

ZH 2022-3

22-8-68.5

HONEY BROOK TOWNSHIP
ZONING HEARING BOARD

: APPLICATION OF
: DR HORTON

RESOLVED, that the application of DR Horton for a special exception under 27-502.B(9) of the Honey Brook Township Zoning Ordinance to allow Multifamily dwellings as that term is defined in 27-202 - DWELLING UNIT - C. MULTIFAMILY, as referenced in 27-502.B(9) of the Ordinance. This Decision does not approve or recommend the proposed plan or layout submitted with the Application for Special Exception or as subsequently revised and proposed by the Applicant at the hearing, rather this Decision relates simply to permitting the proposed use of Multifamily dwellings and not any specific number of units or any specific configuration of such units. The special exception variance is hereby GRANTED on the basis of the following:

FINDINGS OF FACT

1. The Applicant is DR Horton. DR Horton is the equitable owner of 2207 Horseshoe Pike and 2351 Chestnut Tree Road, Honey Brook, PA 19543, tax parcels 22-8-53 and 22-8-68.5 (hereinafter the "Premises").
2. The Premises is located in Mixed Use Residential ("MUR") zoning district.
3. A series of public hearings on the Application were held on March 14, 2022, March 28, 2022, April 11, 2022 and April 25, 2022 at in the Honey Brook Township Municipal Building, 500 Suplee Road, Honey Brook Township, Chester County Pennsylvania, pursuant to public notice, notice sent to adjoining property owners and posting of the premises.
4. The Applicant, Members of the Zoning Hearing Board, the Board's Solicitor and members of the public attended the hearings.

5. The following persons were granted party status, Shane Hadden, Dorothy Rajan, Mark Sereni, Renee Cregan, Therese Mauchline, Cathie Thompson, Karen Custer-Force, Geraldine McCormick, Paul Hyduke, Gerome Gerald, Adam Slowik, John Anderson, Lea Attanasio.

6. Numerous members of the public provided comment.

7. The Board submitted Exhibits 1-6, which were admitted into evidence.

8. The Applicant presented Exhibits 1-17, which were admitted into evidence.

9. The Applicant withdrew the variance requests pursuant to a letter dated March 14, 2022, admitted into evidence as Exhibit A-1.

10. The Applicant provided testimony from Daniel McKenna of DL Howell regarding the Application, the plan attached to the Application, plans as A-4, A-5, A-8, A-9, A-11 and A-17 showing various proposed layouts for townhomes and related details.

11. Mr. McKenna also testified regarding a wetland delineation report at A-12, a bog turtle phase 1 report as A-13A and a bog turtle phase 2 report as A-13B.

12. Mr. McKenna testified with regard to each of the criteria listed in 27-1410 for Granting of Special Exceptions and specifically testified that each of the ten listed criteria were satisfied.

13. Mr. McKenna testified that (1) The size, scope, extent and character of the special exception request is consistent with the Honey Brook Township and Borough Multi-Municipal Comprehensive Plan and with the purpose and intent of the zoning district involved.

14. Mr. McKenna testified that (2) The proposed special exception character and type of development constitutes an appropriate use in the area consistent with the character and type of development in the area surrounding the location for which the request is made and will not

substantially impair, alter, or detract from the use of surrounding property or from the character of the neighborhood, the number, extent, and scope of nonconforming uses in the area, and the presence or absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which the applicant seeks approval.

15. Mr. McKenna testified that (3) The proposed special exception serves the health, safety, welfare, and the best interest of the Township.

16. Mr. McKenna testified that (4) The proposed modification is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water and sewers, police and fire protection, transportation and public schools.

17. Mr. McKenna testified that (5) The proposed special exception shall comply with the Township Subdivision and Land Development Ordinance [Chapter 22].

18. Mr. McKenna testified that (6) The recommendations of the Planning Commission on the proposed development plan should be reviewed, where such plan is required. The Board shall not be bound by such recommendations, nor shall the Board be bound by the action of the Board of Supervisors in relation to the development plan.

19. Mr. McKenna testified that (7) The proposed use shall limit the total number of new access points, reduce the need for on-street parking, and encourage the frontage of buildings on parallel marginal roads, or on roads perpendicular to the highway.

20. Mr. McKenna testified that (8) The proposed special exception is suitable with respect to traffic on the roads or highways in order to protect streets and highways from undue congestion and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.

21. Mr. McKenna testified that (9) The natural features and processes characterizing

the proposed site and its surroundings shall not suffer unmitigated degradation, that the management of stormwater, the provision of water or sewer service, and any other alterations to the site's predevelopment condition, shall be consistent with Township's goals, practices and plans in these regards, and that demand for water and energy by the proposed use shall be minimized to the optimal extent.

22. Mr. McKenna testified that (10) did not apply as there is no proposed commercial or industrial use proposed as part of the Application for special exception.

23. The Applicant provided a letter dated March 9, 2022 from Traffic Planning and Design, A-6 and the testimony of Eric Ostimchuk, which addressed the general requirements for traffic planning which would be required if the proposed project were to move forward to the subdivision and land development stage.

24. The Applicant provided testimony from Erin Witt from DR Horton regarding A-2, A-3, A-15 and A-16 which were deeds and agreements of sale to demonstrate DR Horton's equitable interest in the Premises.

25. Geraldine McCormick presented an affidavit addressing her concerns regarding the proposed use as McCormick -1.

26. Mr. Anderson presented an Exhibit Anderson -2 which contained portions of the Honey Brook Township Zoning Ordinance and the Comprehensive Plan and provided testimony regarding his concerns regarding the proposed project.

27. Mr. Slowik presented Exhibits 1-8 and testimony regarding his concerns, specifically regarding environmental resources and related concerns regarding the proposed project.

28. Karen Custer-Force presented a petition as Exhibit 1 and provided testimony

regarding her concerns regarding the proposed project.

29. Renee Cregan presented Exhibits 1-3 and testified to her concerns regarding traffic and police coverage regarding the proposed project.

30. The Appellants and the public comments raised numerous concerns which can generally be characterized as concerns about traffic, housing density, changes in the nature of the surrounding community, impacts to natural resources and impacts to public services.

CONCLUSIONS OF LAW

1. The Applicant is seeking a special exception under Section 27-502.B(9) for multifamily use.

2. The Applicant demonstrated compliance with the requirements for granting a special exception pursuant to 27-1410, which criteria are subjective in nature as opposed to strict objective standards.

3. The opposing Parties and the public comments raised numerous concerns which can generally be characterized as concerns about traffic, housing density, changes in the nature of the surrounding community, impacts to natural resources and impacts to public services.

4. The opposing Parties and general public's concerns, as noted above, can best be addressed through the subdivision and land development process, which process requires detailed information which would address the concerns raised by the opposing Parties and the general public.

5. Regarding 27-1410 A(1), the Zoning Hearing Board concludes that the Township Zoning Ordinance allows multifamily dwellings as a special exception in the MUR zoning district and that multifamily dwellings are consistent with the Comprehensive Plan and the intent of the MUR zoning district.

6. Regarding 27-1410A(2) the Zoning Hearing Board concludes that multifamily housing is appropriate in the MUR on the Premises and is consistent with the character and type of development in the surrounding area, which includes residential developments and mobile home parks, as well as large tract homes and farmland. Multifamily dwellings will not substantially impair, alter or detract from the surrounding property or from the character of the neighborhood. The Board does not have sufficient information to address the appropriate number or layout of multifamily housing which would be appropriate on the Premises and acknowledges that the Planning Commission and Board of Supervisors are the appropriate bodies to address the proper number and configuration of multifamily housing on the Premises.

7. Regarding 27-1410A(3) the Zoning Hearing Board concludes that multifamily housing serves the public health, safety, welfare and best interest of the Township by providing affordable housing compared to typical single family homes.

8. Regarding 27-1410A(4) the Zoning Hearing Board concludes based on the statements in the Application and by direct testimony that the proposed development will be served by public water and sewer and that such utility systems will provide reasonable and efficient services and facilities and that those details as well as details regarding police and fire protection, transportation and public schools will be addressed through the subdivision and land development processes.

9. Regarding 27-1410A(5) the Zoning Hearing Board concludes that multifamily housing shall be required to comply with the Township Subdivision and Land Development Ordinance, which requirement is further addressed below as conditions for this approval.

10. Regarding 27-1410A(6) the Planning Commission prepared a detailed letter recommending granting the special exception, which the Zoning Hearing Board considered.

11. Regarding 27-1410A(7) the Applicant proposed four access points and acknowledged the requirement under the Subdivision and Land Development Ordinance to provide a traffic study for the proposed project.

12. Regarding 27-1410A(8) the Applicant acknowledged that the Subdivision and Land Development Ordinance requires a traffic study for the proposed project.

13. The opposing Parties concerns regarding traffic impacts are premature.

14. Regarding 27-1410A(9) the Applicant acknowledged that the Subdivision and Land Development Ordinance requires the Applicant to obtain all required permits and approvals for the protection of natural resources and natural features, including stormwater and that the provision of water and sewer service and any alterations to the land will be consistent with the Township goals, practices and plans and that demand for water and energy will be minimized to the optimal extent.

WHEREFORE, in consideration of the foregoing Findings of Fact and Conclusions of Law, the application of DR Horton for a special exception under 27-502.B(9) is granted to allow multifamily housing is GRANTED, subject to the following conditions:

1. The Zoning Hearing Board does not specifically approve the number or configuration of the proposed multifamily housing as presented by the Applicant in the Application or through the hearing process. If the proposed project moves forward, the Honey Brook Planning Commission and Board of Supervisors will address those details as part of the subdivision and land development process.

2. The grant of this special exception is conditioned on compliance with the Honey Brook Township Subdivision and Land Development Ordinance.

3. The Zoning Hearing Board recommends that the Planning Commission and Board

of Supervisors give due consideration to all provisions of the Subdivision and Land Development Ordinance, but place special emphasis on those provisions that address density, traffic impacts and natural resource protections, including but not limited to the following provisions:

22-612 Traffic Study. The opposing parties and public comment focused heavily on traffic concerns and as such the traffic study should include all relevant traffic considerations, including all roads proposed to be used to access the Premises.

22-622 Sewage Treatment and Disposal. The Applicant indicated that they propose to utilize public sewer service, but did not indicate the manner by which that service is proposed. The Township should require that all required permits and approvals be obtained as part of the subdivision and land development process.

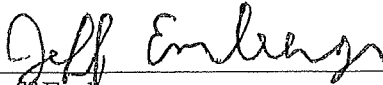
22-623 Water Supply. The Applicant indicated that they propose to utilize public water, but did not indicate the manner by which that service is proposed. The Township should require that all required permits and approvals be obtained as part of the subdivision and land development process.

22-627 Stormwater Management and the Chapter 20 Stormwater Management Ordinance. The Township should ensure that all required permits and approvals are obtained as part of the SALDO process, in order to conserve and protect surface and groundwater resources, agriculturally suited soils, woodlands and that the Applicant implement all required conservation practices as part of any development on the Premises.

22-629 Landscaping. The Township should ensure that all requirements are satisfied including protecting existing vegetation to minimize impacts, replace vegetation as

required, screen neighboring residential areas from the multifamily homes, implement required planting and design standards and implement riparian corridor management plan and planning requirements.

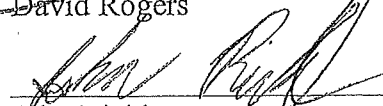
Date: May 9, 2022



Jeff Emberger



David Rogers



John Riehl

Darlene Olear