

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS PUBLIC HEARING MINUTES**  
**JANUARY 28, 2020 6PM**

**CALL TO ORDER**

Chairwoman Nutt called the January 28, 2020 Public Hearing of the Township of Derry Board of Supervisors to order at 6:03 pm in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. She advised that all public meetings are recorded for providing accurate notes. A roll call was performed.

**IN ATTENDANCE:****SUPERVISORS**

Natalie L. Nutt, Chairwoman  
 Carter E. Wyckoff, Secretary  
 Susan M. Cort  
 Richard D. Zmuda

**ALSO PRESENT:**

Christopher Christman Township Manager  
 Jon A. Yost, Township Solicitor  
 Chuck Emerick, Director of Community Development  
 Matt Bonanno, HRG Engineer  
 Lauren Zumbrun, Economic Development Manager  
 Julie Echterling, Recorder

**Public in Attendance:**

Ken Gall-Hershey Trust Co, David Tshudy-Pepper Hamilton LLP, Andrea & Rebekah Fischer-231 E. Derry Rd., Hershey, Jeff Clarke-Kuis, Werger & Weidner, Jake Krieger-RGS Associates, Mike Kearney-Cacao Way LLC, Brandon Johnson-Cacao Way LLC, Dale & Deb Bashore-68 E Derry Rd., Robert & Michelle Quirin-308 E. Derry Rd., Robert Naeye-The Sun, Tracy Brown-319 Park Ave., Marth Sachs-86 E. Derry Rd., Carmen Hoyt, 353 E. Derry Rd., Linda Eyer-2321 Raleigh Rd., Steve & Kathy Seidl-450 West Granada Ave., Sandy Cappelli, Rich Gamble, Dennis Trout, Robert Smith

**INTRODUCTION:**

Chairwoman Nutt stated this is a public hearing regarding Conditional Use Application No. 2019-08 (regarding a Master Plan) for 50 Northeast Drive as filed by Cacao Way, LLC.

**TOWNSHIP PRESENTATION:**

Mr. Emerick stated this application is for the former Milton Hershey School student home at 50 Northeast Drive. They proposed to construct a 4-story, 75-unit market rate apartment building. The units will be comprised of 39 one-bedroom units and 36 two-bedroom units. The development will be served by public water and sewer facilities. The property is located within the Hershey Mixed Use Zoning District and is also subject to the Compact Development Overlay and the North Master Approval Area Overlay. They are proposing to relocate the existing driveway at Northeast Drive and the construction of a new driveway at the intersection of North Third and P Streets. The master plan proposes 126 parking spaces. The applicant proposes offering a volunteer fee in lieu of a traffic study. He discussed the calculations of the fee, which would net approximately \$35,000 to the Township. Eric Stump, HRG, has recommended the collection of the fee in lieu of versus the traffic study. Stormwater is proposed to be addressed by conveyance pipes connected to two new basins. The applicant has acknowledged that they need to provide a fee in lieu of land dedication for park recreation and open space, which is estimated at \$105,597.75. Based on the design of the master plan, they have requested the three waivers below:

1. Section 185-22.D. (3)- Street right-of-way and cartway width. Requirement: Additional street with (right-of-way, cartway or both) may be required to be dedicated adjacent to the existing streets with substandard right of way or cartway widths.

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2. Section 185-22. D. (5)-Curbs. Requirement: Existing adjacent streets abutting development sites shall be provided by the development with curbing along the abutting side of the adjacent street.
3. Section 185-34-Sidewalks. Requirement: Sidewalk shall be constructed on both sides of the of new streets and on the adjacent sides of the abutting streets. He noted on Northeast and P Streets they will provide some sidewalks.

He noted Township Staff and the Planning Commission recommend approval of the waivers with the stipulation that the applicant provide the fee-in-lieu of sidewalk installation. He noted that the budget impact appears to be favorably based on the estimated Estimate of Taxes and Cost Benefit Analysis submitted with the project. He stated there are several conditions listed in his document for the plan. He stated it is not necessary for the Board to take any action at this hearing, however regulations in the zoning ordinance require the Board render a written decision within 45 days of the last hearing. Staff will prepare a written decision or denial of the application, based on the Board's directive. He noted the Board would need to take action by their March 10 meeting to meet the deadline. If the Board approves the plan, his conditions will need to be included with the decision.

**APPLICANT PRESENTATION:**

Mr. Jay Clark, Attorney for Cacao Way, LLC, stated they followed the Master Plan Application as outlined in the Zoning Ordinance. They submitted sketch plans, a Master Application Plan and submitted a response letter dated January 17, 2020 after the Planning Commission. He asked that all their plans and application submittals be accepted into the record tonight. He spoke about the following:

1. The use will not adversely affect the health or safety of the residents.
  - They used sound building principles in their plans. They are going to make vehicle and pedestrian improvements. They will have private parking and will create open space. They have addressed stormwater management.
2. The use will not burden existing public services.
  - He stated the public water and sewer provides have indicated they have adequate capacity. They will not be adding any new streets or open space for the Township to maintain. He noted this plan, based on Township's formula, will add nine students. He stated for traffic they agree with the fee-in-lieu of would be a good outcome for the Township.
3. The use will not be a detrimental to the character of the neighborhood.
  - He stated the plan would provide quality residential housing. It will be market rates. It will be located between commercial and residential areas. It will allow those who are working in Hershey to live in Hershey.
4. The use will meet all other requirements of this chapter.
  - He noted the architect would provide additional details about the plan.

Mr. Jay Krieger, RGS Associates, noted the master plan provides for flexibility and deviations. He stated they are requesting two. One is the buffers from the east. He spoke about the requirements for trees and bushes. He spoke about using them more effectively along the property in their plan versus the requirements. The second deviations require four loading areas. He noted they would have four temporary spaces that are close to the building. They would be for moving residents in/out and mail/package deliveries. He noted they had asked for a variance for building height which was denied. He discussed the cost benefit analysis they used, and it included an annual net benefit to the Township of \$93,000 and

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\$44,000 for the School District. In addition, he spoke about the additional fee-in-lieu of for traffic and Recreation.

Mr. Emerick noted the applicant has been working with the Township with the north/south trail connection for the bike/pedestrian network. They have met with the Historical Society and the applicant on this trail. One of the conditions for this plan would be to continue to work with them on the trail. He noted the large fee in lieu of recreation could help with this trail.

Chairwoman Nutt asked if this trail would be the best way for the residents of this apartment to travel. Mr. Emerick said it is a good option and showed the Board how they could use the trail. He noted they will have to add bicycle parking with the development.

Supervisor Zmuda spoke about the letter received from concerned citizens. Mr. Emerick asked that the residents share their concerns versus him. Supervisor Zmuda asked about the egress and regress and the ins/outs and how it will affect traffic since it is a confined space. Mr. Krieger spoke about how traffic would flow with Derry and P Streets. He showed the map. You can't see the alley from the street. Supervisor Zmuda was concerned that residents will use this street. Mr. Krieger stated a speed bump isn't proposed. He spoke about the steep grading and sharp turns which would discourage people from using the street. He noted they could add signage to discourage people from using it. Mr. Emerick stated that this will be private property and they can enforce it as a private street. He read an email from Mr. Stumpf (HRG Engineer). He stated Mr. Stumpf spoke about a public road to help elevate traffic. He stated signage isn't required. He understands the concern with it being used as a cut through and believes it can be managed by the developer. Supervisor Zmuda asked if there could be a condition on the approval for reviewing this once they are built to review traffic. Mr. Clark noted that the residents of the apartment building would put pressure on the owners if there are traffic issues.

Supervisor Zmuda asked about people making a left going to Park Boulevard which is already a traffic issue. He asked if it could be signalized. Mr. Emerick noted it is too close to the other signal. As a resident of the Township, he heads to the traffic light and believes the residents will do the same. Supervisor Zmuda asked if there will be set aside for more affordable rent. Supervisor Cort asked what the price point is as she heard it could be affordable for park employees. Mr. Mike Kearney, Cacao Way LLC, stated the rent would range from \$1,300 to \$1,500 a month. He noted there would not be any apartments set aside. They are in conversations now with HE&R and the Hospital about setting up apartments for their employees. He spoke about the third-party market study they performed, and it is in line with the new rentals in the area.

**PUBLIC COMMENT:**

Mr. Robert Quirin, 308 East Derry Road, has looked at the plan and is part of the group of residents that are concerned about it. He spoke about his concern that low-income housing would have on his property value. He spoke about the slope and pitch and is concerned that a traffic study isn't planned. He asked if they don't rent all the apartments would they lower the rent since they are concerned about it. He noted they own property and are invested in the Township versus those renting an apartment. He and his neighbors drive Derry Road every day and it is awful to drive. He spoke about delays. He can't believe a project this big would take a fee in lieu versus doing a traffic study. He noted the plan speaks about an alley the plan would use and they don't know where this alley is located. He stated there has never been an official study of Derry Road completed. He spoke about sitting for 20-30 minutes. He noted that the plan recognized that the

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roads are already at capacity. He noted the Derry Police Department even recognizes the roads are failing. He spoke about ARM who walked the site and gave their opinions about the site including a potential sink hole on the south side. He spoke about this area and sink holes. He believes there should be a more detailed study and spoke about ARM's comments. He believes they should drill and look at what is below. He spoke about Norfolk Southern which runs right there. He is concerned with them doing mechanical rock removal and believes there may be a need for blasting. He spoke about the requirements for blasting and monitoring CO monitoring, as he is familiar with it with his job. He asked what testing they will be doing. He is concerned with stormwater and there should be a stormwater study to ensure the residents aren't affected. He was told there would be public notice of this and an 8x10 paper notice of this. He has seen projects that have larger notifications. He spoke about the egress point on Derry Road and asked what could be done to keep people from passing through – he spoke about mechanical gating, speed bumps something that would keep tourist traffic from using this as a passthrough. He is concerned with there being no sidewalks on Northeast or Derry with kids riding bikes and people walking. He spoke about people and kids being hit on East Derry. He asked about the retaining wall.

Mr. Clark noted this would be market valued housing. He noted there would be annual leases.

Mrs. Tracy Brown, 319 Park Ave, said the plan stated it will be to help with the growth and job expansion for the Hershey Park entertainment complex expansion. Mr. Emerick noted it also states for other nearby businesses. Mrs. Brown stated she knows how much they pay at the Park and doesn't believe they can afford the rent of these apartments. She asked if it was tourist season when they did the traffic review. She spoke about the difference when it is tourist season. There are times when they divert traffic to East Derry Road for the park. The traffic speed is 25 mph and most people aren't obeying the limit. She spoke about having no sidewalks for the pedestrians and concerns as people park on the road. This is not an easy area to walk and asked them to consider safety as they are planning for a walkable safe community.

Mr. Ken Gall, Hershey Trust Company, noted the Trust has owned this property. They started working with this developer as they have employees who work for the Trust and can't find affordable housing in Hershey. He noted the next generation isn't necessarily wanting to buy houses but want to be part of the community. He hopes this will allow more people to live and work in the community.

Mr. Andrew Fisher, 239 East Derry Road, wanted to go on the record that he is unsettled about the traffic study not being done. He spoke about speeding and traffic on the road. Everyone knows how bad the intersections are now. His property would be to the back of the building and is concerned about what he will see and the lighting. He spoke about the noise levels with the train tracks and bouncing off the apartment complex. He is also concerned about safety and if people will walk the tracks.

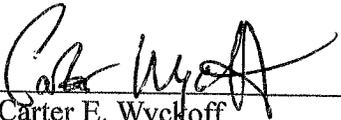
Mr. Robert Betz, 163 East Derry Road, stated his house is on the back end of the alley. He asked if they would want this done to their house. He spoke about concerns with their children and animals and this development. He asked if they would want their kids playing with all this traffic. He asked what they are going to do with this increased traffic. He has seen tourists cut through the grass. He spoke about his concern with the speeds on Derry Road and the police not doing anything about it. Supervisor Cort stated she would address his concerns with the speed on Derry Road with the Police Department.

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**ADJOURNMENT:**

Chairwoman Nutt made a motion to close the Public Hearing regarding Conditional Use Application No. 2019-08 (regarding a Master Plan) for 50 Northeast Drive as filed by Cacao Way, LLC. at 6:58pm. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

**SUBMITTED BY:**

  
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Carter E. Wyckoff  
Township Secretary

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