

DERRY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
May 2, 2023

CALL TO ORDER

The Tuesday, May 2, 2023, Derry Township Planning Commission meeting was called to order at 6:00 p.m. in the main meeting room of the Derry Township Municipal Complex, Administration Building, 600 Clearwater Road, Hershey, PA, by Vice Chairman Matt Tunnell.

ROLL CALL

Commission Members Present: Matt Tunnell, Vice Chairman; Mike Guntrum, Secretary; Don Santostefano; Tom Wilson

Commission Member Absent: Glenn Rowe, Chairman

Township Staff and Review Agency Representatives Present: Chuck Emerick, Director of Community Development; David Habig, Assistant Director of Community Development; Jenelle Stumpf, Planning/Zoning Coordinator; Ryan Cummings, HRG, Inc.; Diane Myers-Krug, Dauphin County Planning Commission representative; Sean Duffy, Grim Biehn & Thatcher (Township Solicitor)

Public Registering Attendance: Zac Sivertsen, Eastburn and Gray; Matt Plant, BL Companies; Terri Delo, Integrated Consulting; Mike Callahan, Benchmark Real Estate; Craig Smith, RGS; Diane and Mike Leonard, Mike Leonard Plumbing; Ken Gall, Hershey Trust Company

APPROVAL OF MINUTES

On a motion made by Member Wilson, seconded by Member Santostefano, and a unanimous vote, the Planning Commission approved the minutes from the March 7, 2023, meeting, as written.

OLD BUSINESS

A. Report on the Board of Supervisors' action regarding the Preliminary/Final Subdivision Plan of 208 Clark Road, Plat 1368

Chuck Emerick reported that the Board approved the plan, with conditions.

NEW BUSINESS

A. Review and recommendation of Zoning Amendment Petition No. 2023-01, as filed by Benchmark Real Estate, to amend the text of the Zoning Ordinance to allow 'Dwellings for Employees and Students' as a Conditional Use in the Hershey Mixed Use zoning district

Chuck Emerick explained that the proposed text amendment would allow for "Dwellings for Employees and Students" as a Conditional Use in the Downtown Core 9.1 Overlay of the Hershey Mixed Use zoning district. The use of Dwellings for Employees and Students is defined in the Zoning Ordinance as "*Units constructed for the purposes of housing employees and/or students of an*

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associated business or institution.” Dwellings for Employees and Students are presently permitted by right in the Planned Campus South and Medical Campus Central zoning districts.

Member Wilson asked for clarification regarding proposed Section 225-501.56.J (Nonresidential Uses on Ground Floor) and the math used to determine the sliding scale for the minimum amount of nonresidential space required based on the number of units in a building. Mr. Emerick explained that there are two levels where commercial space would be required: 1) If the building is within 25 feet of the Chocolate Avenue right-of-way, 50% of the ground floor area is to be used for nonresidential uses. 2) If the building is located more than 25 feet from the Chocolate Avenue right-of-way, the required amount of ground floor nonresidential space is based on the number of units in the building.

Zac Sivertsen, an attorney with Eastburn and Gray who is representing the applicant, commented that the idea behind the sliding scale for buildings located more than 25 feet from the Chocolate Avenue right-of-way is the more units there are in the building, the more ground floor nonresidential space that is required.

Secretary Guntrum stated that the Planning Commission was not given any details of the proposed project on the former Hershey Lumberyard tract prior to tonight’s meeting and asked if it would be more appropriate for the Commission to review the proposed text amendment as part of a plan submission. Sean Duffy of Grim Biehn & Thatcher (the Township’s Solicitor) responded that if the applicant were to proceed with the project as the subject property is currently zoned, they would need to obtain a use variance. This is a different way to go through the process and to work with the Township regarding what the applicant believes is a good opportunity for the Township. The Commission needs to look at the text amendment as a policy matter as to whether the use as a Conditional Use makes sense for the zoning district, not in terms of this specific project.

Vice Chairman Tunnell inquired if there is a safeguard in the regulations that would require the buildings to be located closer to Chocolate Avenue to encourage retail uses that would engage the public. Mr. Emerick answered that the Zoning Ordinance contains a provision that allows the Zoning Officer to require a building to be placed in line with other buildings on the street, regardless of what the setback is.

Member Santostefano stated that he thinks the text amendment is in keeping with the planning that has been done in the Township for the last 10 years, and it could be a positive for the downtown area in the long run.

Mike Callahan of Benchmark Real Estate showed renderings and explained what the proposed building will look like.

Vice Chairman Tunnell asked if the proposed regulations include the requirement for on-site management of the use so that it does not become a nuisance to the neighbors, similar to the regulations for short-term rentals. Mr. Duffy said that proposed Section 225-501.56.W states: *“The dwelling units within the Dwelling for Employees & Students use shall not be permitted to be used for any purpose other than a residence for those individuals referenced herein.”* Mr. Emerick added that proposed Section 225-501.56.T states: *“The rules and regulations applicable to the conduct of the*

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students in the Dwellings for Employees & Students use shall, at a minimum, conform to those applicable to on-campus housing of the institution wherein the student tenants at issue attend. The owner and/or applicant shall provide proof of such rules and regulations to the Township.” There is no specific requirement in the proposed regulations for on-site 24-hour management.

Ken Gall of Hershey Trust Company suggested that details such as on-site management of the property could be conditions of the Conditional Use approval. A lot of time, effort, and money will be invested in the development of the final plans for the Conditional Use Application for the redevelopment of the former Lumberyard site. The proposed text amendment is just the first step of many.

Mr. Sivertsen stated that short-term rentals are a very different type of facility than the proposed use. The proposed use is directly linked to an institution or an employer, so there is an intention to have on-site management. Additionally, this use is not something that will be popping up everywhere in the Township. There are limitations on entities that would be associated with the use.

Secretary Guntrum said that it sounds as though the Dwelling for Employees & Students use proposed for the former Lumberyard site will be used for part-time Hersheypark employees in addition to Milton Hershey School students, families, and alumni. Mr. Gall responded that there is a connection between Milton Hershey School graduates and employees of Hershey Entertainment & Resorts Company. For example, a hospitality major who graduated from Milton Hershey School may be employed by Hershey Entertainment & Resorts Company on a temporary basis.

In response to a question from Secretary Guntrum, Mr. Callahan stated that 118 units are currently proposed for the building to be located on the former Lumberyard property. Secretary Guntrum asked if the majority of the units will be occupied by individuals who are brought in as part-time summer help for Hershey Entertainment & Resorts Company. Mr. Gall stated that temporary Milton Hershey School employees will also be occupying the units.

Secretary Guntrum questioned why the text amendment is written so that Dwellings for Employees and Students would be permitted as a Conditional Use in the downtown area of the Township. The use seems to be a little off from what is normally associated with the downtown, especially when considering that it is a permitted use in other zoning districts. Mr. Gall answered that they do not want the residents of the use to be in a remote location; they want to encourage those residents to engage in the community.

Secretary Guntrum commented that the proposed text amendment requires a minimum lot size of three acres for the use and asked how many lots would be affected in the Downtown Core 9.1 Overlay. Mr. Callahan replied that it would be between 9 and 11 lots, depending on adjacent ownership.

Secretary Guntrum expressed his concern that if the Township approves the text amendment now, without specifics regarding the project on the former Lumberyard property, it will give up leverage during the land development plan review process if the proposal changes. Mr. Emerick explained that the Conditional Use process allows the Township to attach additional conditions of approval, which it cannot do when approving by-right permitted uses.

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Mr. Sivertsen noted that the impetus for the text amendment comes from the applicant coming up with the proposed project, which they think would be a good use for the former Lumberyard property and the Township. The use as presented is what they want to build. There is always a chance in any zoning situation that the proposed use could be switched to another permitted use, but the applicant is invested in the proposed project. There are many safeguards in the Conditional Use and land development plan processes that protect the Township's interests.

MOTION

On a motion made by Member Santostefano, seconded by Member Wilson, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that the text amendment filed under Zoning Ordinance Amendment Petition No. 2023-01 be adopted as written.

B. Review and recommendation of the Preliminary/Final Land Development Plan for Taco Bell, Plat 1371

This plan was withdrawn by the applicant prior to the meeting.

C. Review and recommendation of the Preliminary/Final Land Development Plan for Derry Township Municipal Authority Garage Addition, Plat 1372

This plan was withdrawn by the applicant prior to the meeting.

D. Review and recommendation of the Preliminary/Final Subdivision/Land Development Plan for Hershey Hills Preserve and Estates at Stauffers Church Road, Plat 1373

Chuck Emerick explained that Plat 1373 proposes the subdivision of land and construction of seven single-family detached dwellings. The land that is proposed for development is located on the south side of Stauffers Church Road, approximately 1,200 feet east of the Stauffers Church Road/Felty Mill Road intersection. The property is traversed by the Dauphin County/Lebanon County line, with a portion of the property being located in South Londonderry Township, Lebanon County. The tract contains 37.05 acres of land. The property contains a stream, steep slopes, and wetlands. The lands in Derry Township are located within the Conservation zoning district, and the lands in South Londonderry Township are located in their Agricultural zoning district. All lots will be served by private wells and on-lot sanitary sewer facilities.

Mr. Emerick summarized the waivers that the applicant has requested from the Subdivision and Land Development Ordinance.

Mr. Emerick; Ryan Cummings, HRG, Inc.; and Diane Myers-Krug, Dauphin County Planning Commission representative, summarized their plan review comments.

Member Santostefano asked for confirmation that all taxes will be paid to Derry Township after the lots are subdivided and the dwellings are constructed, even though a portion of two of the proposed lots will be in South Londonderry Township. Mr. Emerick stated that is correct. Per a condition of the Conditional Use Decision that authorized the cluster development, all dwellings are to be situated in

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Derry Township. South Londonderry Township deferred the plan approval to Derry Township. Mr. Emerick added that since Derry Township will be affected by the increase in traffic and school children resulting from the development, it makes sense that Derry benefits from the taxes.

Terri Delo of Integrated Consulting represented the plan and stated that the applicant does not have any issues with the review comments that were presented.

MOTIONS ON WAIVERS

On a motion made by Secretary Guntrum, seconded by Member Wilson, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that the following waivers from the Subdivision and Land Development Ordinance be granted:

- a. Waivers from Sections 185-12.D.(2) and 185-13.E.(3) regarding plan scale to be permitted to provide a smaller plan scale (1"= 80') on the following drawings: Overall Existing Conditions Plan, Subdivision Plan, Overall Site Plan, Overall Grading & Drainage Plan, Overall Utility Plan, and the Easement Plan.
- b. Waiver from Section 185-22.D.(3).(c) regarding street widening for Stauffers Church Road.
- c. Waiver from Section 185-22.E.(5) regarding providing curbing along Stauffers Church Road.
- d. Waiver from Section 185-33.B regarding lighting along the common driveway.
- e. Waiver from Section 185-34.A regarding providing sidewalk along Stauffers Church Road, subject to the applicant paying the fee in lieu of sidewalk installation, which fee shall be calculated in accordance with Section 185-34.A.(4).(b).

On a motion made by Secretary Guntrum, seconded by Member Santostefano, and a majority vote (Vice Chairman Tunnell voted in the affirmative; Member Wilson voted in opposition), the Planning Commission made a recommendation to the Board of Supervisors that the following waivers from the Subdivision and Land Development Ordinance be denied:

- a. Waivers from Sections 185-12.D.(1) and 185-13.E.(1) regarding providing a plan sheet size of 22" x 36".

MOTION ON PLAT 1373

On a motion made by Member Santostefano, seconded by Secretary Guntrum, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that Plat 1373 be approved, subject to the following being satisfactorily addressed:

- a. The comments in Item 3 of the April 26, 2023, Township staff report.
- b. The comments in the April 19, 2023, HRG, Inc. letter.

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- c. The comments in the April 25, 2023, DTMA letter.
- d. Comments 2 and 4 in the April 24, 2023 Dauphin County Planning Commission Review Report.

E. Review and recommendation of the Sketch Plan for Park Village Plaza Quick Serve Restaurant, Plat 1374

David Habig explained that this sketch plan represents the further development of the approximately 10.87-acre tract of land fronting on East Main Street and Walton Ave, known as Park Village Plaza. The site is in the General Commercial zoning district. The plan proposes the construction of a one-story, 1,500-square-foot “Quick Serve Restaurant” with a patio. No new access is proposed to the site; however, the internal traffic flow of the site will be modified. The proposed use is being considered by the Township as “Food Services Without Drive Through”, which is a permitted use in the General Commercial zoning district. The Zoning Ordinance defines Food Services Without Drive Through as *“An establishment that provides service where food and/or beverages are ordered, served, and consumed by the customer normally while seated at a table, booth, or counter. Up to four parking spaces may be restricted for limited curb-side service when the parking spaces dedicated to this use are surplus to the number of parking spaces otherwise required for the site.”* The Zoning Ordinance also allows Food Services With Drive Through in the General Commercial zoning district. This project will displace 25 parking spaces that will be replaced with 28 new spaces elsewhere on the property, giving the property a net of three new parking spaces. As the restaurant will only contain three indoor seats and 12 outdoor seats, parking is neither improved nor worsened by this development.

Mr. Habig and Ryan Cummings, HRG, Inc., summarized their plan review comments.

In response to a question from Member Santostefano, Mr. Habig stated that the displaced parking spaces will be relocated to the back of the plaza, over existing impervious area. Vice Chairman Tunnell inquired if the relocated spaces will become employee parking.

Matt Plant of BL Companies, the applicant’s engineer, stated that this is an awkward property because when it was first developed, East Main Street was in a different location. The parking spaces that are to be relocated are not the best as far as utilization because they back out onto the access drive. Mr. Plant acknowledged that the relocated parking spaces are further away and he does not know who will use them, but there are tenants in the back of the building.

Chuck Emerick commented that the Board of Supervisors have become hypersensitive to traffic in this area, and he recommended that when the applicant submits the formal land development plan, they should include a traffic analysis of new vehicle trips that will result from the proposal.

Member Wilson stated that exiting the site can be confusing and part of that might be uncontrolled traffic exiting Sheetz. He asked if the queued vehicles exiting Sheetz are going to block access to the proposed building. Member Wilson also stated that the parking spaces in the area of the proposed

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building are heavily used and asked if the applicant has considered other locations on the property. Mr. Plant responded that they have, but they like the proposed location for ease of use.

Member Santostefano agreed with Member Wilson's concerns about the proposed building being located adjacent to a very busy access drive on the property.

Krupal Desai of KND Holdings, LLC (the applicant and property owner), stated that the traffic flow in the area varies based on time of day, and he and his business partner, Chad Stein, believe that their concept for a Playa Bowls restaurant makes sense as far as the location because the parking area in front of Gold's Gym is heavily used.

In response to a question from Vice Chairman Tunnell, Mr. Emerick explained what prompted the relocation of East Main Street.

OTHER BUSINESS

None.

ADJOURNMENT

On a motion made by Member Wilson, seconded by Secretary Guntrum, and a unanimous vote, the meeting was adjourned at 7:26 p.m.

Respectfully submitted,

Michael J. Guntrum
Planning Commission Secretary

Submitted by:

Jenelle E. Stumpf
Planning/Zoning Coordinator (*acting as stenographer*)