

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
MAY 9, 2023

CALL TO ORDER

Chairman Abruzzo called the May 9, 2023 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:05 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 role call was performed. The Board met in executive session to discuss legal issues.

IN ATTENDANCE:

SUPERVISORS

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

ALSO PRESENT:

Christopher Christman, Township Manager
Patrick Armstrong, Solicitor
Chuck Emerick, Director of Community Development
Robert Piccolo, Assistant Director of Public Works
Chief Garth Warner, Police Department
David Sassaman, Hershey Volunteer Fire Company
Alison Jacobine, Director of Hershey Public Library
Eric Stump, HRG Engineer
Becky Sweigart, Public Outreach Coordinator
Julie Echterling, Recording Secretary

Public in Attendance:

Matt Luttrell, Jeff Levengood, Darlene Sims, Paul Navarro, Ambrote Heinz, Mike Zemba, Holly Evans, Christine Drexel, Mike Angello, Oliva Lewis, Ken Gall, Charles Suhr

VISITOR/PUBLIC COMMENTS:

There were no comments offered.

CONSENT CALENDAR:

Supervisor Wyckoff made a motion to approve action on the following items on the consent calendar:

1. Adoption of the Board of Supervisors Meeting Minutes for the April 25, 2023 7:00 PM Regular Meeting and the April 26, 2023 Public Hearing Minutes.
2. Authorized the full release of financial security in the amount of \$84,555, which had been provided in the form of Centric Bank Letter of Credit No. 401 for the Stormwater Management Plan for Hershey Car Barn, LLC, S-2020-012.
3. Authorized the full release of financial security in the amount of \$21,262, which had been provided in the form of PNC Bank Letter of Credit No. 18136934-00-000 for the Stormwater Management Plan for Hersheypark Camping Resort (1200 Sweet Street), S-2022-023.
4. Approval of May 9, 2023 Accounts Payable of \$366,880.53 and Payroll of \$371,717.86.

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

NEW BUSINESS

PROPOSAL-FOR APPRAISAL SERVICES FOR 10 WEST CHOCOLATE AVENUE:

Mr. Christman spoke of the requirement for the Township to obtain an appraisal for the Veterans' Memorial project(s) within Chocolatetown Park for 10 West Chocolate Avenue. He recommended Newmark Valuation & Advisory to do the appraisal at a cost of \$2,000.

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Supervisor Zmuda made a motion to authorize the Township Manager to execute the proposal from Newmark Valuation & Advisory dated May 03, 2023 for appraisal services in an amount not to exceed \$2,000. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

CONSTRUCTION PROPOSAL FOR CHOCOLATETOWN PARK:

Mr. Christman stated in April, the Board received an update on the Veterans' Court of Honor and Courtyard of Honor projects with conceptual plans that included the redesign of Chocolatetown Park to house both memorial projects. HRG has provided a proposal to provide full engineering services for the project, which include but is not limited to all engineering, Stormwater design, bid package preparation and all permitting required for the project at a cost of \$131,000. Vice Chairwoman Nutt noted that these expenses may be paid by the foundation instead of the taxpayers, which Mr. Christman agreed.

Supervisor Zmuda made a motion to authorize the Township Manager to execute a proposal from HRG, Inc. dated May 04, 2023, for engineering services associated with improvements in Chocolatetown Park for an amount not to exceed \$131,000. Supervisor Corado seconded the motion. **Motion carried 5-0.**

ROAD CLOSURES-JAVAPALOOZA 2023-JUNE 24th:

Vice Chairwoman Nutt made a motion approving the request to close Java Avenue from East Areba Avenue to East Caracas Avenue on June 24, 2023, from 12:00 p.m. to 10:00 p.m. for JavaPalooza 2023. Supervisor Zmuda seconded the motion. **Motion passed 5-0.**

PLAN FOR U-HAUL MOVING & STORAGE OF HERSHEY, PLAT 1370:

Mr. Emerick stated Plat 1370 proposes the redevelopment of the property at 1000 Old West Chocolate Avenue. The existing building and all other surface features of the site will be demolished so that a new building with a 29,152-square-foot footprint can be constructed. The land is located within the Industrial zoning district. The applicant proposes to construct a four-story, 112,404- square-foot, climate-controlled building containing 1,013 rental storage units, with 1,313 square feet of accessory retail space for the sale of moving supplies. He discussed the two traffic methods used, and a summary of the reports. He discussed the parking requirements, and the research he did into other municipalities. He agreed that 20 parking spaces would be adequate. He went over the requested waivers and the conditions for the plan.

The Board asked a few questions of Mr. Mike Zemba, Vice President with U-Haul. He discussed the security and the hours, noting the facility is closed after 10 p.m. He also noted the requirements of renters and including renting versus living in the units.

Vice Chairwoman Nutt made a motion that the following requested waivers are granted from the Subdivision and Land Development Ordinance as noted in the Explanation section of this agenda item for the Preliminary/Final Land Development Plan for U-Haul Moving & Storage of Hershey, Plat 1370:

1. Waiver from Section 185-12.D.(3).(a).[9] – Physical features within 200 feet of the site.
2. Waiver from Section 185-12.D.(3).(a).[35] – Contours within 200 feet of the site.
3. Waivers from Sections 185-12.D.(3).(a).[21], [22], and [23] and 185- 13.E.(4).(a).[19], [20], and [21] – Providing utility profiles of existing, unaffected utilities.
4. Waiver from Section 185-22.D regarding right-of-way dedication, conditioned upon the applicant dedicating right-of-way totaling 30 feet from the centerline of Old West Chocolate Avenue. This waiver in now listed appropriately as Sections 185-22.D.(2) and (3) on the coversheet

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5. Waiver from Section 185-34.A.(1) regarding sidewalk installation along the south side of Old West Chocolate Avenue, adjacent to the subject property, conditioned upon the applicant providing the fee in lieu of installation.

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

Vice Chairwoman Nutt made a motion approving the Preliminary/Final Land Development Plan for U-Haul Moving & Storage of Hershey, Plat 1370, 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 June 23, 2023. 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 completion of the proposed improvements depicted on the Plan in a manner and form acceptable to the Township no later than November 9, 2023, 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 November 9, 2023.
3. The Applicant shall revise Sheet LD-1 of the Plan no later than November 9, 2023, to remove the 'Planning Commission Action/Date' information from the list of requested waivers.
4. The Applicant shall revise Sheet LD-09 no later than November 9, 2023, to provide full cut-off lighting.
5. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated May 2, 2023, a copy of which is attached hereto and specifically incorporated herein by reference, no later than November 9, 2023.
6. The Applicant shall provide the required calculation for the fee in lieu of the installation of 326.7 lineal feet of 5-foot-wide sidewalk along the south side of Old West Chocolate Avenue, adjacent to the subject property, in accordance with Section 185-34.A.(4).(b) of the Subdivision and Land Development Ordinance, no later than November 9, 2023.
7. The Applicant shall provide payment of the fee in lieu of sidewalk installation along the south side of Old West Chocolate Avenue, adjacent to the subject property, no later than November 9, 2023.
8. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final Plan no later than November 9, 2023.
9. The Applicant shall provide 2 originals of the signed and notarized Development and Financial Security Agreement no later than November 9, 2023.
10. The Applicant shall agree to, execute, and have notarized 2 originals of a Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township no later than November 9, 2023.
11. The Applicant shall agree to and execute a property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township no later than November 9, 2023.
12. The Applicant shall comply with all the conditions and requirements set forth in the March 15, 2023, Zoning Hearing Board Decision under Zoning Hearing Board Application No. 2023-01.
13. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
14. The Applicant shall record the Plan, subsequent to satisfying the conditions of approval set forth herein and further subsequent to the Township signing the Plan.
15. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.

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16. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.

17. The Applicant shall record the property Declaration, referencing the Stormwater Operation and Maintenance Agreement and Access Easement, concurrently with the Plan.

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

HERSHEY SQUARE PROPOSED OUTPARCEL DEVELOPMENT, PLAT 1353-EXTENSION:

Mr. Emerick stated the Board approved the Preliminary Plan for Plat 1353 in December 2022, conditional upon several items being addressed by the applicant no later than June 6, 2023. To date, five of the conditions have been satisfactorily addressed. The applicant, by way of their engineer, has requested an extension of time until August 31, 2023, to address the outstanding time sensitive conditions.

Chairman Abruzzo made a motion that the approval of the Preliminary Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353, is extended to August 31, 2023, subject to compliance with the following conditions:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than August 31, 2023. 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 post the requisite financial security in an amount to be determined by the Township Engineer to guarantee the completion of the proposed improvements depicted on the Plan in a manner and form acceptable to the Township at the time of Final Plan approval and prior to Final Plan recordation.
3. The Applicant shall agree to, execute, and have recorded a Development and Financial Security Agreement in a manner and form acceptable to the Township at the time of Final Plan approval and prior to Final Plan recordation.
4. The Applicant shall provide financial security in an amount deemed acceptable to the Township in order to guarantee the evaluation of the traffic signal timings at the intersection of Hersheypark Drive (SR 0039)/Walton Avenue/Mae Street after the outparcels are developed and opened, in a manner and form acceptable to the Township at the time of Final Plan approval and prior to Final Plan recordation.
5. The Applicant shall revise the Plan title from “Preliminary/Final” to “Preliminary” no later than August 31, 2023.
6. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer’s review letter dated April 26, 2023, a copy of which is attached hereto and specifically incorporated herein by reference, no later than August 31, 2023.
7. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the Preliminary Plan no later than August 31, 2023.
8. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
9. The Applicant shall agree to, execute, and have recorded a Stormwater Operation and Maintenance Agreement and Access Easement, Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement, Declaration of Covenants referencing the deferred improvements, and any other required agreements and/or easements deemed necessary by the Township at the time of Final Plan approval and prior to Final Plan recordation.

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Solicitor Armstrong asked that the conditions in the December 2022 letter be included in the motion and the traffic conditions for the next agenda item. Applicant's Attorney Charles Suhr, Stevens & Lee, asked that this request be done separately from the traffic items. He noted they received HRG's letter today and the Traffic Engineer was not available for tonight's meeting. He will be asking that the discussion for the next agenda item be tabled until the next meeting. Discussion ensued. Solicitor Armstrong stated he is okay with their request based on the applicant's representation.

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

HERSHEY SQUARE PROPOSED OUTPARCEL DEVELOPMENT, PLAT 1353

Applicant's Attorney Charles Suhr asked that action be tabled on this item because they received the HRG letter today and their Traffic Engineer is not available tonight. Ms. Evans, Evans Engineering, spoke about the proposed schedule of submitting the HOP in June.

Supervisor Zmuda made a motion to **TABLE** action on the Township agreeing to be the applicant for and authorize the submission of the PennDOT permit application for public road improvements in and adjacent to the PennDOT right-of-way, conditioned upon HRG's concurrence with the design of the proposed improvements and the applicant entering into an agreement with the Township related to the submission of the PennDOT permitting plans, in a manner and form acceptable to the Township. Supervisor Corado seconded the motion. **Motion carried 5-0.**

HERSHEY WEST END – FINAL PHASE J, PLAT 1361-TIME EXTENSION:

Mr. Emerick stated Plat 1361 was approved by the Board in December 2022, conditional upon several items being addressed by the applicant no later than June 6, 2023. To date, none of the conditions have been addressed. The applicant, by way of their legal counsel, has requested an extension of time until October 4, 2023, to address the conditions of approval.

Vice Chairwoman Nutt made a motion that the approval of the Final Land Development and Subdivision Plan for Hershey West End – Final Phase J, Plat 1361, is extended to October 4, 2023, 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 October 4, 2023. 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 in the amount of \$2,665,789 to guarantee the completion of the proposed improvements depicted on the Plan in a manner and form acceptable to the Township no later than October 4, 2023, and the Applicant and Owner shall agree to and execute a Development and Financial Security Agreement in a manner and form acceptable to the Township no later than October 4, 2023.
3. The Applicant shall add a note to the Plan regarding the formal withdrawal of the prior plan recorded for the Property at Instrument No. 20080016203, in a manner and form acceptable to the Township, no later than October 4, 2023.
4. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated November 21, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than October 4, 2023.
5. The Applicant shall provide 4 paper copies of the Erosion and Sediment Control Plan for Hershey West End – Final Phase 1 (NPDES Phase 4) no later than October 4, 2023.

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6. The Applicant shall provide payment of a \$555,853.44 fee in lieu of Township acceptance of land for park, recreation, and open space uses no later than October 4, 2023.
7. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final plan no later than October 4, 2023.
8. The Applicant shall provide 3 originals of the signed and notarized Development and Financial Security Agreement no later than October 4, 2023.
9. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
10. The Applicant shall record the Final Subdivision and Land Development Plan for Hershey West End – Final Phase J and the Erosion and Sediment Control Plan for Hershey West End – Final Phase 1 (NPDES Phase 4) [collectively “the Plan”] once signed by the Township after the conditions of approval have been satisfied.
11. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.
12. The Owner shall agree to, execute, and record a Declaration of Covenants formally withdrawing the prior plan recorded for the Property at Instrument Number 20080016203, as identified in a note on the Plan, if deemed necessary by the Township.
13. The Applicant and Owner shall comply with and ensure that the Plan and construction entitled by the Plan is consistent with the Conditional Use approvals granted under Application No. 2018-01, as supplemented and amended under Application No. 2022-01, and in particular the Conditional Use Decisions dated January 22, 2019, and June 14, 2022.

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

ORDINANCE TEXT AMENDMENT FOR “DWELLINGS FOR EMPLOYEES & STUDENTS”:

Mr. Emerick spoke about the request from the Milton Hershey School, Hershey Trust Company, and HE&R for a zoning ordinance text amendment. This had been discussed at a prior meeting in depth. He noted that the Dauphin County and Township Planning Commissions have reviewed the request and support the changes.

Supervisor Corado made a motion to authorize Township staff to schedule and advertise a public hearing for the proposed text amendment for June 13, 2023, at 5:30 p.m. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

2023 MEMORIAL DAY CEREMONY:

Chairman Abruzzo made a motion to approve the request to hold the 2023 Memorial Day Ceremony on the site of the future Veterans Court and Courtyard of Honor on the east side of Chocolatetown Square Park on Monday, May 29, 2023 at 10:30 a.m., along with the associated road closures. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

SECURITY: PLAN FOR 1676 SAND HILL ROAD, S-2023-003:

Vice Chairwoman Nutt made a motion to accept a cash financial security in the amount of \$12,959 and enter into the Agreement to Provide Financial Security between Justin C. Newkam and the Township for the Stormwater Management Plan for 1676 Sand Hill Road, S-2023-003. Supervisor Corado seconded the motion. **Motion carried 5-0.**

CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

There were no updates shared by the Board.

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REPORTS:

<u>Fire:</u>	Mr. Sassaman stated they had 93 calls in April. He spoke about the fire company working on the houses that are due for demolition and was thankful for the training they were able to do.
<u>Public Works:</u>	Mr. Piccolo spoke about the surprise Dept of Ag inspection they had for lantern flies. They passed. Vice Chairwoman Nutt thanked them for all their work on the potholes.
<u>Engineer</u>	<p>Mr. Stump provided an update on the projects involving traffic that have been completed, planned, or are in the future for the past five years. He provided a map and went over all the projects. He will provide this to the Township so it can be shared on the website.</p> <p>Projects Completed: Park Blvd, HersheyPark Drive & Mae intersection, 422 Streetscape project, Rt 322 & Hockersville & Fishburn Intersection, Ridge Road event traffic calming, 422 & Mansion Road, and Hershey Theater traffic.</p> <p>Active Projects: Waltonville Road (sidewalk), Church Road (speeding concerns), Cocoa & Brook Lane & Fishburn & Hartley Drive – Flashing Crossings.</p> <p>Future: 422 & Orchard and Valley, Cocoa & Brook, Cocoa & Ridge, Flashing Crosswalks and raised curb bulbouts, 422 Roadway (East of Homestead), Chocolatetown Park/ Courtyard of Honor, and Hockersville & Areba.</p>
<u>Manager</u>	Mr. Christman thanked Public Works for their hard work keeping up with the grass trimming around the Township.

VISITOR/PUBLIC COMMENTS:

There were no comments offered.

ADJOURNMENT:

Vice Chairwoman Nutt made a motion to adjourn the meeting at 8:19 p.m. Supervisor Corado seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary