derry by defining types and permitted locations of restaurants

Mr. Emerick stated that the Board adopted this ordinance.

C. Report of the Board of Supervisors action regarding the Preliminary/Final Subdivision Plan for Lands of Nye and Rogalli, Plat #1230

Mr. Emerick stated that the Board conditionally approved the plan.

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D. Report of the Board of Supervisors action regarding the Preliminary/Final Subdivision Plan for Lands of The Hershey Company, Hershey Trust Company, and Robert B. Cramer, Plat #1228

Mr. Emerick stated that the Board conditionally approved the plan.

NEW BUSINESS

A. Review and recommendation of the Preliminary/Final Land Development Plan for Apple Retail Properties (Chipotle), Plat #1233

Mr. Emerick summarized that this plan proposes the development of property on the south side of West Chocolate Avenue, west of Ridge Road, with a 2,300-square-foot Chipotle Mexican Grill restaurant. The plans include a proposal to widen the alley known as South First Street to the site entrance, as well as an 'in-only' access from Ridge Road.

The applicant has requested waivers from the Subdivision and Land Development Ordinance regarding stormwater sewer, sanitary sewer, water, and gas plans and profiles; concrete monumentation; driveway location; driveway angle; sidewalk location; sidewalk construction; plan scale; and minimum curve length; and from the Stormwater Management Ordinance regarding volume controls. Mr. Emerick recommended that the waivers be granted.

Mr. Emerick; Matt Bonanno, HRG; and Diane Krug, Dauphin County Planning Commission representative, went over their plan review comments. Ms. Krug noted that Mr. Emerick has addressed the County's comment (#2) that the applicant should resubmit their plan after the effective date of the most recent zoning change permitting their use. She also stated that the County's comment (#3) regarding the adjacency of properties is a matter of interpretation (the County does not consider a street to be a separating and dividing feature among properties; therefore, the property on the south side of South First Street would be adjacent to the development site, and the requirement that parking facilities are to be a minimum of 35 feet from any adjacent property would apply), and the County will concede to the Township's interpretation. Mr. Emerick noted that the applicant had initially included a request for relief of this requirement when they went before the Zoning Hearing Board; however, Mr. Emerick learned through research of similar Zoning Hearing Board cases that none of the applicants were asked to provide the buffer or the 35-foot separation when adjacent to a street or alley. Mr. Emerick believes that the Township's historic interpretation of the ordinance is that the existence of a street between properties removes the "adjacent property" clause.

Keith Heigel, Light-Heigel & Associates, represented the applicant. He stated that, in regard to Mr. Emerick's review comment regarding the sidewalk leading from the site to Chocolate Avenue, they are replacing a majority of the sidewalk along Chocolate Avenue and would be willing to raise the sidewalk to match or not exceed the slope of Chocolate Avenue. However, doing this would conflict with the Township regulation that the sidewalk cannot be higher than 1" above the curb. Mr. Heigel stated that their only other options would be to install steps (they would prefer not to do that) or remove the subject sidewalk connection entirely. Mr. Heigel requested an additional waiver regarding the maximum height of sidewalk from the street curb. Mr. Emerick commented that removing the sidewalk connection would require another review by the Design Review Board.

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Chairman Tunnell asked if a maintenance agreement will be required for the sidewalk proposed to be located outside of the right-of-way adjacent to Ridge Road. Mr. Emerick responded that the sidewalk is within a pedestrian easement.

Chairman Tunnell asked for the reasoning behind the applicant's proposal of pervious pavers. Mr. Heigel replied that they were chosen for aesthetic reasons, and also because of the soil type on the property and how stormwater was handled.

Regarding the applicant's request for a waiver regarding volume controls, Secretary Mangione asked how much of a difference there is between the regulations and the proposal. Mr. Heigel stated that they are contributing less than 1% of the watershed runoff and of that 1%, they are controlling 70% of the site. Member Wehler asked why the Township should waive the requirement to reduce the volume of the net increase. Matt Bonanno responded that there is a problem in this area with the existing system – there is a very large watershed draining to it. It is also important to note is that there is Karst in this area, and he believes it was determined that there was a sinkhole on this site at one time. The applicant could expand their infiltration on the site to meet the volume and avoid the waiver, but HRG did not want to encourage too much infiltration. They feel that there is a good mix of BMPs on the site, considering all of the site conditions, to support the requested waiver.

Member Wehler asked if the parking spaces for carry-out orders are labeled. Mr. Heigel responded that there are no such spaces.

Member Rowe asked if a maintenance agreement is required for the portion of the project's stormwater system that is located on Township property. Mr. Emerick answered that there is no such agreement, but the Township would probably be willing to grant an easement for the developer to maintain the system.

Attorney Jonathan Crist appeared on behalf of some of the neighboring property owners, particularly Dr. DeLeo, who owns the property on the south side of the alley. He handed out photographs and information to the Commission, and voiced the following concerns:

1) Dr. DeLeo's property contains a mixed-use building, with offices on the first floor and a total of 18 apartment units on the second and third floors. The building is located right on the alley. Mr. Crist agrees with the County's interpretation that a street does not make a dividing line between properties, and Dr. DeLeo's property is an adjacent property. Therefore, the developer should be required to install a landscape buffer to screen their site from the view of those living in the apartments located in Dr. DeLeo's building. Mr. Emerick believes that he is interpreting the Zoning Ordinance consistently with previous Community Development Directors and the Zoning Hearing Board regarding what constitutes an adjacent property. He stated that Mr. Crist is in the wrong forum to appeal his decision as Zoning Officer regarding the buffer requirement.

2) When the owner of the development site (The Hershey Trust Company) came before the Zoning Hearing Board to request relief to preserve the site's nonconformities, it was only for the first two properties. The third property was not included in the granted relief.

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3) There is a safety issue for the people who use South First Street (the alley that runs behind the development site) because the bushes on Dr. DeLeo's property hinder sight distance at the intersection of South First Street and Ridge Road. Dr. DeLeo will remove the bushes if the developer installs a buffer to screen their property; otherwise he has no plans to remove the bushes. Chairman Tunnell commented it is disappointing that Dr. DeLeo has never addressed this hazard before but he now desires to use it as a point of negotiation with the developer. Mr. Crist asserted that the bushes are not a hazard for the small amount of traffic that currently uses the alley, but the addition of the traffic from the Chipotle project will result in a major problem. Chairman Tunnell also noted that there is a large real estate sign on Dr. DeLeo's property that also blocks sight distance.

Richard Gamble, 39 Hockersville Road, stated that it was represented at other Township meetings that an additional building is proposed for this site which is not shown on the land development plan. Mr. Gamble believes that all aspects of the development of the property should be shown in full on this plan. Mr. Emerick clarified that for the purposes of comprehensive planning for the downtown, ideally there would be mixed uses on this property and a little more intensity of development, but this type of development is limited by the current parking regulations in the Zoning Ordinance. The developer had noted previously that if at some point in the future the parking regulations are adjusted, the development of the property is laid out in a manner to allow for the possibility of infill development, but that statement was solely to address the Design Review Board's comment that gaps between buildings are not desired in the downtown. Mr. Gamble thinks the Planning Commission should make the developer redesign the land development plan to eliminate the gap on the property. He also maintained that this project would be better suited on a bigger property.

Vice Chairwoman St. John asked if the Police Department had any concern that the site's driveway location would cause a backlog of vehicles onto Chocolate Avenue. Mr. Emerick responded that they did not mention such a concern.

MOTION ON WAIVERS

On a motion made by Secretary Mangione, seconded by Member Rowe, and a unanimous vote, the Planning Commission recommended that the requested waivers be granted from the Subdivision and Land Development Ordinance regarding stormwater sewer, sanitary sewer, water, and gas plans and profiles; concrete monumentation; driveway location; driveway angle; sidewalk location; sidewalk construction; plan scale; minimum curve length; and maximum height of sidewalk from the street curb; and from the Stormwater Management Ordinance regarding volume controls.

MOTION ON PLAT #1233

On a motion made by Vice Chairwoman St. John, seconded by Member Rowe, and a unanimous vote, the Planning Commission recommended approval of Plat #1233, subject to the outstanding comments of Township staff, HRG, DTMA, and item 1 of the Dauphin County Planning Commission report (understanding that the County has accepted the explanation from Township staff on their determination on the County's comment #3) being satisfactorily addressed; and subject to the applicant extending the stormwater easement over the pipe to the inlet at Ridge Road and accepting maintenance responsibilities for said pipe.

B. Review and recommendation of proposed Ordinance No. 629 amending Chapter 225 (Zoning) of the Code of the Township of Derry regarding outdoor storage of junk and vehicles

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Mr. Emerick explained that this is the same ordinance the Commission considered at their March 5, 2013 meeting. At that time, both the Derry Township and Dauphin County Planning Commissions had expressed concern regarding requirements for parking of recreational vehicles. Revisions have since been made to the ordinance to address these concerns.

MOTION

On a motion made by Secretary Mangione, seconded by Vice Chairwoman St. John, and a unanimous vote, the Planning Commission recommended that Ordinance No. 629 be adopted as revised.

OTHER BUSINESS

None.

PUBLIC COMMENT

Maria Yi (Maria's Flowers) – Ms. Yi emphasized how difficult and dangerous it is for people to make a left turn onto Ridge Road from South First Street.

Rich Gamble commented that there was no mention of the traffic caused by the other uses in the area of the Chipotle project, and he believes the development design is infringing on safety. Chairman Tunnell stated that as development occurs in the downtown, it will trigger the traffic studies that Mr. Gamble believes are needed.

ADJOURNMENT

On a motion made by Secretary Mangione, seconded by Vice Chairwoman St. John, and a unanimous vote, the meeting adjourned at 7:42 p.m.

Respectfully submitted,

Gregg Mangione
Secretary

Submitted by:

Jenelle Stumpf
Community Development Secretary