

**DERRY TOWNSHIP  
DAUPHIN COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2023-10**

**AN ORDINANCE AMENDING THE CODE OF DERRY TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA, BY AMENDING CHAPTER 225, ZONING, ARTICLE V, CONDITIONAL USES AND SPECIAL EXCEPTIONS, SECTION 225-501.58, DEVELOPMENT APPROVAL PROCESS (MASTER PLAN), BY AMENDING AND ADDING ADDITIONAL REQUIREMENTS AND LIMITATIONS FOR THE MASTER PLAN DEVELOPMENT, USE AND PROCESS**

**WHEREAS**, the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, has the authority pursuant to Section 1506 of The Second Class Township Code, 53 P.S. §66506, Section 601 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10601, and Section 225-901 of Chapter 225, Zoning, of the Derry Township Code of Ordinances to enact and amend the Zoning Ordinance to advance the health, safety, and welfare of Derry Township citizens; and

**WHEREAS**, the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, has previously ordained and enacted an ordinance entitled, “The Official Zoning Ordinance of the Township of Derry”, which is found at Chapter 225 of the Code of Ordinances of Derry Township; and

**WHEREAS**, the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania believes that it is in the best interest of Derry Township and the residents of Derry Township to amend Chapter 225, Zoning, of the Derry Township Code of Ordinances at Section 225-501.58, Development Approval Process (Master Plan), by amending the requirements and limitations on the Master Plan development, use and process.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, by the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, that Section 225-501.58 of Chapter 225, Zoning, of the Derry Township Code of Ordinances is hereby amended as follows:

**SECTION 1:** Chapter 225, Zoning, of the Derry Township Code of Ordinances is hereby amended by amending Article V, Conditional Uses and Special Exceptions, Section 225-501.58, Development Approval Process (Master Plan), by amending the requirements and limitations for the Master Plan development, use and process to read as follows:

**§225-501.58. Development Approval Process (Master Plan).**

- A. The purpose of the Development Approval process is to encourage owners to unitize or assemble large parcels of land to create a coordinated and well-conceived development which otherwise may not be created on small parcels of land. The Master Plan is an optional mechanism that permits owners and the Township to promote and encourage ingenuity in the layout and design of coordinated projects to more effectively improve and enhance sensitive natural resources, open spaces, existing infrastructure, connectivity and Smart Growth principles, by allowing flexibility in the site layout from requirements in the underlying zoning district. The Applicant shall be required to meet with the Derry Township Municipal Authority to review required sanitary sewer lines and other sanitary sewer facilities including proposed rights-of-way to be identified, mapped and described as

well as the capacity the proposed project will necessitate.

1. This process is permitted by conditional use only in the following Development Approval Area Overlays, which are also shown on Map 4.

- a. West - Master Plan

Specific application requirements respond to the unique natural and geographic conditions, as well as the scale and style of the development in the area. Consistent with the PA Municipalities Planning Code Traditional Neighborhood Development provisions, the West - Master Plan Development approval area process includes submission of a Master Plan that addresses all applicable requirements of this Chapter. Applicants shall be required to enhance vehicular and pedestrian connectivity, reduce traffic congestion, and provide usable open space and community services that are complementary to the surrounding neighborhoods and support the adjacent medical campus uses.

- b. North – Master Plan

Specific application requirements respond to the planned entertainment campus area and unique natural and geographic conditions, as well as the scale of the development in the area. Consistent with the PA Municipalities Planning Code Traditional Neighborhood Development provisions, the North – Master Plan Development approval area process includes submission of a Master Development Plan that addresses all applicable requirements of this Chapter. Applicants shall be required to provide activities that promote tourism and maintain acceptable event management as well as provide usable open space.

- c. South – Master Plan

Specific application requirements respond to the planned school campus area, fiduciary responsibilities of the property owner, unique natural and geographic conditions in the area, existing development patterns, as well as the scale and style of the development in the area. Consistent with the PA Municipalities Planning Code Traditional Neighborhood Development provisions, the South – Master Plan Development approval area process includes submission of a Master Development Plan that addresses all applicable requirements of this Chapter. Applicants shall be required to promote and enhance the bucolic character and groomed streetscapes of the area as well as provide usable open space.

- d. Central - Master Plan

Consistent with the PA Municipalities Planning Code Traditional Neighborhood Development provisions, the Central – Master Plan Development approval area process includes submission of a Master Development Plan that addresses all applicable requirements of this Chapter. Applicants shall be required to provide for design standards that maintain historical development patterns of existing neighborhoods and encourage a mix of land uses that are complementary to the surrounding neighborhoods, and that promote revitalization and tourism to the

Downtown, and maintain acceptable event management and further provide usable open space. As presented through building elevations illustrating the entire block in which an application is proposed, the applicant shall ensure compatibility of building form and character exists between existing and proposed improvements.

2. Property Requirements for Master Plan Approval Process.

- a. Site Requirements. Property subjected to Master Plan approval shall, at the time of first approval, meet the following site requirements:
  - i. Ownership. The entire site for the Master Plan shall be held in single ownership by the developer/applicant in fee simple or equitable form.
  - ii. Minimum site area. The site subject to the Master Plan shall be greater than 10 acres in the Hershey Mixed Use and Palmdale Mixed Use zoning districts and at least 15 acres in all other zoning districts.
  - iii. Frontage. The minimum frontage abutting on a public right-of-way shall not be less than 200 feet.
  - iv. Access. The lot must provide for direct points of ingress and egress in a manner to assure convenient and safe access, which will not cause undue congestion or hazards on local roads, and otherwise comply with requirements for streets and/or driveways in accordance with the Derry Township Code of Ordinances.
  - v. Each Master Plan development shall, to the greatest extent possible and in a manner consistent with this Chapter, preserve sensitive environmental features, existing wooded areas and historical resources, and shall comply with §225-401.2

3. Approval of a Master Plan.

The Board of Supervisors shall approve or deny the Master Plan in accordance with the provisions of this Section as a conditional use. Prior to granting approval or denying a conditional use application, the proposal shall first be forwarded to the Derry Township Planning Commission and may be forwarded to the Dauphin County Planning Commission for review and comment. Furthermore, a minimum of one public hearing shall be held by the Board of Supervisors pursuant to public notice within 60 days of the receipt of the applicant's conditional use application. This time period may be extended if both parties agree to the time extension in writing.

4. Master Plan Application and Requirements.

- a. Applicants seeking Master Plan approval are required to contact the Department of Community Development to discuss their project prior to any submission. During this time, the Applicant should submit associated sketch plans depicting the proposed Master Plan to the Township which should meet the requirements of Chapter 185, Subdivision and Land Development, in order for the Township to review the sketch plan of the proposed development prior to the formal submission

of a Master Plan application under this Section. The Sketch Plan will be reviewed by the Township Planning Commission, the Township Engineer, and the Board of Supervisors at public meetings prior to the submission of a Master Plan application. The intent of the Sketch Plan review is to afford the Planning Commission and Board of Supervisors an opportunity to review and comment on the Sketch Plan prior to the applicant submitting a formal Master Plan application.

Following Sketch Plan submissions and reviews, and prior to formal submission of the Master Plan application for consideration of Conditional Use approval, applicants shall submit design plans for the Master Plan proposing development on properties that are located within the Downtown Core (O9) Overlay for review by the Downtown Core Design Board. Such review shall be in accordance with the timelines and requirements established by §225-429, except where the certificate of appropriateness of the DCDB is intended to be a recommendation to the Board of Supervisors, in which case such action by the Board of Supervisors shall be deferred until after the determination on the Conditional Use application. Following the review and recommendation from the Downtown Core Design Board, the applicant shall provide for submission of the Master Plan conditional use application for review and consideration in accordance with this Chapter.

- b. The submission of a Master Plan application shall include an application, Professional Services Agreement, site plans, proposed development plan, traffic impact study if deemed necessary by the Township and any additional required documentation, information, engineering reports and/or studies that are deemed necessary by the Township to determine compliance with the applicable Sections of this Chapter and the Township's Code of Ordinances. The application shall also be accompanied by a fee as may be set forth from time to time by resolution of the Board of Supervisors and a review escrow in accordance with the Professional Services Agreement.
- c. Such plans and other materials, in addition to the requirements of this Section, shall be required to meet the standards prescribed in Chapter 185, Subdivision and Land Development, for preliminary land development approval, unless otherwise approved by the Township, so that such plans provide the requisite detail of the proposed use or development and a sufficient basis for a determination as to its compliance with the applicable Township ordinances. The plans and other documents shall be provided in the same number as comparable documents required for preliminary subdivision and/or land development under the plan processing provisions of Chapter 185, Subdivision and Land Development.
- d. Incomplete application. The Director of Community Development and/or Township Engineer shall review the application within seven days of submission for completeness in accordance with the requirements of this Chapter. If an application is found to be incomplete, the application shall be rejected and the Applicant notified; the Director of Community Development shall notify the applicant, in writing, citing the specific deficiencies and the specific requirements of this Chapter that have not been met.

- e. Plan Distribution. The Director of Community Development shall forward one copy each of the complete Master Plan application to the Planning Commission, the Township Engineer, the Derry Township Municipal Authority, the Dauphin County Planning Commission, and other such consultants, agencies and boards as is deemed necessary by the Township to provide a comprehensive review of the materials.
- f. Deficient application. If the Director of Community Development determines that the plans and/or Master Plan application do not meet numerous and/or significant requirements of the Township's Code of Ordinances, and in particular this Chapter, the Director of Community Development shall give the applicant an opportunity to withdraw the plan for correction and refiling, without an additional Township filing fee, unless an additional public notice is required, in which case the additional fee shall be equal to the cost of the notice. This allowance shall be permitted on a one-time basis.
- g. All Master Plan applications, whether an initial/original Master Plan application or an amendment to an existing Master Plan, in addition to the submission requirements in Chapter 185 for preliminary plan submissions, shall include the following plans and information unless otherwise approved by the Township Board of Supervisors:
  - i. Property Map. This map shall show the boundaries of all land subject to Master Plan approval with the names, deed reference, recorded plan reference, and tax map parcel of all owners. The Property Map shall also show the names, deed reference, recorded plan reference, and tax map parcel of all abutting land owners and any platting of adjoining land to the Master Plan property.
  - ii. Site Development Plan. The plan shall be at a minimum scale of 1 inch equals 100 feet, and shall at a minimum depict the following information:
    - a. The name of the proposed development and names, phone number, email and addresses of the landowner, the developer and the persons who prepared the plan.
    - b. The proposed street pattern including the names, paving and right-of-way widths of all streets and the widths and locations of easements or areas to be dedicated.
    - c. The layout of lots, units, and/or parcels, where appropriate, including dimensions, lot areas, lot numbers and yard areas.
    - d. Preliminary Grading for the entire site.
    - e. The predicted use and approximate location, height, bulk and square footage for every proposed structure within the Master Plan development area.
    - f. The location of all off-street parking spaces and the total number of spaces to be provided, in accordance with the requirements of §225-402 of this Chapter; provided however the applicant may propose shared parking in

accordance with §225-402.4.

- g. The location, size and kind of improvements proposed for all common open space and recreation facilities, together with proposed ownership and maintenance arrangements for such open space.
  - h. A plan showing anticipated location and width of sidewalks, pedestrian walkways, trails, crosswalks, and bicycle paths.
  - i. The maximum number of dwelling units and square footage of commercial space proposed within the Master Plan development area.
  - j. The location of all environmentally sensitive areas and/or resources and/or surface features on the property.
  - k. The location of any and all easements on the property, both public and private.
  - l. The location of all proposed open space on the property.
  - m. Any other information deemed necessary by the Township.
- iii. Zoning Map. This map shall be at a minimum scale of 1 inch equals 200 feet, depicting the zoning classification of the development area and of all properties within 200 feet of the development area as indicated on the property map.
  - iv. Topography Map. This map shall be at a minimum scale of 1 inch equals 100 feet, depicting contours obtained from ground survey, PAMAP LiDAR or other equivalent source at 2' intervals and topography indicating all natural and man-made features thereon, including but not limited to buildings and other improvements existing on any properties thereon or within 100 feet of the perimeter of the subject property.
  - v. Landscape Master Plan. This plan shall be at a minimum scale of 1 inch equals 100 feet depicting all existing wooded areas, bufferyards, screening, open space plantings, street trees, parking lot landscaping, green space and other areas required or intended to be vegetative.
  - vi. Wayfinding/Signage Master Plan. This plan shall include full color renderings which include all dimensions, height and material choice of all principal freestanding signage, as well as a site plan showing location of all freestanding signs.
  - vii. Soil Classification Map. This plan shall be at a minimum scale of 1 inch equals 100 feet, identifying soils and listing limiting factors of applicable soils.
  - viii. Environmental Assessment Plan. This shall include a plan illustrating all sensitive environmental features, steep slopes, wooded areas to be disturbed, soil classification and limiting factors, and a preliminary geotechnical report to the

extent environmentally sensitive land is to be disturbed. This plan shall also provide for the calculations for the limitations of disturbance of such environmental sensitive features and areas.

- ix. The substance of anticipated covenants, grants, easements, restrictions and/or other proposed conditions.
- x. The extent to which the proposed Master Plan varies from land use, setbacks, height, land disturbance, density, lot coverage and bufferyard requirements of this Chapter and other zoning and subdivision regulations otherwise applicable to the subject property in tabular form.
- xi. A written narrative describing land characteristics, common facilities, utility service availability including fire flow requirements, existing covenants, setting forth the applicant's reason for filing a Master Plan and demonstrating how the Master Plan complies with the purpose of this Chapter. The narrative shall describe any deviation from the base zoning requirements and the reasons and advantages thereof. The narrative shall describe the proposed transit component for vehicular and pedestrian connectivity and to reduce traffic congestion. The narrative shall cite anticipated modifications of requirements of Chapter 185, Subdivision and Land Development, necessary for the design of the project. The narrative shall address the major features of the Master Plan and shall contain such non-land use information such as estimates of taxes to be paid to all local government units, estimates of municipal and school districts costs and a benefit analysis. See Appendix E.
- xii. Illustrative building types, elevations, building siting, typical cross section and rendering of front elevations of proposed buildings, at a minimum scale of one-eighth (1/8) inch equals one (1) foot.
- xiii. Architectural and Design Standards. The architectural and design standards shall set forth the requirements for exterior building materials, general site design and compatibility with abutting structures. The applicant shall set forth whether said requirements will be included in covenants running with the land and whether the applicant will retain design approval control. Master Plan development located within the Downtown Core (O9) Overlay shall also incorporate the design standards of §225-429 into the architectural and site design for the development.
- xiv. Traffic Impact Study. A traffic impact study meeting the requirements of Chapter 185, Subdivision and Land Development.
- xv. A tentative development schedule, where lot development is to be phased over a period of years, not to exceed 7 years, with an option for a 5-year extension thereof subject to the approval of the Board of Supervisors, from the date of Master Plan Approval, showing proposed times for the filing of land development applications for each lot or facility within the proposed Master Plan area. The schedule shall follow the provisions of MPC Section 508.4 (v. through vii.)

- xvi. Any other reports, plans or exhibits deemed necessary by the Township to determine compliance with the applicable requirements of this Chapter.

## 5. Required Land Development Plan Approvals.

Following Master Plan approval, an application for approval of a preliminary and thereafter final subdivision and/or land development shall be required to be submitted for each lot, section, facility, subdivision and/or land development improvement shown on the finally approved Master Plan. The Subdivision and/or Land Development Plan shall be submitted first as a Preliminary Plan and thereafter as a Final Plan pursuant to the procedural provisions of Chapter 185, however, when approval to do so is given by the Township a final plan submission may be combined with a preliminary plan submittal.

- a. The Master Plan Requirements design enabled by this Section shall govern all setback, height, land limits of disturbance, density, lot coverage and bufferyard requirements of this Chapter. The preliminary and final subdivision and/or land development application for each lot, section, facility, subdivision or land development improvement in the Master Plan development area shall include the material as outlined in this Section, together with all other required material set forth in Chapter 185, Subdivision and Land Development. Additionally, the Applicant shall submit supplementary data, which shall include:
  - i. Any covenants, grants of easements or other restrictions to be imposed on the use of land and structures.
  - ii. Provision for the maintenance, ownership and operation of all landscaping and bufferyard areas, open space, private driveways and/or roads, storm water management facilities and common recreation facilities. The provisions shall be covenants running with the land and shall be in a form approved by the Township Solicitor. The Township shall be made a third party beneficiary and shall have the express right to enforce all terms relating to maintenance of any landscaping, bufferyard, open space or recreation facilities.

## 6. Required Improvements.

The improvements required and the security to guarantee their installation shall be in accordance with Chapter 185 for each Master Plan lot, section, facility, subdivision or land development improvement. All public improvements, such as traffic enhancements, stormwater improvements, street trees, landscaping or utility service, depicted on the Master Plan shall be installed as part of the development of the lot, section, facility, subdivision or land development improvement applied for. The applicant shall be responsible for securing final design approval and posting the requisite security to guarantee the installation of all such improvements related to the lot, section, facility, subdivision or land development improvements for which they seek approval at the time of land development.



7. Master Plan uses and site requirements.

- a. Uses. Only those uses permitted in the underlying zoning district(s), excluding "other uses" and "similar uses" or as listed below, may be permitted in a Master Plan area. Uses proposed may include:
  - i. Uses permitted by-right wherein the Master Plan is proposed.
  - ii. Special exception uses permitted wherein the Master Plan is proposed, subject to securing the requisite approval from the Zoning Hearing Board.
  - iii. Uses permitted in the Overlay wherein the Master Plan is proposed.
  - iv. Conditional uses permitted wherein the Master Plan is proposed, subject to securing the requisite approval from the Board of Supervisors, but excluding "other uses" and "similar uses".
- b. Density Bonus. For those applicants/owners who complete the Master Plan approval process and comply with the requirements and conditions of this Section and the conditions of the Master Plan conditional use approval from the Board of Supervisors, the permitted residential densities of the applicable zoning district wherein the Master Plan is proposed may be increased by up to the following percentages:
  - i. Single-Family Detached, Semidetached, and Two-Family Dwellings: 25%
  - ii. Single-Family Attached Dwellings (Townhouses): 15%
  - iii. Apartment and Senior Apartment Dwellings: 10%
- c. Impervious Cover Bonus. For those applicants/owners that complete the Master Plan approval process and comply with the requirements and conditions of this Section and the conditions of the Master Plan conditional use approval from the Board of Supervisors, the permitted impervious coverage may be increased by up to 5% of the underlying base zoning district requirements, subject to additional stormwater management measures being installed to address such an increase in a manner acceptable to the Board of Supervisors and consistent with the applicable Stormwater Management Ordinance provisions.
- d. Bulk and Area Requirements. Property subjected to Master Plan conditional use approval shall, at the time of first approval, meet the following Bulk and Area requirements:
  - i. Minimum Yard Areas. The minimum yard area requirements for the perimeter of a Master Plan Development shall comply with the minimum setback requirements of the underlying zoning district.
  - ii. Minimum Bufferyards. A minimum of Class 1 or Class 2 buffer yards, as specified in §225-402 shall be provided on all Master Plan boundaries, except

where the boundary abuts land in the Hershey Mixed Use and/or Palmdale Mixed Use zoning districts, in which case, a minimum of Class 5 or Class 6 buffer yards shall be provided. No buffer yard is required under this Section where a Master Plan boundary abuts a street.

- iii. Height Regulations. The maximum height of a residential structure shall not exceed the base height of such structure within the zoning district to which the tract is located. Nonresidential and mixed-use buildings shall be permitted to be constructed up to sixty (60) feet, provided such height increase shall not interfere with the Airport Safety Zone overlay, in accordance §225-401.3.
- e. Off Street Parking. Off street parking spaces shall comply with §225-402.5 of this Chapter; provided, however, the applicant may propose shared parking by agreement of the users in accordance with §225-402.4, subject to the review and approval of the Board of Supervisors. Notwithstanding any other provisions in this Chapter, designated on-street parking spaces on private streets within a Master Plan development area may be deemed off-street parking spaces for the purposes of §225-402.5 of this Chapter, provided the parking spaces meet the minimum design standards of §225-402 in a manner acceptable to the Township.
- f. Common driveways.
  - i. Common driveways constructed to a minimum width of 24 feet shall be provided, with paving standards meeting the requirements for a Minor Street as required by Chapter 185, Subdivision and Land Development. Lots having frontage on a common driveway shall have their required lot width calculated at the right-of-way line of the common drive in the same method as if the common drive were a public street.
  - i. Common driveways shall be owned in common by all property owners of the development and shall be part of the common area and subject to a shared driveway easement agreement; however, a 42-foot minimum right-of-way shall be established for each common driveway. Common driveways shall be centered in the 42-foot minimum right-of-way. Common driveways shall not be considered part of the requisite amount of the open space for the Master Plan.
  - ii. Common driveways shall connect only to a public street.
- 8. Master Plan open space.
  - a. In addition to the required public park, recreation, and open space required by Article VII of Chapter 185, Subdivision and Land Development, a minimum of 25% of the gross area of a Master Plan project area shall be retained and preserved as common open space and reserved for passive and/or active recreational use. The common open space required under this Section shall be used for the following purposes:
    - i. To conserve natural or scenic vistas and bucolic open spaces to remain undisturbed and in a natural state.

- ii. To augment recreation or public open space opportunities, an area designated for open field play or fields for active recreation may be designated where the land does not contain natural resource restrictions or is otherwise restricted from development. Common open space to be used for recreational purposes shall be in addition to any recreational land requirement imposed by Article VII of Chapter 185, Subdivision and Land Development.
  - iii. To preserve sites of historic, geologic or botanic interest.
  - iv. To enhance the value of existing or proposed parks, forests, wildlife preserves, nature preserves, or other public open spaces by preserving land abutting such existing and/or proposed parks or open space.
- b. The common open space required in this subsection may be available for use by the public.
  - c. Stormwater management facilities shall not qualify for and/or be included in the required minimum open space area unless specifically approved by the Board of Supervisors, in which case no more than 15% of the required minimum open space shall consist of aboveground stormwater management facilities.
  - d. Common open space shall be free from encumbrances, easements, and/or rights-of-way which would prevent, limit or restrict its use in any detrimental way.
  - e. When possible, common open space shall be connected to the Township's public sidewalk system or extend the Township's public trail system.
  - f. The common open space requirements under this Section are not intended to and shall not reduce the dedication of lands for public park, recreation and open space required under Article VII of Chapter 185, Subdivision and Land Development. The required common open space under this subsection shall be a supplement and in addition to the requirements of Article VII of Chapter 185, Subdivision and Land Development.
  - g. Not more than 20% of the total area required for common open space shall be located within a floodplain.
  - h. At least 50% of the total area required for common open space shall contain slopes of 10% grade or less.
  - i. The common open space required as part of a Master Plan shall be preserved and maintained so as to always remain open space in perpetuity, in a manner and form acceptable to the Township. The open space shall be subject to a recordable open space easement and/or declaration.
  - j. Minimum width buffer yards shall not count as common open space.

- k. Narrow, fragmented, or irregular pieces of land that serve no common open space function or are remnants left over after the lots, streets and parking areas have been laid out, shall not be considered to meet the requirements of this Section for open space and shall not be counted as open space. Common open space required under this Section shall be land deemed acceptable for open space by the Board of Supervisors for the purposes set forth herein.
- l. The proposed ownership and maintenance of the land and facilities to be used for open space may be acceptable to the Township if either of the following conditions is met, as determined by the Board of Supervisors at the conditional use hearing:
  - i. The land and facilities shall be subject to an easement created for public use, with the owner/applicant and/or their successors in title agreeing to maintain the land, and the Township as a third party beneficiary to the easement.
  - ii. The land and facilities shall be deeded to an organization representing the landowners of the development. The organization shall covenant to maintain the land and facilities for their originally intended purpose. The organization shall not be dissolved nor shall it dispose of the open space, by sale or otherwise, without the Township's consent and without first offering to dedicate the open space to the public and guaranteeing to the Township's satisfaction that the maintenance of the open space will continue. Although the Township may accept dedication of the open space land, the Township is under no obligation to accept dedication of such open space.
- m. Open space maintenance.
  - i. The applicant shall proceed with agreeing to, executing and recording covenants containing the requisite maintenance obligations in a manner and form acceptable to the Township; or
  - ii. The applicant shall establish maintenance and operation requirements common to all lots in the Master Plan area and provide for easements, covenants and restrictions in recordable form, which will guarantee future maintenance and operation of the open space, in a manner and form acceptable to the Township. Such covenants, easements, and restrictions shall be in a form and substance approved by the Township Solicitor.
- 9. Bufferyard and common landscaping. The bufferyards and common landscaping depicted on the approved Master Landscaping Plan shall be maintained in one or a combination of the following ways, which shall be provided for within a declaration to be recorded against the property in a manner and form acceptable to the Township:
  - i. By the developer, if the lots or units are not sold, and/or
  - ii. By the landowner, if the lots or units are sold, and/or

- iii. By a Homeowners Association or Condominium Owners Association required to manage common open space, if the same has been created, and/or
- iv. By a similar such organization.

#### 10. Park, Recreation and Open Space Dedication.

In addition to the open space requirements specific to a Master Plan as provided for within Section A.8 above, applicants of Master Plan developments which propose the establishment of dwelling units shall also dedicate to Derry Township land for park, recreation and open space uses or provide payment of a fee in lieu of Township acceptance of such land, as provided for in Article VII of Chapter 185, Subdivision and Land Development.

#### 11. Public improvements.

All streets, sidewalks, trails, walkways, bicycle paths, lighting and drainage facilities therewith shall be designed and constructed in accordance with this Chapter and with the requirements of Chapter 185, Subdivision and Land Development and Chapter 174, Stormwater Management and all other applicable federal, state and local standards, regulations and requirements. Nothing herein shall be interpreted to require such improvements be accepted as public improvements by the Township. The determination of whether certain improvements will be dedicated to and accepted by the Township as public improvements and/or shall remain as private improvements shall be determined by the Board of Supervisors at the time of the conditional use hearing.

#### 12. Variances, Modifications and Alterations to the Master Plan.

- a. When approving a subdivision and/or land development plan within an approved Master Plan area on an individual lot as a subdivision and/or land development plan, the Board of Supervisors, upon the request of an applicant, may approve only limited de minimis modifications thereto as will not be contrary to the public interest. Where a modification is requested by an applicant, the approval of such a modification from the approved Master Plan shall be subject to the review and approval of the Board of Supervisors. The Board of Supervisors shall not be required to approve de minimis modifications to a Master Plan, but can consider such de minimis modifications at the time of land development review if deemed acceptable to the Board of Supervisors.
- b. Any alternatives to and/or variances from the zoning requirements except as authorized in this Section, shall be subject to the review and approval of the Zoning Hearing Board as a variance, if requested by an applicant.
- c. From time to time, the use of any structure(s) on a Master Plan lot may be changed to another use permitted in the district upon approval of an occupancy and zoning permit in accordance with the Derry Township Code of Ordinances and the following:

- i. Where the proposed use is a special exception or conditional use, the change must be submitted to the appropriate board for review and approval.
  - ii. Express conditions of a conditional use or special exception must be able to be complied with without being in conflict with the finally approved Master Plan.
  - iii. Where changes in elements of the Master Plan are necessary to meet the express conditional use conditions, the applicant shall process a revised Master Plan application showing the conflicts between the conditional use's conditions and the Master Plan requirements and requesting approval of the revised Master Plan from the Board of Supervisors by conditional use in accordance with this section.
  - iv. Where changes of a Master Plan are required and a new conditional use is also requested, the applications may be combined into a single proceeding if deemed acceptable by the Township Board of Supervisors.
  - v. Where changes of a Master Plan are required to enable a special exception, the Master Plan update must first be approved by the Board of Supervisors prior to Zoning Hearing Board approval.
- d. De Minimis modifications to an approved Master Plan – Nothing herein shall be interpreted to require the Board of Supervisors to approve de minimis modifications to an already approved Master Plan. However, if there are what the Township considers to be de minimis modifications to a Master Plan, the Board of Supervisor may, but need not, allow for such modifications at the time of land development review. An applicant may ask to modify the physical layout of an already approved Master Plan as part of a preliminary and/or final land development plan only when it can be demonstrated to the satisfaction of the Township that the modifications are de minimis in accordance with the following standards:
- i. General site layout –The internal traffic patterns and principal building locations are substantially the same as approved on the Master Plan.
  - ii. Master Plan Development Area boundary – No change in the boundaries of the Master Plan Development Area is proposed.
  - iii. Dwelling units - No increase in the number of dwelling units is proposed.
  - iv. Location of buildings – Minimal/de minimis changes from the approximate location of proposed buildings may be permitted; however, no building may be moved to another area of the site.
  - v. Principal building size - Less than 2,500 sq. ft. of additional principal floor area may be added.
  - vi. Accessory buildings – No new accessory building shall be proposed.

- vii. Roadway design – Except as may be required by PennDOT, no modification to the roadway layout and/or roadway widths is proposed. No proposed roadway shall be added or removed.
  - viii. Required parking - Parking demands do not increase by more than 2%.
  - ix. Public recreation areas – A proposed public park, bike path, or other such facility is not diminished.
  - x. Stormwater management – No modification is proposed to the location or method of stormwater management; however, minor modifications to conveyance pipes or swales may be considered.
  - xi. Site access – Driveways must be in substantially the same location as shown on the approved Master Plan; however, a minor modification that is the result of a Federal, State or local agency may be considered.
  - xii. Site lighting – Minimal/de minimis revisions may be permitted when the applicant provides a revised lighting plan that is sealed by a professional engineer, showing that the lighting continues to comply with the requirements of Chapter 185, Subdivision and Land Development, and the requirements of this Chapter.
  - xiii. Sanitary sewer – Minor modifications not requiring additional planning through DEP are permitted and must be approved by DTMA or the Township Sewage Enforcement Officer as appropriate.
  - xiv. Potable water supply – The proposed method of supply of potable water is not altered.
- e. If the Township determines that the proposed changes to the physical layout, improvements, uses and/or any other aspects of a Master Plan are not de minimis, then the proposed changes shall be subject to the review and approval of the Board of Supervisors as an Amended Master Plan and shall be subject to a conditional use application and hearing in accordance with this Section. Revisions and/or amendments to a Master Plan, unless otherwise specifically permitted herein as de minimis modifications by the Township, shall only be permitted by the Board of Supervisors as part of an Amended Master Plan conditional use application.
  - f. Substantial changes to an already approved Master Plan shall not be considered an amendment and shall require a new Master Plan application. Both an amendment to a Master Plan and a new Master Plan application shall be subject to the requirements of this Section and shall require conditional use approval from the Board of Supervisors. The Township shall have sole discretion as to what is a substantial change that would require a new Master Plan application, which shall include, but not be limited to the following:
    - i. New dwelling units – An increase in the number of dwelling units by either more than 5% or more than ten (10) dwelling units shall be a substantial change.

- iii. New principal buildings – Any additional principal building of any size shall be a substantial change.
  - iv. Impervious cover – Any additional impervious surface of 10% or more shall be a substantial change.
  - v. Traffic and Roads – Any substantial change in the layout of roads and/or a substantial increase in proposed traffic shall be a substantial change.
  - vi. Master Plan Layout – Any substantial change in the layout or boundary of the Master Plan shall be a substantial change.
  - vii. Change in Master plan uses – Any change in a proposed use within the Master Plan shall be considered a substantial change.
- g. Documents to provide for amended Master Plan applications shall be all those provided for in this Section as required for an initial Master Plan application, unless otherwise waived by the Board of Supervisors. In the event the Township determines not all the documents and plans required for an initial Master Plan are needed for an amended Master Plan, the following shall be the minimum documents and plans to be submitted as part of the amended Master Plan application:
- i. Revised plans shall be processed in accordance with the requirements of §225-501.58.A.4, as applicable and necessary to show the features as approved and as modified.
  - ii. Agreement to pay for any required engineering or third-party reviews.
  - iii. Revised Stormwater Management Plan, report, and details of any alterations to a system or qualifying modifications.
  - iv. Traffic impact analysis detailing modifications to peak hour and overall trips.
  - v. Revised lighting plan with professional certification that the modifications continue to comply with Chapter 185, Subdivision and Land Development, and this Chapter.
  - vi. Recordable documents to memorialize any modifications to easements or rights-of-way.
  - vii. A detailed narrative documenting all plan modifications.
  - viii. All other information, documents, studies and/or plans deemed necessary by the Township.
- h. Other actions which may be necessary.



- i. Approval by Dauphin County Conservation District and/or Department of Environmental Protection, as may be applicable, for modifications to the Post Construction Stormwater Management (PCSM) Plan, National Pollutant Discharge Elimination System (NPDES), and/or other such approvals.
- ii. Revisions to financial security amount (whether increased or decreased). Must be recommended by Township Engineer and approved by Board of Supervisors prior to building/zoning permit issuance.
- iii. Downtown Core Design Board approvals shall be required in accordance with this Chapter, as applicable.
- iv. Other outside agency approvals, as may be necessary.

### 13. Effect of Approvals.

- a. Provisions in favor of the Township. An express provision of, or commitment in, the Master Plan relating to the use, bulk and location of buildings and structures, the quantity and location of common open space, except as otherwise provided in this Article, and the intensity of use shall run as a covenant over the land in favor of the Township. As provided by law, these provisions shall be enforceable in law or in equity by the Township without limitation on any powers of regulation otherwise granted the Township by law.
- b. Release of rights. Owners of the lots or facilities may, to the extent and in the manner expressly authorized by the provisions of the Master Plan, modify, remove, or release their rights to enforce the provisions of the Master Plan, but no such action shall affect the right of the Township to enforce the provisions of the Master Plan as approved and in accordance with the provisions of this Chapter.

**SECTION 2:** All other sections, parts, and provisions of Chapter 225, Zoning, shall remain in full force and effect as previously enacted.

**SECTION 3: Savings Clause.** The provisions of this Ordinance are severable. If any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decisions of the court shall not impair the validity of any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. It is hereby declared the intent of the Derry Township Board of Supervisors that this Ordinance would have been enacted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

**SECTION 4: Repealer.** Any specific provisions of Chapter 225, Zoning, or any other Township ordinance or resolution that is in direct conflict within this Ordinance, are hereby repealed to the extent of such conflict.

**SECTION 5: Effective Date.** This Ordinance shall become effective five (5) days after enactment.

**DULY ENACTED and ORDAINED** into law this 13<sup>th</sup> day of Feb., 2024, by the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, in lawful session duly assembled.

ATTEST

Secretary

(Seal)

BOARD OF SUPERVISORS  
DERRY TOWNSHIP  
DAUPHIN COUNTY, PENNSYLVANIA

Chairman