

141

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**OCTOBER 8, 2019**

**CALL TO ORDER**

Chairwoman Cort called the October 8, 2019 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:02 pm in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. She advised all public meetings are recorded for providing accurate notes. There was a public hearing held at 6p.m. for a conditional use application No 2019-05. She announced the Board of Supervisors met in executive session before the meeting and after the hearing. After the pledge of Allegiance, a roll call was conducted.

**IN ATTENDANCE:**

**SUPERVISORS**

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

**ALSO PRESENT:**

Christopher Christman, Township Manager  
Jon A. Yost, Township Solicitor  
Chuck Emerick, Director of Community Development  
Lt. Terry Ferree, Derry Township Police  
Robert Piccolo Assistant Director of Public Works  
Cheryl Lontz, Manager of Payroll and Employee Benefits  
Matthew Mandia, Director of Parks and Recreation  
Laura O'Grady, Director of Hershey Public Library  
Matt Bonanno & Eric Stump, HRG Engineers  
Lauren Zumbrun, Economic Development Manager  
Julie Echterling, Recorder

**SUPERVISOR ABSENT:**

Marc A. Moyer

**Public in Attendance:**

The following were in attendance: Chuck Duncan, Jonathan Crist, Doug Nicotera, Sandie Pharmer, Joan May, Linda Eyer, Teresa Peschel, Ron Lucas, Dave Getz, Kenny Hinebaugh, Michael Weidner, Abigail Clifford, Michelle Kupp, Stephen Smith, Biu Hoy, John Foley, Jay States, Derrick Slehys, Janet Weir, Skip Becker, Christine Drexler, Jim Snyder, David Stuart, Wayne Rivers, Rich Gamble, Carter Wycoff, Lou Mione, Sam Moll, Harley Moll, Kim Mione, Steven Seidle, Tracy Brown, Dave Weaver

**VISITOR/PUBLIC COMMENTS:**

Ms. Teresa Peschel, 48 Half Street, stated she has no objection to a hotel being built at the proposed location, but it is too large for the site. She would be ok if it was a 1/3 of the size they are proposing. She stated she would be glad to serve with the Shade Tree Ordinance. She thanked the Board for their work on the ordinance.

Mr. Jonathan Crist, Attorney, has questions about the 6 homes for demolition for the new hotel. He believes the houses are livable as people are living there now and provided pictures of the inside of the homes. He asked about the proposed roundabout. It would be right in front of the proposed hotel as it is shown as residential on the report on the website on page 39. He went over all the hotels in the area and their acreage to compare with the proposed Marriott, which is less than .8 of one acre.

Mr. Steven Seidle, 450 W. Granada, is not in favor of the proposed hotel. He believes it is too much development for the site. They have tried every trick in the book to make it fit. He thinks there will be too many issues during demolition of the six homes and is concerned about the traffic because they would use the alley. He is also concerned with the proposed fence, stormwater and parking. He spoke about how the plan was rejected earlier this year and should be rejected again.

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**OCTOBER 8, 2019**

Mrs. Linda Eyers, 2321 Raleigh Road, noted she attended her first meeting 52 weeks ago and has tried to attend everyone since then. She spoke about the failed attempt on the Recreation Center. She said the new plan is smaller but costs more and still there is no business plan on how to pay for this that seems reasonable. She feels it is irresponsible to put all the debt on the residents.

**ADOPTION OF MINUTES:**

Vice Chairman Engle made a motion to adopt the September 24, 2019 Board of Supervisors Meeting Minutes. Supervisor Zmuda seconded the motion. **Motion carried 3-0-1.** Chairwoman Cort abstained because she was absent for that meeting.

**NEW BUSINESS:**

**DEMOLITION – 554-574 WEST CHOCOLATE AVE – CONSTRUCTION OF NEW HOTEL:**

Mr. Emerick stated Bear's Creek Hershey Hotel II, LLC, proposes to demolish the existing dwellings and accessory structures on the properties at 554, 558, 562, 566, 570, and 574 West Chocolate Avenue and construct a new 5-story, 76-room Towneplace Suites Hotel. The proposed hotel is a permitted use. He spoke about Chapter 89 noting that "all buildings in the downtown should relate to and respect the continuity and character of existing block fronts and adjacent buildings that are such a strong determinant of the character of the overlay." He stated, to promote this principle, Section 89-12.A first states that "Adaptive reuse of existing buildings shall be utilized to the greatest extent possible." When demolition is proposed, it is the burden of the applicant to demonstrate the infeasibility of adaptive reuse by providing relevant information about the structure(s) based on the following criteria:

1. The structural integrity of the building is beyond repair or reuse and as a result, the demolition of the existing building is in the best interest of public safety and welfare. The applicant shall provide a structural engineer's report to demonstrate
2. The desired general aesthetics and compatibility of design with surrounding uses will be more achievable with demolition of the existing structure and construction of a new building.
3. The safety of vehicular and/or pedestrian access to the building will be more achievable with construction of a new building.

He stated in this case the applicant has noted in their narrative that they do not believe Item 1 is "relevant" since the structural integrity of the individual buildings is not beyond repair. Rather than attempting to find a way for adaptive reuse or continued use of the buildings, the applicant has chosen to demolish the structures. The applicant noted that the hotel will only access Hillcrest Road and that the hotel customers will not access South First Street. HRG and the Township Planning Commission both questioned this statement and the applicant's ability to restrict use of the alley. He noted, generally speaking, the 6 residences would generate 60 average weekday trips (AWT). The applicant's traffic assessment anticipates over 10 times that amount of traffic from the hotel (635 AWT). Their narrative did not address any improvement in pedestrian access on Hillcrest Road or West Chocolate Avenue. To address Item 2, the applicant also notes that "demolition of the six small houses and construction of a new hotel, as permitted by zoning, will be compatible with the overall general aesthetics and design of the applicable zoning and overlay districts"; however, they offer no other statements supporting that assertion.

Color renderings of the proposed hotel were provided and shown on the screen for the Board's

143

**TOWNSHIP OF DERRY  
BOARD OF SUPERVISORS MEETING MINUTES  
OCTOBER 8, 2019**

consideration. He noted, the proposed building seems to have many of the design elements that are desired under these regulations. He stated the Board needs to make a determination if, as noted in the demolition section of this report, the new building is designed to “relate to and respect the continuity and character of existing block fronts and adjacent buildings that are such a strong determinant of the character of the overlay.”

He discussed the three votes the Downtown Core Design Board (DCDB) made at their April meeting. The DCDB voting was tied on the vote for the demolition of the existing site. This means there is no recommendation made to the Board on this. The DCDB voted against the design standards for the new building. They did, however, vote unanimously for the site features. He noted without receiving an extension of time from the applicant for the Board to act on the application, action must be taken tonight, or the application will likely be “deemed approved.”

Mr. David Getz, Attorney, spoke about the hotel being a permitted use and noted they have made changes to the plan. They reduced the number of rooms by 10% and widened the road. He noted that Chapter 89 is not valid nor is the DCDB and spoke about why he feels it is not valid. He noted the current six homes can't be used for commercial properties because of the parking, ADA issues and the homes are past their usage.

Mr. Jim Snyder, Snyder Secary & Associates, LLC., spoke about the 6 properties becoming one for a 76-room hotel. He spoke about parking, the widening of Hill Crest Road and the alley, landscaping and waivers. He noted the plan has been amended and been supported by staff with traffic and stormwater being addressed. He spoke about traffic improving as they have eliminated access to the back alley, installing an 8ft sidewalk and curbing on Hillcrest. He spoke about peak hour trips at 9. He showed the driveway and spoke about the parking. When asked how they would keep guests from using the alley, Mr. Snyder noted communication from the hotel staff and a flyer provided to guests. He spoke about the low volumes of traffic they expect. Mr. Stump, HRG, agreed with much of what Mr. Snyder said but has concerns about how much the alley would be used with GPS and applications, which reference using the alley. Mr. Snyder noted the alley would be safer now and spoke about the six homes where people are backing into the alley now. This will be eliminated. Vice Chairman Engle noted he doesn't think it is unsafe now. Supervisor Weir noted he hasn't heard of any accident with residents backing into the alley.

Vice Chairman Engle noted there are three criteria for the demolition and asked about the first criteria. Mr. Snyder stated this has been asked and answered as they don't feel it is relevant. Mr. Getz noted that the Board has approved three demolitions for hotels in the past and noted it wasn't required in the past. The Board and Solicitor discussed if all three of the criteria needed to be met based on the language in the ordinance.

Vice Chairman Engle asked about the second criteria for demolition and was it consistent with the neighborhood. Mr. Snyder believes it is different and it met the design standards. Mr. Getz noted redevelopment needs to begin somewhere and it is a permitted use. Vice Chairman noted he is having issues with the design because it will be next to a house, which is much smaller than the proposed hotel. Supervisor Weir noted the surrounding churches and houses aren't that high and not in keeping with the neighborhood. Discussion ensued.

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**OCTOBER 8, 2019**

**RECESS:**

The Board of Supervisor meeting recessed at 8:00 p.m. to executive session.

**RECONVENING OF MEETING:**

The Board of Supervisor's meeting reconvened at 8:11 p.m.

Mr. Snyder stated for criteria three, he noted traffic would be controlled because traffic would be discouraged from using the alley. Mr. John Foley, representing the owners, spoke about the challenges of the six homes and keeping renters. He noted he used the apps for GPS, and they didn't lead him through the alley. He noted the neighborhood with TruHotel and Staples. He spoke about the owner's journey to buy the houses and working for 2 years to get to this point. Mr. Ron Lucas, attorney, spoke about the adoption of the ordinance and noted they have a right to redevelop. He spoke about the Supreme Court and the Planning Code in PA and their right to develop their land. He noted if the ordinance is ambiguous, then it goes to the landowner. He believes the ordinance is poorly written and illegal. He discussed his objections to the ordinance and their actions on this property. He noted the owners are Hershey residents who can't find buyers for their property. He asked them if this is the message the Board wants to send to the residents. Vice Chairman Engle disagreed with his assessment of Chapter 89 and believes it is valid. Mr. Emerick noted there is a difference and safety concern between 60 daily trips for six houses versus 635 daily trips for a hotel. Discussion ensued.

Vice Chairman Engle made a motion finding that the applicant has not met the burden of proof to show that the existing buildings located at 554-574 West Chocolate Avenue should be demolished. The Board finds that the adaptive reuse of the buildings is viable, that the general aesthetics and compatibility of design with surrounding uses will be degraded with the demolition of the existing structures. The construction of a new building and pedestrian and vehicular safety will decline due to the increased traffic. Therefore, the requested demolition is **rejected**. Supervisor Weir seconded the motion. **Motion passed 3-1.**

Chairwoman Cort made a motion finding that the proposed building is out of scale and character with the surrounding area and that, coupled with the rejection of the requested demolition, results in a **rejection** of the proposal for a new building. Vice Chairman Engle seconded the motion. **Motion carried 4-0.**

**PLAT #1315 -TOWNEPLACE SUITES HOTEL:**

Mr. Emerick stated Plat #1315 is for 554-574 West Chocolate Avenue. He noted the combined lots would be a single development tract having a gross area of 0.8082 acres and a net area of 0.7638 acres. The property presently contains 6 existing dwellings and associated accessory structures, which will all be razed to make way for a five-story, 60-foot-high, 76-room hotel. A hotel use is a permitted use within the Downtown Core Overlay of the Hershey Mixed Use zoning district. The parking on the property is proposed behind the front face of the building in compliance with the overlay district requirements. A total of 81 parking spaces are required on the property. The applicant proposes 60 standard spaces (7 elevated), 15 compact spaces (5 elevated), 4 accessible spaces, and 8 bicycle spaces.

He stated per Section 185-42.A of the Subdivision and Land Development Ordinance, the applicant has indicated that the use will not generate traffic at the threshold that would require a full traffic study (100

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**OCTOBER 8, 2019**

or more peak hour trips). The plans indicate that the hotel use will generate 40 AM peak hour trips and 46 PM peak hour trips. He said Section 185-42.B of the Subdivision and Land Development Ordinance allows the Township to require a traffic study whenever current traffic problems exist in the area which, in the opinion of the Township, are likely to be impacted by the proposed development activity. He stated a traffic study is beneficial in determining how patrons will circulate into and out of the site, considering the inability to make a left turn onto West Chocolate Avenue and geometric confines of surrounding intersections. The study should determine if geometric or safety improvements are appropriate along South 1st Street, West Caracas Avenue, Hillcrest Road, Orchard Road, or any other street impacted by the development.

He spoke about the proposed subsurface stormwater management facility, runoff and impervious coverage. He noted the overall design of the site amenities appears to make great efforts in providing the look and features that were recommended in Downtown Hershey. He stated waivers have been requested and typically, the Planning Commission will join staff in offering comments related to approval or denial of the waivers; however, the Planning Commission tabled this plan at their September 3, 2019 meeting without acting on the waivers. Below are the waivers:

1. From- Profiles of existing storm sewer, sanitary sewer, gas, and water lines within the property. *Mr. Emerick recommends that a partial waiver be granted from the requirements to profile existing, unaffected storm, sanitary, gas, and water lines for the project. All proposed and altered storm, sanitary, gas, and water lines, including lateral connections, shall be profiled.*
2. From- Driveway separation from nearest street right-of-way. *He recommends the waiver be granted.*
3. From - Curbing along South 1st Street. - *He recommended the waiver be granted.*
4. From - Stormwater volume control requirements. *He recommends the waiver be granted, as the Township Engineer and the site engineer have coordinated the proposed design for the site.*

He noted The Derry Township Planning Commission, at their meeting in May, tabled Plat #1315 to allow time for the applicant to address and re-present information related to the technical concerns noted in the May Township Staff report and the April 17, 2019 HRG letter. Additionally, the Planning Commission wanted to have the opportunity to review the traffic analysis; details on the safety and constructability of the retaining walls; a better Operation and Maintenance Agreement for the vehicle lifts; and some form of constructability description for constructing the proposed 60-foot-high building 5 feet from the eastern property line prior to making a recommendation on Plat #1315. At their September meeting, they tabled Plat #1315 to allow time for the applicant to satisfactorily address the Commission's concerns listed below, as well as the comments noted in the August 26, 2019 Township Staff report and the August 19, 2019 HRG letter prior to making a recommendation on it. Below are the concerns:

1. Address concerns related to the Township's liability in the event of an accident involving the vehicle lifts. *Mr. Emerick noted that the applicants don't believe this is necessary.*
2. Provide details on the safety and constructability of the retaining walls and details for all proposed guards. *Mr. Emerick noted the applicant believes this should be deferred to the building permit and addressed there.*
3. Amend the traffic report regarding the ability of South 1st Street to accommodate the hotel traffic. *Mr. Emerick noted HRG still has concerns.*

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**OCTOBER 8, 2019**

Mr. Emerick noted what without receiving an extension of time from the applicant for the Board to act on the plan, action must be taken tonight, or the plans will be "deemed approved. He noted if the Board approved the plan, there were 17 conditions which he went over that would need to be satisfactorily addressed.

Mr. Getz noted that the Planning Commission approved the plan in November 2018 and nearly all the items were addressed. He noted that the retaining walls are done at the building stage not development stage. He said once the hotel is built, they will contact the GPS apps and routing traffic outside the alley. Vice Chairman Engle spoke about his concerns with the Lift parking with safety, maintenance, noise and that it's not addressed in the ordinance. Mr. Getz noted the ordinance doesn't prohibit it and spoke about what they submitted with the instructions and regulations of a Lift system.

Mr. Jim Quan spoke about working with the Township Staff before entering into contracts for the property. He spoke about the money and resources used to get to this point. He spoke about auto stackers and is confused if they aren't prohibited why they can't do it. Vice Chairman Engle noted he and the Board never agreed to car stackers. He also noted it doesn't make sense to approve a plan where the demolition wasn't approved. Supervisor Weir doesn't like lift parking. He spoke about all the rules and parts for a garage door let alone the parts for a car lift – and what if it isn't maintained properly. Chairwoman Cort noted that if you need a lift system to park cars for a site, then the hotel is too big for the property. Vice Chairman expressed concern with the liability of the lifts for the Township. Discussion ensued.

Chairwoman Cort made a motion that the Preliminary/Final Subdivision and Land Development Plan for Towneplace Suites Hotel, Plat #1315, is **rejected** due to the applicant not receiving approval for the demolition of the existing dwellings (and the construction of the new building if voted so) as required by Chapter 89 (Downtown Core Design Standards) of the Township's Code of Ordinances, in addition to 17 outstanding items 'a' through 'q' listed under the Department Head Recommendation section of this agenda item. Supervisor Weir seconded the motion. **Motion carried 4-0.**

**UPDATE ON RECREATION CENTER:**

Mr. Greg Koussis, Capital Construction Management, LLC., spoke about the design team, including consultants, civil engineer, architect and others working on the floor plan and design based on the Board's decision. He showed the Board a sketch and outlined the areas on the plan. He stated there would be a full presentation to the Board on October 22. He hoped to go out to bid after that meeting and be back on November 20 for the Board to review the bids.

**MAXIMUM PARAMETERS ORDINANCE-ISSUANCE OF BONDS:**

Mr. Christman spoke about the financial team's presentation to the Board about the reasoning behind a maximum parameters ordinance as it relates to a borrowing and issuance of debt for the Community Center. He noted the ordinance has been duly advertised.

Chairwoman Cort made a motion to adopt the Maximum Parameters Ordinance in the amount of \$40 million having been duly advertised as per the Local Government Unit Debt Act. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

**ORDINANCE 712-PUBLIC TREE ORDINANCE-SHADE TREE COMMISSION**

147

**TOWNSHIP OF DERRY  
BOARD OF SUPERVISORS MEETING MINUTES  
OCTOBER 8, 2019**

Supervisor Weir made a motion to adopt of Ordinance No. 712 amending the Code of the Township of Derry by repealing existing Chapter 201 (Trees) and enacting the Township of Derry Street and Public Tree Ordinance regulating the planting, maintenance, and removal of trees located within public rights-of-way and public places of the Township, and creating a Shade Tree Commission for the purposes stated therein. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

Supervisor Weir thanked everyone involved with the ordinance including Staff, Board, and volunteers who have helped plant trees throughout the Township. He is looking forward to working on this and having a healthy tree canopy. Vice Chairman Engle noted all the effort and great work Supervisor Weir has put into this process. He believes also that trees help make a community. The Board agreed.

**RESOLUTION 1598-2019 POLICE PENSION FUNDING:**

Mrs. Lontz spoke about the requirements of Act 600 and the contribution rates for Police pensions. She stated due to an administrative oversight, the resolution is being made retro-active to January 1, 2019.

Chairwoman Cort made a motion to adopt Resolution #1598 establishing the contribution rate for the police pension for 2019 at 2% of wages retro-active to January 1, 2019. Vice Chairman Engle seconded the motion. **Motion carried 4-0.**

**HERSHEY'S NEW YEAR'S EVE CELEBRATION – SQUARE OF HERSHEY:**

Chairwoman Cort made a motion to approve the request to hold the New Year's Eve Celebration in the Square of Hershey on December 31, 2019, along with the associated road closings. Vice Chairman Engle seconded the motion. **Motion carried 4-0.**

**PERFORMANCE SECURITY: MUSCALUS PROPERTY PLAT #1269:**

Vice Chairman Engle made a motion authorizing the release of the remaining balance (\$69,853.30) of the performance security provided in the form of Bryn Mawr Trust Company Letter of Credit No. 969 for the Preliminary/Final Subdivision and Land Development Plan for Muscalus Property Plat #1269, contingent upon the developer providing maintenance security in the amount of \$4,653.75 and executing the Township's standard Agreement to Provide Financial Security to Guarantee the Structural Integrity and Functioning of Improvements Constructed as Required by a Subdivision or Land Development Plan.. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

**CORRESPONDENCE BOARD/COMMITTEE INFORMATION & REPORTS:**

Chairwoman Cort noted the next Hershey Diversity is on November 13<sup>th</sup>.

POLICE:	Lt. Ferree noted this would be a busy time in the Township with auto week, Halloween parade and the half marathon.
Public Works	Mr. Piccolo noted leaf pickup will start this week.
Library	Mrs. O'Grady noted the Library would open at noon Friday and closing on Tuesday for the parade.
Recreation:	Mr. Mandia stated the parade starts at 7p.m. at the Recreation Center.
Engineer:	Mr. Bonanno spoke about DTMA submitting their annual MS4 report.
Community Development:	Mr. Emerick spoke about upcoming hearings. He scheduled the November 26 <sup>th</sup> public hearing on the Zoning ordinance for 5:30. He also spoke about 3 public hearings needed for November 12 <sup>th</sup> which could be done between 6-7pm. The Board agreed.

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**OCTOBER 8, 2019**

Economic Development:	Mrs. Zumbrun reminded everyone of Choctoberfest on Saturday, October 19 from 12 p.m. to 6 p.m.
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**ACCOUNTS PAYABLE and PAYROLL:**

Supervisor Zmuda made a motion to approve accounts payable in the amount of \$1,878,434.12 and a Payroll totaling \$322,958.81 Chairman Cort seconded the motion. **Motion carried 4-0.**

**VISITOR/PUBLIC COMMENTS:**

Mr. Rich Gamble thanked the Board for their vote on the hotel. He referenced Cinderella with the glass slipper not fitting – like the hotel not fitting on that property.


Mr. Wayne Rivers, 815 Cypress Court, noted that October 11 is International Day of Girls and thought it would be nice to include in the weekly newsletter. He asked if there would be another set of eyes looking at the Recreation Center plans. He noted the smallest detail missed could add to the overall budget for the project. He asked if the plan would need to be approved by the County. Mr. Christman said yes, the Dauphin County Conservation would review it. Mr. Rivers asked about the Fitness with PowerTrain. Vice Chairman Engle spoke about working on the plan and having the letter of intent. He noted it should come back to the Board in the next month.

Mr. Steve Seidl asked if the final document from the consultants could be seen before the public hearing on the zoning ordinance. Mr. Emerick stated he would look to put it on the website this week.

**ADJOURNMENT:**

Vice Chairman Engle made a motion to adjourn the meeting at 9:35 p.m. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

**SUBMITTED BY:**

  
Richard D. Zmuda  
Township Secretary