

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
MARCH 08, 2022 5:30PM

CALL TO ORDER

Chairman Abruzzo called the March 8, 2022 Public Hearing of the Township of Derry Board of Supervisors to order at 5:32 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. A roll call was performed after the pledge of allegiance. He announced that Supervisor Wyckoff was absent with excuse.

IN ATTENDANCE:

SUPERVISORS

E. Christopher Abruzzo, Chairman
Natalie L. Nutt, Vice Chairwoman
Carter E. Wyckoff, Secretary-Absent
Richard D. Zmuda
Michael P. Corado

ALSO PRESENT:

Patrick Armstrong, Township Solicitor
Chuck Emerick Director of Community Development
Maria O'Donnell, Stenographer
Julie Echterling, Recording Secretary

PUBLIC IN ATTENDANCE:

Ken Gall (Hershey Trust), Craig Mellot (TPD-Harrisburg), Bill Fredericks (RGS), Mark Hackenburg (RGS), Mason McClellan (HTC), Dale Holte (MRC), Dave Weaver, James Cruh

INTRODUCTION:

Chairman Abruzzo stated this a reconvened public hearing regarding Conditional Use Application No. 2022-01, as filed by Hershey Trust Company, Trustee for Milton Hershey School, amending previously approved Conditional Use Application No. 2018-01 for the Hershey West End Master Plan.

Solicitor Armstrong stated that this is a reconvened public hearing from a Hershey Trust request for an amendment for the Hershey West End Master Plan with an address of 1214 Research Boulevard Hummelstown. The parcels for this land were previously identified. He noted the master plan was previously approved on January 22, 2019 with conditions. He stated this is a request to amend that plan which needs to comply with the zoning ordinance with conditional use specifically section 225.501 and master plan related to section 225.501.08. He asked if anyone in the audience would be seeking party status. He explained what party status was and noted for the record no one asked for party status. He asked for Township Exhibit Six be the proof of publication for this meeting. There were no objections to adding this exhibit.

He noted the Board was provided an email this afternoon from Mr. Tshudy, Hershey Trust, with an explanation of why they are here. He noted modification of master plans are covered in the zoning ordinance. He noted one of the proposed revisions that require the amendments specifically E & F section 225.501.58, specifically subsection E little I1 about internal traffic – Mr. Tshudy disagrees. Solicitor Armstrong noted a removal of road, phasing of the project, and the change of the apartments and townhomes are changes to the master plan which would require Board approval. Mr. Tshudy disagreed and said section E allows for these types of changes to be approved in a land development plan. Solicitor Armstrong read subsection E and spoke about the removal of the road in the changes. Mr. Tshudy spoke about subsection F and Solicitor Armstrong read subsection F. They discussed their interpretation of these subsections and requirements for this hearing and/or development plan. Mr. Tshudy stated the reason they are here is for the additional building area of 1,000 square foot change. Solicitor Armstrong noted it is the

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Township's position that they are here for the other requested modifications as well and if they meet the requirements.

Solicitor Armstrong asked that any future correspondence to the Board be made in this hearing to avoid any issues going forward opposed to emails to the Board. Mr. Tshudy agrees but stated they asked for the legal standards at the last meeting and he was providing them via email. Solicitor Armstrong spoke about Mr. Tshudy's email that went over the general conditional use requirements. He spoke about section 225.501.K requirements as follows:

1. That the use will not adversely affect the health or safety of residents in the neighborhood or district in which the use is located.
2. That the use will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage or other public improvements.
3. That the use will not be a detrimental to the use or development of, or change the essential character of, the neighborhood or district in which the uses proposed. The Township Board of Supervisors shall consider, at a minimum, the impact of noise, dust, light, or odor, and adequacy of parking.
4. The use shall meet all other requirements of the zoning ordinance that may apply.

Solicitor Armstrong stated that Mr. Gall was still testifying and that he had questions for the Hershey Trust to answer. Mr. Gall stated that at the previous hearing, they had switched to public comments and wants to move on to the experts to testify. He will be available to answer things after the experts testify.

Mr. Tshudy stated he did provide a short memorandum to the Board to advise them on the legal standard that the Board needs to apply. He stated this would be Exhibit 17 an email dated 3/8/2022 to the Board members. He provided a copy of the email to the Board. He stated, in his email, the standard for this Board is to consider if the amended plan meets the objective standards in the zoning ordinance. He believes it meets those standards based on the January 2019 approval of the master plan. He explained the question now is if it meets the four above criteria outlined by Solicitor Armstrong. He stated the major change is the type of dwelling as the number of dwellings has not changed.

Mr. Tshudy noted that Exhibit Two provided last hearing was incorrect due to a clerical error and provided the Board and the correct Exhibit Two for the record. He also provided a presentation to the Board. Solicitor Armstrong asked this corrected document to be Exhibit 18-(County of Dauphin Office Tax Assessment UPI dated 4-17-19) and the presentation be Exhibit 19 (Hankin Group Hershey Trust Presentation). Mr. Tshudy asked Mr. Craig Mellot to testify about traffic tonight since his schedule is full for the rest of the month. He asked that his expert witnesses be sworn in. Mrs. O'Donnell (Stenographer) swore in Mr. Neil Fisher, Mr. Craig Mellot and Bill Fredericks.

Mr. Tshudy asked Mr. Fisher a series of questions which he answered the following way:

- Business address: 707 Eagleview Blvd, Exton, PA
- How long have you worked at Hankin: 17 years
- Education: A Bachelor Science in Environmental and went back to school for civil engineering and licensed professional engineer.
- Position at Hankin: Vice President of Development
- How long has he been VP of Development: 12 years
- What are his roles in that position: He oversees all land development projects.

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- Does he have any professional licenses: He stated he is a licensed professional engineer
- Is he licensed in the Commonwealth of PA : He answered yes.
- How long he has been licensed in PA: 13 years
- Are licensed engineers required to take continuing education: He answered yes.
- Is he up to date on his education: He answered yes.
- Has he ever testified as an expert witness before a zoning hearing board or a governing body: He answered yes.
- In what fields: He answered land planning and civil engineering.

Mr. Tshudy asked that he be accepted as an expert witness in land planning and civil engineering. Solicitor Armstrong asked if he was an expert in land planning and if he had any certifications in land planning. Mr. Fisher stated he had been called as an expert witness in land planning but is not certified in land planning. Solicitor Armstrong has no issues with him being an expert witness in civil engineering.

Mr. Tshudy asked Mr. Fisher to discuss the changes in the master plan and why they are being done. Mr. Fisher spoke about Hankin group and how they analyze projects. He stated they are a unique developer as they have construction, ownership, development, and property management. He stated they look at projects as long-term investments. He went over the four neighborhoods they have developed which are mixed-use (residential and commercial). He spoke about the streetscape for their developments and how it tied very closely with the Hershey Trust West End project. He showed the Board pictures of the developments including Eagleview Town Center. He spoke about how they setup transportation, trails, and public access with their developments. Solicitor Armstrong noted that this information he is providing is from Exhibit 19 and Mr. Fisher confirmed it was. Mr. Fisher spoke about bringing community into their projects. He noted all their projects are master plan projects. He spoke about master plans being the guidebook for these large projects. He spoke about the master plan being a tool in creating a beautiful community.

Mr. Fisher spoke about the master plan modifications including building type and building configurations, removal of Street D, driveway modifications and development phasing. He spoke of putting a higher density on the street and then transitioning to a lower density. He spoke about the West End Avenue is the main street for this plan. He spoke of a street scape and how the density should be and where the public encounters should be happening. He stated Street D does not function like a street but more of an alley. By eliminating this Street it creates a larger block to provide open space and active recreation on both sides. He will have Bill Fredericks talk about the phasing. He showed the aerial view of the proposed streets. He stated all the buildings will be three stories and be Craftsman and Colonial style buildings. He spoke about the Manor house and how every unit will have a balcony for public engagement and have garages which are hidden from the street. He spoke about Street B which parallels West End Ave. He noted that townhouse buildings are two stories and are intermixed with the Manor houses.

Chairman Abruzzo asked if the Manor Houses are all apartments. Mr. Fisher stated they are all apartments. Chairman Abruzzo asked why they were taking 62 townhomes and turning them into 62 apartments. Mr. Fisher said one of the benefits is that it provides a great mix of variety of units. He spoke of the partnership between the Township and the Trust who partnered with them. He stated this is a legacy project. He stated the Board does not have to worry about maintenance on a project like this. He spoke about selling versus renting with the Trust wanting to own this project.

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Chairman Abruzzo spoke about the residential use change with 62 townhomes going to apartments. It looks like more than half the project is apartments and asked why they changed them. Mr. Fisher stated in the first phase you are creating a street scape and need the higher density in this phase and is very important. He stated this project is focused on unit J and in the future, they will talk to the Board about unit K. Chairman Abruzzo asked his experience with the number of people who rent an apartment versus townhouse. He spoke about the difference between the feel of townhomes versus apartments and not wanting this to be a transient neighborhood but be a home. Mr. Fisher spoke of tenants that have rented their apartments for 50 years.

Vice Chairwoman Nutt asked about Phase K and if the apartment would become townhomes. Mr. Fisher stated they have not planned for Phase K. They want to build Phase J and look at the market before planning Phase K. She believes it looks different with the apartments versus townhomes and it is a large number of apartments. She asked if there is a potential for more townhomes as they move out. Mr. Fisher stated it would change with Phase K and spoke about master plans being a guide. He believes each Phase will come before the Board as a conditional use, which allows the Board to see the changes. She spoke about the master plan that the Township and residents got to see and how if each phase changes, it won't look like what was presented to the community. Mr. Fisher spoke about technology changes with phones and how adjustments and changes are necessary. He spoke of adapting to changes. He stated he does not think it will look different but are putting the uses where they should be.

Chairman Abruzzo asked if the plan keeps changing by the time we get to the final stage it may seem like a large apartment complex, which is not what they would want to see. Mr. Fisher spoke of this phase being a repositioning and that all additional changes in Phases will be conditional use hearings with the Board and public involved. He spoke of the size of the project and how it will take years to build out the 180 acres. He stated the market could change and the Board will consider these changes. Chairman Abruzzo understands master plans, but the original plan was more mixed residential and was more attractive to the Board and the public. Mr. Fisher believes they are putting the density on Main Street.

Solicitor Armstrong stated it looks like this hearing will not have enough time for this expert witness who cannot be here at the next meeting. He stated they will look at dates for continuing this hearing and wants to stay with this witness. The Board discussed potential days and conflicts.

Mr. Fisher spoke about townhomes as being a building type. Vice Chairwoman Nutt spoke about the look and the change in the overall character of the plan. She fears that as time goes on that all could end up being apartments. He noted they have not provided a plan for Phase K and wants to see how the market reacts. He noted they did not change the number of units. She stated it could change every single phase and the market could say apartment buildings. He noted that it would be the Board's decision. Mr. Tshudy asked Mr. Fisher if he was familiar with the zoning requirements and he answered yes. Mr. Tshudy asked if he was familiar with section 225.501.4 as it relates to dwelling within a master plan, requires a minimum three types of dwellings are proposed in a master plan with a minimum of 10% of one type is provided and asked if this plan provides for this requirement. Mr. Fisher stated yes.

Solicitor Armstrong asked Mr. Fisher a series of questions and below are his answers:

- Did he prepare the Plan: RGS prepared the plan under his direction
- Does he anticipate on coming back to this Board for future phases with modifications: He answered yes.

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- Is it his testimony, that he believes this Board needs to approve additional other conditional uses for those modifications: He answered yes. He believes when he builds, he will come to this Board for approval for future phases with modifications but believes this phase complies.
- On Applicant exhibit 19 page 12 of the presentation do you know what buildings those represent on the master plan: He answered yes, they are corridor apartments.
- Approximate height of those buildings: He will find out and come back with that answer.
- If he looked at the pattern book and is the plan consistent with the book: He answered yes to both.
- On Application exhibit 19 page 13 what apartments are these compared to the master plan: He stated they were the walkups. Solicitor Armstrong asked if they were the large walkups and noted there are two types and asked the height. Mr. Fisher will confirm the type and said the height is the same. He will provide the heights at the next hearing.
- On Application exhibit 19 page 14 what they are: Mr. Fisher stated they are walkups and are the same. Solicitor Armstrong asked if they are connected and Mr. Fisher will confirm that for next hearing. Mr. Fisher stated the buildings are three stories and the townhomes are 2 stories.
- Where the townhouses are located on the pictures: He showed them. Solicitor Armstrong noted they were hard to see in that picture and asked him to provide a better picture of them.
- Are the townhouses two stories: He answered yes.

Solicitor Armstrong noted he has more questions. Vice Chairwoman Nutt asked Mr. Tshudy to explain his last comment about the density and could it be possible that the apartments could be 80%. Mr. Tshudy noted it would be compliant but it would have to comply with other requirements. He noted it would make it practically impossible for there to be 80% apartments with the other requirements of the ordinance.

Solicitor Armstrong noted that Mr. Fisher testified there was not a plan for Phase K but there is a Phase K in the master plan. Mr. Tshudy stated Mr. Fisher was stating that Phase K is not changing with this application. Solicitor Armstrong stated the hearing is at a point where it needs to stop and believes Mr. Fisher will be back to testify. Dates for the next hearing were discussed and agreed to April 7 at 5:30 p.m. for the next hearing.

Solicitor Armstrong asked if they were willing to waive and Mr. Tshudy would agree and put it writing. Solicitor Armstrong explained that they are asking the applicant to waive the requirement that the hearing be within the next 30 days, and they will put in writing their agreement to waive this requirement, as the April 7 date is outside the 30 days. He stated this hearing will be continued until April 7.

PUBLIC COMMENT:

A time for public comments was not offered during this hearing.

ADJOURNMENT:

Solicitor Armstrong, at 6:48 p.m., continued the hearing until April 7 at 5:30 p.m.

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary