

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
AUGUST 10, 2021

CALL TO ORDER

Chairman Abruzzo called the August 10, 2021, Regular Meeting of the Township of Derry Board of Supervisors to order at 7:03 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. He advised that all public meetings are recorded for providing accurate notes. After the Pledge of Allegiance, a roll call was performed.

IN ATTENDANCE:

SUPERVISORS

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

ALSO PRESENT:

Christopher Christman, Township Manager
William Oetinger, Township Solicitor
Chuck Emerick, Director of Community Development
Thomas Clark, Director of Public Works
Garth Warner, Chief of Police
David Sassaman, Hershey Volunteer Fire Department
Zach Jackson, Director of Parks and Recreation
Jeffrey Cothren, Assistant Director of Hershey Public Library
Matt Bonanno, HRG Engineer
Julie Echterling, Recorder

Public in Attendance:

The following were in attendance: Stacy Longenecker, Rich Gamble, Linda Eyer, David Tshudy, Randy Wright

VISITOR/PUBLIC COMMENTS:

There were no comments offered from the public in attendance during this time. Chairman Abruzzo summarized a letter the Board had received from Mr. Mark Ovsak, 147 West Governor Road, who was unable to attend (see attached letter).

CONSENT CALENDAR:

Supervisor Zmuda made a motion to authorize action on the following Consent Calendar:

1. Adoption of Board of Supervisors Meeting Minutes for the July 27, 2021 Regular Meeting.
2. Authorize the release of \$52,855.00 from the financial security provided in the form of Members 1st Federal Credit Union Letter of Credit No. 940644-0003 for the Stormwater Management Plan for Hershey High Pointe, S-2019-018, resulting in a new balance of \$186,651.00.
3. Authorize the release of \$98,667.00 from the performance security provided as of The Ohio Casualty Insurance Co.'s Bond No. 41K234861 for the Third Revised Final Land Development Plan for Hershey High Pointe, Plat 1329, resulting in a new balance of \$41,337.00.
4. Authorize the full release of financial security in the amount of \$92,002.00, which had been provided in the form of Travelers Casualty and Surety Company of America Bond No. 107264407 for the Stormwater Management Site Plan for Reese's 2020 Improvements for The Hershey Company, S-2020-011.
5. Authorize the full release of financial security in the amount of \$202,670.00, which had been provided in the form of Hershey Trust Company Letter of Credit No. 2020-03 for the Stormwater Management Plan for Milton Hershey School Supply Center Parking Lot Expansion, S-2019-023.
6. Approval of Accounts Payable \$606,618.41 and Payroll of \$295,058.71

Supervisor Cort seconded the motion. **Motion passed 5-0.**

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NEW BUSINESS:

EMPLOYEE SERVICE RECOGNITION:

Chairman Abruzzo acknowledged the service of the following employees for their years of service:

5 Years

Peter Fure, Police
Zachery Halbleib, Public Works
Donna Leis, Police
Steven Ortenzio, Library
Willis Shrauder, Community Development
Matthew Zagurskie, Public Works

10 Years

Andrew Condran, Police
Andrew Herr, Police
Jana Klinger, Police
Dennis Swoyer

Retirements

Cheryl Lontz, Finance
Matthew Mandia, Parks and Recreation
Mary Grace Kepple, Police
Brian Grubb, Police

15 Years

Wendy Burgwald, Police
Jeffrey Cothren, Library
James Kessler, Public Works
Marie Sirkot, Administration

20 Years

Anthony Bernardo, Police
Dennis Eckenrode, Police
Kenneth Shank, Police

25 Years

Rita Smith, Library

26 Years of Service
27 Years of Service
28 Years of Service
29 Years of Service

PLAN FOR HERSHEY TRUST COMPANY – RIDGEWAY, PLAT 1338:

Mr. Emerick stated the Hershey Trust Company is proposing to subdivide a 6.1-acre lot, identified as Lot 3, from a tract of land containing approximately 234.3 acres of area, identified as Lot 2, and comprised of two tracts. Lot 2 -Tract 1 is located in the Planned Campus South zoning district, Lot 2 – Tract 2 is located in the Conservation zoning district, and the frontage along Fishburn Road is within the Homestead Road/Fishburn Road Overlay. Proposed Lot 3 contains a former student home (Ridgeway) that was last used as an office for Brownstone Realty. The office use was permitted through a Conditional Use approval (Application No. 2000-02) for a “unique building” where it was shown that the building met the criteria of the Zoning Ordinance to be utilized as a professional office. Because a small portion of the 234.3 acres of land subject to this plan is situated in Conewago Township, the applicant sought and on March 10, 2021 was granted a “Subdivision Waiver” from processing the plan through Conewago Township. The applicant is not proposing any construction on any of the lands as a part of this subdivision plan, with the exception of monuments/markers and a few trees; therefore, no considerations for traffic or stormwater are necessary. He discussed the waivers and conditions for the plan.

Vice Chairwoman Nutt made a motion to grant the following waivers and deferments from the Subdivision and Land Development Ordinance for the Preliminary/Final Subdivision Plan for Hershey Trust Company – Ridgeway Plat 1338:

1. Waivers from Sections 185-12.D.(3).(a).[21], [22], [23] and 185-13.E.(4).(a).[19], [20], [21] regarding providing profiles of existing stormwater systems, sanitary sewer systems, and gas and water systems.
2. Waivers from Sections 185-12.D.(2) and 185-13.E.(3) regarding plan scale.

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3. Deferment from Section 185-34.A.(1) regarding sidewalk installation along all road frontages- with the stipulation that Hershey Trust Company enters into the appropriate agreements with the Township regarding their proposal for a future bicycle/pedestrian trail connection.
 4. Waivers from Sections 185-22.D.(2) and 185-22.E regarding cartway widths and curb installation related to Plat 1338.
 5. Waiver from Section 185-49.A regarding a wetlands determination.
 6. Partial waiver from Section 185-31 regarding providing shade trees-ONLY for the portion of the property fronting on McCorkel Road.
 7. Waiver from Section 185-30.F regarding lot lines being perpendicular to the street centerline.
- Supervisor Cort seconded the motion. **Motion carried 5-0.**

Supervisor Cort made a motion to the Preliminary/Final Subdivision Plan for Hershey Trust Company – Ridgeway, Plat 1338, is approved, subject to compliance with the following items:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than September 10, 2021. The Applicant shall continue to satisfy and pay all outstanding Township Professional Consultant invoices in relation to the Plan in accordance with §503 of the MPC.
2. The Applicant shall provide financial security to guarantee the installation of 7 deciduous trees as depicted on the Plan in the amount of \$2,435.00 and in a manner and form acceptable to the Township, no later than February 10, 2022; the Applicant shall provide financial security to guarantee the completion of the pedestrian trail as depicted on the Plan in the amount of \$150,965.00 and in a manner and form acceptable to the Township, no later than February 10, 2022; and the Applicant shall agree to and execute a Development and Financial Security Agreement in a manner and form acceptable to the Township no later than February 10, 2022.
3. The Applicant shall revise the Plan no later than February 10, 2022 to show the sanitary sewer connections to the buildings.
4. The Applicant shall revise the Plan no later than February 10, 2022 to identify if the sanitary sewer lines are public or private.
5. The Applicant shall provide 2 originals of the Request for Planning Waiver & NonBuilding Declaration that are signed by the Applicant, along with 2 copies of any supporting information that is required to be submitted to DEP no later than February 10, 2022.
6. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated July 12, 2021, a copy of which is attached hereto and specifically incorporated herein by reference, in a manner and form acceptable to the Township no later than February 10, 2022.
7. The Applicant shall provide a CD containing a digital file of the final Plan in Auto CAD or DXF compatible format no later than February 10, 2022.
8. The Applicant shall provide deeds of dedication and accompanying exhibits for additional right-of-way along Fishburn Road and McCorkel Road no later than February 10, 2022 for review/approval by the Township.
9. The Applicant shall provide 2 originals of the signed and notarized Development and Financial Security Agreement no later than February 10, 2022.
10. The Applicant shall provide 2 originals of a signed and notarized Agreement for the bicycle/pedestrian trail that is proposed in-lieu of sidewalk installation no later than February 10, 2022.
11. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.

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12. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.
13. The Applicant shall record the Agreement for the bicycle/pedestrian trail that is proposed in-lieu of sidewalk installation concurrently with the plan.
14. The Applicant shall record the deeds of dedication for additional right-of-way along Fishburn Road and McCorkel Road concurrently with the plan.

Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

CONDITIONAL USE APPLICATION -2021-01:

Mr. Emerick stated at the public hearing on July 13, 2021, he discussed the land located on the south side of Stauffers Church Road, in the area of the Dauphin County/Lebanon County border. The tract contains approximately 37.1 acres of area, a portion of which is located in Lebanon County. The applicant seeks authorization to cluster 7 dwelling units on the land, utilizing the density bonus of 25% that is available as part of the cluster approval cited in Section 225-501.43 of the Zoning Ordinance (ZO). He stated the Planning Commission recommended this conditional use application be granted. He discussed the conditions for the application.

Vice Chairwoman Nutt made a motion to adopt Conditional Use Application No. 2021-01 with the following conditions:

1. The Applicant shall process and secure all approvals of a subdivision plan in accordance with Chapter 185 (Subdivision and Land Development) of the Code of Ordinances of the Township of Derry.
2. This conditional approval is subject to the Applicant obtaining the requisite zoning relief from the Derry Township Zoning Hearing Board to allow 7 dwelling units to access the common driveway as depicted on the Cluster Development Sketch Plan dated April 30, 2021, contained within Exhibit Applicant-1. In the event the Applicant fails to secure the requisite zoning relief no more than 6 dwelling units may access the common driveway.
3. The Applicant shall establish a nonprofit organization/homeowner's association under the laws of the Commonwealth of Pennsylvania for the common ownership, care and maintenance of the common open space, stormwater facilities, and common driveway, together with other common areas of the development to be determined at the time of the Applicant's Subdivision and Land Development Ordinance (SALDO) application.
4. Site development shall be in accordance with all applicable Federal, State, County, and Township laws and regulations. E. The authorization of the Conditional Use request shall not relieve the Applicant from filing for and receiving approval of any permit, land development, subdivision, or site plan that may be required in accordance with all applicable Federal, State, County, and Township laws, regulations and/or requirements or from otherwise complying with all applicable laws, regulations and/or requirements. Accordingly, the Applicant shall apply for and secure all such approvals and permits prior to moving forward with the development of the Property.
5. The authorization of the Conditional Use by the Board shall expire if an approved Subdivision and Land Development Plan for the proposed use is not recorded in the Office of the Recorder of Deeds for Dauphin County within 24 months from the date of the grant of approval of the Conditional Use, except as may be extended by applicable law or action by the Board.
6. The Applicant shall ensure that the homes located within this proposed Residential Cluster Development are situated in such a manner so that the taxes for the lots and improvements are assessed in Derry Township, Dauphin County.
7. The Applicant shall construct the improvements in general compliance with the plans and specifications submitted to the Board during the hearing of this matter, and in particular in a

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manner substantially similar to the Cluster Development Sketch Plan dated April 30, 2021 contained within Exhibit Applicant-1; provided, however, that if the improvements that are the subject of this hearing require modifications not contrary to the Conditional Use requirements due to other approvals, permits, land development, subdivision, or site plan approvals that may be required in accordance with all applicable Federal, State, County, and Township laws, regulations and/or requirements, the Board may approve such modifications at the time of land development. However, in the event such modifications are deemed to be of such a substantive nature that the Board determines the Applicant needs to secure a new Conditional Use approval, the Board may require the Applicant to submit a new Conditional Use application for review, consideration, and action by the Board.

8. The Applicant shall comply with all other applicable regulations, ordinances, and resolutions of the Township of Derry and all applicable County, State, and Federal laws and regulations.
9. The Applicant shall ensure the common driveway allows for emergency service vehicles to access the proposed lots and shall further address any concerns and/or requirements identified by the Township in coordination with the fire chief at the time of land development.
10. The Applicant shall agree to, execute, and record a shared driveway easement in a manner and form acceptable to the Township at the time of land development to ensure proper access to the lots and the necessary maintenance associated with the common driveway.
11. The Applicant shall agree to, execute, and record a conservation easement or similar easement and/or declaration for the proposed common open space in a manner and form acceptable to the Township at the time of land development to ensure the same is not altered and/or disturbed in the future.
12. The Applicant shall dedicate the mandatory park and recreation land at the time of the land development or provide a fee in-lieu-of the same in an amount determined by the Township in accordance with the SALDO.
13. The Cluster Development Sketch Plan dated April 30, 2021, within Exhibit Applicant-1 is the plan receiving conditional use approval from the Board, but shall be subject to Subdivision and Land Development review and approval when the Applicant proceeds with the SALDO application.
14. A homeowners' association shall be responsible for all snow removal along the common driveway and shall ensure no snow is pushed, dumped and/or otherwise placed along and/or upon a Township road and/or other public lands.
15. A homeowners' association shall be responsible for all maintenance of and snow removal along any and all sidewalks abutting common open space and/or the common driveway.
16. The Applicant shall comply with the requirements of the Derry Township Zoning Ordinance, including but not limited to Sections 225-501 and 225-501.43.
17. Any violation of any condition imposed herein shall be considered a violation of the Derry Township Zoning Ordinance and shall be subject to enforcement as provided for in the Zoning Ordinance.

Supervisor Cort seconded the motion. **Motion carried 5-0.**

HERSHEY COMMUNITY CENTER:

Mr. Jackson worked with Ballard King & Associates on establishing the hours of operation and fee structures for the upcoming Hershey Community Center. Below are the proposed hours:

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Days	Hours	Summer Pool
Monday-Friday	5:30am – 9:00pm	12-8pm
Saturday	7:00am – 7:00pm	
Sunday	7:00am – 7:00pm	
Total Hours Per Week	99.5	56

He discussed the membership and daily fees for residents and nonresidents. The fees were broken down by daily, 10 admissions, 1 month, 3 months, annual and monthly EFT rates. The rates ran from \$10 a day for a resident to \$900 for a family for a year. He discussed the proposed Rental fees for laps, kitchen, party room, gym, and other areas of the gym for residents and non-residents. He noted once they open, there may be changes to the rates, rentals, and hours.

Supervisor Cort asked about a pass for teenagers for after school who will be there for an hour to two a day. She asked about scholarships and early sales. Mr. Jackson noted that they will have a pre-sale for all the residents prior to opening it up to the public. He would like to see the option of scholarships. He noted the rates discussed tonight were used in the analysis for the Center. Supervisor Zmuda asked about a business model. Mr. Jackson noted that the information he provided tonight would be in the budget for 2022.

Vice Chairwoman Nutt asked how long until they know how much it costs to run the Center. Mr. Jackson stated based on the Ballard report it would be in the second year. Supervisor Carter asked about the hours for the outdoor pool and Mr. Jackson stated prior to noon there are swim teams practicing in the outdoor pool in the summer. Chairman Abruzzo expressed concern about ensuring the non-residential rates versus residential rates. Mr. Jackson noted that the standard is a 25% difference and higher could be harmful. Discussion ensued. Mr. Jackson ensured the Board that the residents would have access to the Center before it opens to the public.

THE “NEVER FORGET” WALK ON SATURDAY, AUGUST 28, 2021:

Chief Warner spoke about the proposed Mission of the Tunnel to Towers Foundation is to honor the sacrifice of firefighter Stephen Siller who laid down his life to save others on September 11, 2001. Parades will be in select cities featuring first responders, program participants, community residents, local law makers and Foundation supporters and Hershey was selected as a city where a parade will be held. Roadways will need to be closed off and only local/residential traffic will be permitted while the event is going on. The parade will end in front of the Hershey Volunteer Fire Department. He expressed concern about the parade ending where the Market on Chocolate event is that day and would need to end somewhere else. Discussion ensued.

Supervisor Cort made a motion approving the request to hold the Tunnel to Towers “Never Forget” Walk on Saturday, August 28, 2021 at 11:00 a.m. conditional upon the Police Department adjusting the ending spot of the parade. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

PLAN FOR 403 NYE ROAD FOR S. TYLER VALOCZKI, S2021-014:

Supervisor Wyckoff made a motion to accept a cash financial security in the amount of \$10,441 and enter into the Agreement to Provide Financial Security with S. Tyler and Tara A. Valoczki for the Stormwater Management Plan for 403 Nye Road for S. Tyler Valoczki, S2021-014. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

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CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

Supervisor Zmuda spoke about the Hershey study, and concerts and FEMA test this week. He spoke about the holdup of safety projects for downtown because of the new PennDOT indemnity letter. He does not believe they can wait any longer. Solicitor Armstrong has reached out several times with no resolution with PennDOT. Solicitor Oetinger spoke about the indemnity issue if the light malfunctions and possible injuries as the Township and insurance would be responsible for the bill for PennDOT. He spoke about if other municipalities rise up, grass roots effort, but he does not see that right now. He did note that there are limits to municipality liability. He noted that if PennDOT is sued because of a signal issue, they would come to the Townships to defend them and insurance rates could potentially rise. Supervisor Zmuda stated he does not believe they can wait since they have been working on some of these improvements since 2018. Mr. Christman spoke about the situation as it is holding up other permits. He spoke about this being a similar situation to DEP and stormwater regulations. He noted there are liabilities as outlined in the law for municipalities. He recommends approving it and going back and approaching PennDOT again. Solicitor Oetinger noted the Township's liability is \$500,000. Mr. Emerick noted in the June minutes the resolution was passed and held until Solicitor had gone to PennDOT. Discussion ensued.

Supervisor Zmuda made a motion to execute Resolution 2021-12 and authorize signatures on the PennDOT documents without any conditions. Supervisor Cort seconded the motion. **Motion carried 5-0.**

Supervisor Cort spoke about a virtual tour for the new Community Center they are working on to release to the public. All Things Diversity will start meeting again on October 13 with more information to follow. Vice Chairwoman Nutt spoke about meeting with two residents about concerns on Walton Road and sidewalks and access to the trails. Chairman Abruzzo met with the residents in regard to the moving of the utility poles and feels they are making progress.

REPORTS:

<u>Police:</u>	Chief spoke about the concerts and how they have been extended to September. He noted the officers are fully trained on the body cameras and the policies will be posted on Crimewatch to continue transparency to the public.
<u>Fire:</u>	Mr. Sassaman stated there were 70 calls in July. He noted Mr. Sonderman was in Colorado for a week on Hazards training. He spoke of Mr. Hessman who has completed his training mods and passed his firefighter one. They are very proud of him.
<u>Library</u>	Mr. Cothren stated the book sale ended and there are 2 weeks left for the summer reading program.
<u>Recreation:</u>	Mr. Jackson stated they will be having their Arts & Crafts sale on November 6. He stated they have updated pictures of the Center on the website.
<u>Engineer:</u>	Mr. Bonanno stated they looked at Walker Avenue as asked and agreed with the study and sent their report.
<u>Community Development:</u>	Mr. Emerick spoke about the September 18 ride. He noted there was not a need for Police to close streets.

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<u>Manager:</u>	Mr. Christman met with residents and is trying to help resolve the MetEd issue. He is still waiting on the USDA and hoping to get tips for the vulture issue near Zoo America. He noted they are doing all they can do to help with this situation.
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VISITOR/PUBLIC COMMENTS:

Mr. Rich Gamble, 39 Hockersville Road, thanked Mr. Jackson for sharing the information on the Community Center. He noted that in 2019, 5% of the students in the school district took the subsidy that was available and this year that number is 21%. He asked about the daily costs versus the fees being charged. He cautioned not to go too big with the Center too fast to ensure costs are covered. He suggested looking at the economy and the fees.

ADJOURNMENT:

Supervisor Cort made a motion to adjourn the meeting at 8:47 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary

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Good evening, my name is Mark Ovsak and I reside at 147 West Governor Road, Hershey, PA 17033. I have come to speak tonight about several issues of concern to me as well as many of my neighbors.

First, we have a serious problem with traffic safety in Derry Township. Too many vehicles are speeding through our town, running red lights and stop signs, tailgating law abiding drivers and most concernedly they are not yielding the right of way to pedestrians and bicyclists, not to mention the number of distracted drivers that I see. I feel that it is only a matter of time before another life is lost in our township to this reckless disregard for safety. It seems that obeying the rules is no longer fashionable; and that no single demographic is not guilty of this behavior. While putting up more signs may seem like a sensible solution they are only creating more noise, unsightly distractions, along our roadways. The only true method of achieving adherence to the rules of the road is by aggressively ticketing violators on an on going basis.

Second, the quality of life in Hershey has been deteriorating for the past 33 years, which is the length of time that my mother has lived in her home. We feel that there is too much tolerance for vehicles with illegal exhausts and that the amount of litter that we find on our property is appalling. We also do not appreciate having to listen to "free" concerts that are being brought to our community by Herco. While they do have the right to operate their business, they also have an obligation to the community to be a GOOD neighbor and show respect for OUR rights as citizens of this community.

Third, while it is nice to see so many people moving to Hershey from neighboring states and purchasing homes to tear down. The lack of concern for the environment is shameful and I do not understand why they are allowed to violate existing regulations concerning erosion and sedimentation and limiting access to construction sights that pose a danger to curious children – especially excavations for basements, utilities, etc. I also question the amount of impervious cover that is being allowed and wonder who exactly is making sure that the existing rules are being followed, or is it only on a case by case basis when someone questions anything.

Fourth, we have many rules concerning property maintenance that are not being enforced. Examples are noxious weeds, tree limbs over roads and sidewalks that are too low, hedges and trees that are obstructing passage on sidewalks and more importantly blocking sight distances at intersections (not to mention the exorbitant number of vehicles that are being parked on the roadway in certain areas of the inner core/ old community). These road were not designed to have parking on both sides not to mention the issues created for motorists who drive economy- small vehicles to be able to see around/ over large SUV's that seem so popular here in Hershey.

Last, I would like to commend a Derry Township police officer who went the extra mile last summer by stopping to check that everything was OKAY while I was train watching at the crossing on East Derry Road. I did not get his name but I had spoken with him not long before while he was catching up on paperwork at the Masonic lodge near my home. Usually when I am train watching, the officers on duty on the late, late shift only do a

Mark Ovsak 8-10-21

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quick "drive by" to check on my well being. It is very sad that the people who witnessed the woman drive onto and down the train tracks last year did not show his level of concern for a fellow human being by reaching out to either the Derry Township police or Norfolk Southern (their number is posted at every crossing to report problems with the lights/ crossing gates) to report what she had done, her family surely miss her very much!

Thank you for your time and hopefully we can see some positive changes occur because of my speaking here tonight.

Mark Orsch 8-10-21

Unfortunately I was not feeling up to making a public appearance this evening. I have instead hand delivered this to your esteemed colleague, Mr. Zamuda.

P.S. When may we expect D TMA to get back to us regarding our on site visit concerning potential improvements to our storm water management system.

Thank you for your help and service in addressing these concerns/issues.

Mark & Sandy Orsch