BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF:

: NO. 2024 - 10

Hershey Square 2014, LP

: PREMISES LOCATION:

: Mae Street and Hersheypark Drive

Hershey, Derry Township, PA

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of Hershey Square 2014, LP, with regard to the property owned by U&ME Hershey, LLC, located at Mae Street and Hersheypark Drive, Hummelstown, Derry Township. A hearing in this matter was held on May 15, 2024, after proper advertising. At that time, the owner's representative, Bruce Warshawsky, appeared, with the applicant's attorney, Charles M. Suhr, was sworn, and testified at the hearing. At the hearing, the applicant orally amended the application to substitute the property owner, U&ME Hershey, LLC, as the applicant. No other members of the public testified. The applicant previously obtained relief from the Zoning Hearing Board with respect to signs at the property, parking spaces, expansion of storage area, the amount of impervious coverage, and most recently, a landscape buffer.

The application indicates that the subject property is located in the General Commercial and Hersheypark Drive/Route 39 Overlay zoning districts. Because of its topography, the property consists of two different levels. The upper portion of the property is improved with a shopping center and other freestanding buildings. The lower portion is vacant, and the applicant proposes to develop it. In 2021, by the Zoning Hearing Board's decision, dated May 19, 2021, to No. 2021 – 02, the applicant obtained a variance to increase impervious coverage on the property to 61.87%

to construct a commercial, multi-tenant building with associated parking on the lower portion (the "2021 Relief"). In 2022, by the Zoning Hearing Board's decision, dated May 18, 2022, filed to No. 2021 – 07, the applicant obtained a variance to maintain a landscape buffer of 17'10" from the right-of-way of Hersheypark Drive (the "2022 Relief"). In 2023, by the Zoning Hearing Board's decision, dated June 20, 2023, filed to No. 2023 – 03 (erroneously stated as 2023 – 07), the 2021 Relief and 2022 Relief (collectively the "Relief") was extended to remain viable until May 19, 2024. The current application seeks an extension for the Relief to remain viable for one additional year.

Since the extension for the Relief granted by the Zoning Hearing Board last year, the applicant has continued working on obtaining approval for its land development plan. The Township, as the applicant, submitted the PennDOT Highway Occupancy Permit application. The land development plan has been amended to incorporate the required roadway improvements, including to the intersection of Mae Street and Hersheypark Drive. The proposed tenants for the building may change, and the project may be a little smaller than initially anticipated. The applicant does not anticipate needing any dimensional relief if the project changes. The applicant argued that it was diligently working and that the project is ongoing. The applicant anticipates the project being finished in no more than a year, but hopefully sooner. The applicant introduced various exhibits at the hearing, all of which were introduced into the record.

In this matter, the Board finds that the applicant is entitled to an extension of one year, until May 15, 2025, to complete the development of the lower portion to construct the multi-tenant building as permitted in the Relief. The Board finds that the permitting process has caused the

applicant a hardship. The Board previously found that the Relief would not have any detrimental impact on the use or development of any surrounding properties or generally in the neighborhood. Therefore, the Board finds that an extension will not have a detrimental impact on any surrounding properties or the neighborhood. The Board further finds that the one year extension represents the minimum relief requested. As a result, the Board finds that the applicant is entitled to a one year extension, until May 15, 2025, for the Relief.

Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

AND NOW, this <u>15</u> day of May, 2024:

- 1. The applicant's request for an extension from §225-1007.9.C is GRANTED. The relief granted by the Zoning Hearing Board on May 19, 2021, to No. 2021 02, on May 18, 2022, to No. 2022-07, and on June 2023, to No. 2023 03 (erroneously stated as 2023 07) shall remain viable until May 15, 2025.
- 2. All other terms, conditions, and limitations set forth in the decisions of May 19, 2021, May 18, 2022, and June 20, 2023, shall remain in full force and effect and are incorporated herein by reference.

Adopted by 4 - 0 vote as indicated by the Chairman's signature as authorized by the Zoning Hearing Board.

Steven Seidl, Chairman