

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
MARCH 12, 2019

CALL TO ORDER

Chairwoman Susan Cort called the March 12, 2019 Public Hearing of the Township of Derry Board of Supervisors to order at 6:03 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. A roll call was completed.

IN ATTENDANCE:

SUPERVISORS

Susan M. Cort, Chairwoman
Justin C. Engle, Vice Chairman
Richard D. Zmuda, Secretary
Marc A. Moyer
Matthew A. Weir

ALSO PRESENT:

Christopher Christman, Township Manager
Jill Henry, Assistant Township Manager
Jon A. Yost, Township Solicitor
Chuck Emerick, Director of Community Development
Lauren Zumbrun, Economic Development Manager
Julie Echterling, Recorder

Public in Attendance:

The following were in attendance: Dave Getz, 508 N. Second Street, John Foley, Mine Road, Hershey, Ron Lucas, Stevens & Lee, Harrisburg, Robert Naeye, The Sun, Bob Gurt, 141 W. Granada Avenue, Chris Painter, AIS/Brayson, Jonathan Crist, 226 W. Chocolate Avenue, Ed Leppold, 23 Peach Avenue, Kathy & Steve Seidl, 450 Granada Avenue, Chris Fenel, Hillwood, Chuck & Linda Crandall, 964 Carter Circle, and Rob Myers, 650 Appenzell Dr.

INTRODUCTION:

Mr. Emerick reminded everyone that this meeting is tape recorded. He introduced the public hearing regarding proposed Ordinance No. 713, which would amend Chapter 225 (Zoning) of the Code of the Township of Derry to make general revisions, corrections, and clarifications relative to regulations described in Article II (Form and Function); Article III (Zoning Districts and Overlays); Article IV (Performance Standards and Supplementary Regulations); and Article V (Conditional Uses and Special Exceptions).

Mr. Emerick stated the original 2017 Zoning Ordinance was adopted by the Board of Supervisors on March 2017. Text amendments were implemented under Ordinance No. 692 and Ordinance No. 705, adopted November 2017 and July 2018, respectively. Additionally, Ordinance No. 709, which added regulations associated with Active-Adult Communities, was adopted in February 2019. The Zoning Ordinance is a living and breathing document and often changes are necessary. Township Staff continues to groom the Zoning Ordinance and has identified a list of additional minor modifications, corrections, and clarifications that are needed. As a result, they are proposing text amendments under Ordinance No. 713. These amendments are strictly to the text of the Zoning Ordinance and will not result in any changes to how properties are zoned. The majority of these text amendments clarify and correct certain regulations and text; however, they also remove two uses within the Hershey Mixed Use zoning district. He stated nevertheless, the Zoning Ordinance will remain substantially consistent with the goals and objectives of the 2015 Comprehensive Plan.

In summarizing the modifications proposed, he reserved the discussion of the removal of hotels and motels from the Downtown Core Overlay for the end of the summarization.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
MARCH 12, 2019

Section 1: Refers to the matrix of permitted uses. Hotels and Motels are being removed from Downtown Core Overlay (O9) in the Hershey Mixed Use zoning district. Guest Lodging, Dining and Conference Facilities have also been removed from the Hershey Mixed Use zoning district.

Section 2: Previously, this section allowed a property owner the discretion to only reduce a front yard area (front building setback) to be in alignment with adjacent buildings. Modification to this section will now allow the Zoning Officer to determine if a proposed structure is in proper relation with adjacent existing structures.

Section 3: Refers to the “dashboard” (§225-315) for the Hershey Mixed Use zoning district. The same modifications stated in Section 1 have been reflected in Table 28 of §225-315.

Section 4: Modifies the parking regulations to clarify that fractional parking spaces in calculations are to be rounded up.

Section 5: Clearly states that residential density bonuses within a Master Plan application are credited to the zoning district applicable to the property, including overlay zoning districts.

Section 6: Corrects an erroneous section reference from §501-501.43.D to §225-501.43.D.

Section 7: Corrects an erroneous reference from “Board of Supervisors” to “Zoning Hearing Board.”

Section 8: Clarifies that to establish a “Family Child Care Home” as an accessory use, the principal use of a dwelling on the lot must either exist or be permitted in the subject zoning district.

Section 9: Removes the special exception criteria for “Guest Lodging, Dining and Conference Facilities” since they will no longer be permitted in the Hershey Mixed Use zoning district.

Section 10: Clarifies that to establish an “Accessory Dwelling Unit” as an accessory use, the principal use of a dwelling on the lot must either exist or be otherwise permitted in the subject zoning district.

Sections 11 through 13 are standard language safeguards we put in ordinances.

He stated to discuss the removal of hotels from the Downtown Core Overlay (O9), the 2015 Comprehensive Plan, Downtown Hershey, a Plan for Continued Revitalization, and the Downtown Core Design Standards, as well as development trends within the Township need to be considered.

He spoke about the 2015 Comprehensive Plan which looked to organize the Township into typology zones. The Comprehensive Plan developed four typologies. He went over a colored map which broke out the zones. The blue areas are classified as “work, learn, play, and eat” Area 4 typology, which, based in large part on the “play” theme, is the primary recommended location for hotels and motels, as the use is noted in subsets 4.2, 4.3, 4.4, and 4.5. The description of subset 4.2 states, in part: “Moderate to high-density mixed residential uses, regional/community-scale non-residential uses that support the Township’s numerous regional visitors.

He stated the description of subset 4.3 builds on the same theme: “Regional/community-scale non-residential uses such as hotels. He stated the descriptions of subsets 4.4 and 4.5, respectively: “These areas also serve the Township’s large-scale non-residential uses. Public sanitary sewer and public water is in place to support this relatively easily developable and accessible area. A mixture of regional/community-scale nonresidential uses. The continuation of uses such as the hospital, amusement parks, golf courses, stadia, restaurants, hotels, shops and the like is an acceptable land use mix for the area.”

He stated Hotels and Motels are only suggested in one other area, Area 3 typology of the Future Land Use Map in subset 3.3, “live, shop, eat, and recreate.” Area 3 encompasses the Hershey and Palmdale village areas and some adjoining neighborhoods. This is a very large and diverse area. Although hotels are a

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
MARCH 12, 2019

suggested use that could be incorporated into many of these neighborhoods, within the core Hershey village area, a freestanding hotel is not consistent with the ideals for development of the village. The vision through the Comprehensive Plan for development of this area is summarized within the description of subset 3.3. It states, in part: “small-scale and moderate-scale non-residential uses that support the overall community’s needs and vertically integrated mixed-use buildings.”

He stated those were the considerations used to develop the 2017 Zoning Ordinance. Consistent with the Comprehensive Plan, Hotels and Motels are permitted by right in the General Commercial, Commercial Recreation, and Hershey Mixed Use zoning districts in Overlays O9, O10, and O13 and are permitted by Conditional Use in the Planned Campus North, Planned Campus West, and Hershey Mixed Use zoning districts in Overlay O8.

He stated it appears that the 2017 Zoning Ordinance has fallen short of the goal of promoting integrated mixed-use buildings in the village of Hershey that support the community’s overall needs. Allowing hotels that only serve as hotels will create voids in the walking environment by not engaging the public to continue beyond the use. This disconnection goes against the principles of the Comprehensive Plan in building the character of the downtown. Page 67 of the Comprehensive Plan reads, in part “to consider requirements for the articulation of building facades for largescale uses, such as hotels. It is also possible to require large scale uses to be inset behind smaller storefronts which would maximize commercial space in the downtown, in addition to maintaining character of smaller scale buildings.” They can be integrated but need to be done properly. He stated in Item 1 in Places for Consideration that the downtown area has been identified for its potential to contain mixed-use buildings to emulate the traditional, small town character and to provide for additional services to meet the future needs of the residents and visitors.

He stated for the Downtown Hershey, a Plan for Continued Revitalization, it does not recommend housing tourists in the downtown; however, it does suggest engaging tourists in existing hotels. He stated for the Downtown Core Design Standards, the document is meant to provide both guidance and regulations for the development and redevelopment of the downtown in a manner that is engaging, sustainable, and vibrant. Many of the ideals promoted throughout the Design Standards are based in traditional neighborhood development patterns, encouraging “innovations in residential and nonresidential development and renewal which makes use of a mixed-use form of development so that the growing demand for housing and other development may be met by greater variety in type, design, and layout of dwellings and other buildings and structures”. Section 89-14 notes, in part, that “All site elements should relate in regard to individual features, materials, and their arrangement so as to provide continuity along the street and to enhance the building on the site.” Finally, and directed at the desire to create mixed-use buildings, Section 89-12.C states, in part, “New development should also consider multiuse spaces in order to diversify the land uses of the Downtown Core Overlay and create a compact urban form that is traditional to a downtown setting.” The new downtown center is a representation of this type of development, as is the Fenicci’s building and Knock Knock Boutique.

He spoke about development pressure. Prior to the development of the 2017 Zoning Ordinance, his department received various calls related to places where hotels could be developed. A study that they did in 2014, which was recently updated, finds that there are 29 legal lodging establishments within the corporate boundaries of Derry Township. They estimate that there are 2,539 rooms available for rent (including the Tru Hotel, which is under construction). There is an approved plan for a 60-room hotel in

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
MARCH 12, 2019

Palmdale as well (Red Roof Inn). The Hershey West End project includes a 140-room hotel. Just since the adoption of the 2017 Zoning Ordinance, five hotel projects have been processed in the Township (Courtyard Marriott, Tru Hotel, Red Roof Inn, Hershey West End, and Townplace Suites). Ray Brace recently shared with me that three different companies have approached him about using part of his property for a hotel. He has seen sketches for hotels in early development plans for the property at the corner of Fishburn Road and Governor Road, Dennis Burd's property along Middletown Road, and Lewis Loffreda's property at the corner of Middletown Road and Route 322. Since the momentum for developing our downtown has increased since the adoption of the 2017 Zoning Ordinance, it is important to ensure that it is happening in a manner consistent with our vision.

In conclusion, he stated they feel from a planning aspect that there are presently ample locations within Derry Township that are properly zoned for hotels and motels. They are not opposed to a new, thoughtful, mixed-use hotel being located in the village area; however, a concern exists that since a hotel is presently not required to be proposed as a mixed-use structure, we could require to approve one or more in a fashion other than the desired mixed-use manner. For these reasons and those stated above, he suggests that hotels and motels be removed from the Downtown Core Overlay of the Hershey Mixed Use zoning district. This will allow Staff to develop regulations that meet the goals and objectives noted above. While not specifically mentioned in this report, the same reasoning extends to the removal of Guest Lodging, Dining and Conference Facilities from the Ordinance at this time.

At the March 5, 2019 the Derry Township Planning Commission meeting, voted by a vote of 2-1, recommended that Ordinance No. 713 be adopted without the text in Sections 1 and 3 related to the removal of Hotels and Motels as by-right permitted uses in the Downtown Core Overlay of the Hershey Mixed Use zoning district. The Dauphin County Planning Commission reviewed Ordinance No. 713 at their March 4, 2019 meeting. In their letter, they commented specifically about removal of hotels and motels from the downtown. He stated they only received 2 pages of notes versus all of the reasoning he provided tonight when they reviewed the Ordinance. Below are their comments (in italics), combined with Mr. Emerick's notes he discussed:

1. *There is no stated reason as to why these uses are being removed, which makes it appear to be an arbitrary decision.* The County was only provided a summary of the changes, not the supporting reasoning.
2. *"Hotels and Motels" have a well-established footprint in the Downtown Core overlay area and removing them as permitted uses increases the non-conformity within the district. While non-conformities naturally occur over the long-term as things change, they should not be encouraged without reason.*
3. *The result of the removal of "hotels and motels" from the Downtown Core limits this use to the outskirts of the downtown area. Patrons to downtown establishments from future hotels and motels in the Township will now need to drive to the downtown, which is in conflict with the downtown walkability goals of the Township's 2015 comprehensive plan and Dauphin County's 2017 comprehensive plan.* There are many opportunities for visitors to lodge in the downtown area including Simmons Motel, Days Inn, Tru Hotel, Super 8, Cocoa Cottage, Fairfield Inn, and the Simplicity Inn. Walkability and destinations are actually part of the desire to temporarily remove hotels and motels from the downtown area.
4. *Finally, the recent establishment of restaurants in the downtown area could have been predicated, at least in part, on the expectation of patrons from nearby 'hotels and motels'. Removal of this*

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
MARCH 12, 2019

customer base could have a negative effect upon continued, walkable commercial growth in the downtown in the long term, and may encourage that future customer base to go someplace other than Hershey's Downtown area. Here again, there are ample opportunities for lodging downtown and the sheer number of visitors, even day visitors to Hershey at both the Medical Center and Hersheypark, will likely support the commercial entities in our downtown.

He is recommending that Ordinance No. 713 be adopted as written. He noted no action is needed to be taken at this hearing. Chairwoman Cort asked the Board if there were any comments or questions. There were none.

PUBLIC COMMENTS:

Mr. Jonathan Christ, attorney for AIS residing at 226 West Chocolate, provided a handout to the Board. He believes they are reacting to the January 22 meeting. He stated the comments he heard is not objecting to hotels but the size. He believes there is an issue with the Zoning which allows for 85% lot coverage and believes it is contradictory to the stormwater management and rain tax initiatives. He also questioned a 60-foot building being allowed. He spoke about the side yard setbacks as 5 feet. He showed a tape measure that is five feet and spoke about how small this is as a setback. He spoke about the safety issues with the setback including scaffolding which is normally 4 feet wide. He stated there is a history of changing zoning for a specific project like Chipotle and the Post Office development. He believes the 85%, 60 foot, and 5-foot setback need to be changed. He believes if it isn't fixed, Caracas and Granada will be next with large buildings and development.

Mr. Dave Getz, Bear Creek Hotel 2, stated his client owns one of the properties which he bought after the zoning ordinance was done with the intent of doing a hotel. This plan is now in litigation and a new plan has been submitted today. He believes the recent changes are because of their plan. They want people to walk downtown, but if you force them outside – people will eat at other places. He spoke about the Planning Commission meeting and the fairness issue. He stated two of the three members thought it was unfair to remove hotels. He urged the Board to do what the Planning Commission recommended.

Mr. John Foley is against the proposed changes for the hotels. He believes this is a knee-jerk reaction. He spoke about the Comprehensive Plan and all the professional involved and time for the plan. The objective was to dense up the downtown. He stated mixed use isn't a required use, as there only a few mixed-use areas. He feels this is targeted and specific. He spoke about the connectivity, increasing the tax base, and how this will hurt development. He believes this takes away the level playing field.

Mr. Ron Lucas represents his clients who purchased six properties for development, which was denied on January 22. He spoke about the Planning Commission approving and being surprised it was denied by the Board, which is being appealed in the courts. He believes this has been rushed and is unfair. He spoke about the comprehensive plan and zoning ordinance. He thinks it is interesting that Mr. Emerick brought this up at this hearing not in a study group or the Planning Commission. He believes this is not fair. If a use is permitted, then it should be allowed. He stated when you change the rules in the middle of a process it isn't fair. This amendment appeared since his plan was denied. He believes the Board should not approve this Ordinance and start over and start a study for the downtown corridor or where you want hotels. He spoke about the Devon's and Houlihan's plan with the parking. He spoke about the parking issues with downtown and how hotels allow parking and walking concept. He stated any business needs to be setup by

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
MARCH 12, 2019

May for the summer business to be able to survive the first year of business. He noted that the County Planning didn't have the whole picture which shows to him it was rushed. He spoke about hotel guests, parking and walkability. He asked them not to rush this decision. He believes the Board should not approve this Ordinance.

Mr. Robert Gurt, 141 W. Granada, stated he is here on behalf of Ray Bray's interests. He believes the Township not having hotels is inconsistent character of the area. Changing the use of land is inconsistent with the plan and creates uncertainty. He spoke about how great it is to be able to walk downtown. He believes banning hotels is the wrong decision and wrong time as it doesn't match the Comprehensive Plan. He believes they need consistent planning and not sudden changes. He doesn't think this should be approved.

Mr. Steve Seidl, 450 Granada, stated so far everyone who has spoke is about business and he is a resident. He said fairness was discussed but what about what is fair to the residents. He spoke about what is downtown and how it is gone further out including Caracas. He asked why 60-foot-high building are needed and wants it to go back to 40 feet and asked what is reasonable to be next to a residential area. He believes its unfair that property values will change and that some residents have a 60-foot hotel to stare out in the front yard. He asked they get their priorities right and correct this. He believes the focus group/study for downtown should be the residents.

ADJOURNMENT:

Supervisor Weir made a motion to close the Public Hearing at 6:55 p.m. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Richard D. Zmuda
Township Secretary