

HULMEVILLE BOROUGH COUNCIL
Conditional Use Meeting – Sixth Meeting
August 17, 2023

A special meeting of the Hulmeville Borough Council was held on the above date at the William Penn Fire Company, 123 Main Street. The purpose of the meeting was to consider a conditional use application submitted by Superior Holdings LLC. This was a continuation of the meetings conducted on March 15, May 18, May 31, June 29, and July 27, 2023.

Councilmembers Present

Thomas Wheeler, President
Dan Mandolesi, Vice President
Nick Lodise
Judy Coleman
Doug Harris
Jim Pio
Naz Atabas, Junior Council

Staff in Attendance

Thomas Panzer, Solicitor
Bill Wheeler, Borough Manager
Debbie Mahon, Mayor
John Baran, Chief of Police

Council Members on Zoom: none

Councilmembers Absent: Nick Toth (due to personal emergency)

Councilmembers Late to Arrive: none

Staff on Zoom: none

Staff Absent: Dorothy Omiotanski, Secretary, Diane McKairnes, Treasurer, and Kurt Ludwig, Water and Sewer President

Guests in Attendance:

- **For the Applicant:** Ed Murphy, Esq, Attorney for Applicant, Robert Cunningham, Holmes Cunningham Engineering, Civil Engineer, and Eugene Laurenzetti, Superior Holdings LLC
- **For the Protestant:** Terry Clemons, Esquire, representing the Hulmeville Conservation Committee, Daniel Gray, Knight Engineering Inc, and Charles Guttenplan, Land Planning Consultant.
- **For the Borough:** Amanda Fuller, Gilmore and Associates, Borough Engineer, Judith Stern Goldstein, Gilmore and Associates, Planner
- **Stenographer:** Donna DeAngelis Lehmann, Court Reporter

Call to Order: Tom Wheeler called the meeting to order at 7:02 p.m.; all those present joined in the Pledge of Allegiance.

Procedural Matters:

- Tom Panzer explained tonight’s agenda. He stressed it is intended that tonight’s meeting is the last hearing. Public comments will be taken after the testimony is completed.
- Doug Harris recused himself from further proceedings. His recusal was read by Mayor Mahon.

Parties:

No additional persons or organizations requested party status.

Council Exhibits:

No additional Council exhibits were presented at this meeting.

Applicant Exhibits:

A.20 – Borough Street map

A.21 – Pennsylvania Governor’s Center for Local Government Services, Planning Series #7, *Special Exceptions, Conditional Uses and Variances*

Proponent Exhibits:

P.22. - Flooding photos

Proponents Case:

- Mr. Clemons presented Mr. Charles Guttenplan, Land Planning Consultant, and requested he be accepted as an expert in land planning. There were no objections from any party.
- Mr. Clemons questioned what Mr. Guttenplan did to prepare. Mr. Guttenplan indicated that he reviewed the relevant Borough ordinances and did additional research.
- Mr. Guttenplan commented on his analysis of the borough ordinances related to a TND. Mr. Guttenplan then stated, when asked by Mr. Clemons, whether the applicant’s plans met the guidelines of the borough TND requirements. He cited several reasons why he felt it did not. They are as follows:
 1. Mr. Guttenplan talked about the Lehigh Valley Planning Document on TNDs. Mr. Guttenplan explained the document’s purpose, which was to provide design guidance for TNDs. One objective was to disperse the different housing types among each other. Clustering the apartments by themselves, as shown in the applicant’s proposal, does not meet that guideline.
 2. Mr. Guttenplan reviewed houses in Hulmeville. He stated since architectural drawings have not been provided, he has no idea if the applicant’s plan is compatible. Pointed out some details that are typical of a TND, in his opinion.

3. Mr. Guttenplan commented on the borough ordinance, section 1107.A.2.E, regarding highway traffic. He felt a single access was not the way to design. He mentioned a Lansdale ordinance which limits the number of daily trips that a single access entrance development can have. Additional entrances are required for higher daily trip counts. Mr. Guttenplan also commented that there is no interconnection between the “P” roads in the proposed development which is not consistent with the borough TND guidelines.

Questioning:

Mr. Murphy asked whether there was a Bucks County planning document equivalent to the Lehigh Valley Planning Document. Mr. Guttenplan said not that he was aware of.

Mr. Murphy asked whether Mr. Guttenplan would agree that every property is unique. Mr. Guttenplan said yes. Mr. Murphy followed with question whether Mr. Guttenplan agreed no one size fits all. Mr. Guttenplan said yes (agreed one plan does not fit all developments).

Mr. Guttenplan agreed the proposed development included some aspects of a TND, not all, but some.

Mr. Guttenplan agreed steep slopes influence design. Mr. Murphy questioned whether slopes would affect use of alleys in area of the single-family homes. Mr. Guttenplan said there are pervious materials that can be used for alleys to minimize the impact.

Mr. Murphy asked whether he was aware there was only one alley in the Borough, and that alley does not allow for parking behind the houses on Main. Mr. Guttenplan said he was aware.

Mr. Murphy asked if he was aware there was another alley in the borough that was never built (was referring to Margaretta Ave).

Mr. Murphy referred to the Governor’s Center Planning Series #7 document (exhibit A.21). Mr. Murphy confirmed Mr. Guttenplan was familiar with the document. Mr. Murphy highlighted areas on pages 4 & 5, which states the applicant is not required to submit the same level of details for conditional use as they would for a plan development. Another reference is that the mere fact that a development contributes to traffic, generated from other sources, is not grounds for denial. Mr. Guttenplan agreed PennDOT would designate how many entrances, and where they would be placed.

Mr. Murphy questioned whether Mr. Guttenplan agreed the Municipal Planning Code requires every municipality provide various housing types, including multi-family. Mr. Guttenplan agreed multi-family housing was only allowed in R-3 district, under TND, and this was the only location that could be done. However, he would not agree that Borough would not meet its obligation, under the Municipal Planning Code, since he was

not aware of the entire housing makeup of the Borough. Also, if a housing type did not exist, and could not be, then the Borough was not obligated to provide that housing.

Redirect by Mr. Clemons

Asked if exhibit A.21 is a general document used for teaching about special exceptions, conditional uses, and variances. Mr. Guttenplan did not agree that it was a training document, but otherwise agreed. Mr. Clemons further stated the borough ordinances were specific and the plan did not meet them.

Mr. Clemons further questioned whether clustering the apartments together met the design objectives. Mr. Guttenplan said he did not feel it did.

Questions from Council

Jim Pio, referring to exhibit A.21, pages 4 & 5 – Asked to clarify function of the board. Murphy objected as Mr. Guttenplan is not in position to state function of the board. Tom Panzer allowed the question.

Jim Pio, referring to page 5 – If opponents demonstrate health, safety, welfare issues are not met, does the applicant have the burden of proof to prove plan does. Mr. Murphy objected; Tom Panzer allowed the question. Mr. Guttenplan said he felt the burden of proof was still on the applicant.

Judy Coleman questioned whether in a TND, should they try to preserve old houses. Mr. Guttenplan agreed it was desirable.

Mr. Clemons called Patricia Taggart as next, non-expert (lay) witness. Mr. Murphy asked for an offer of proof. Mr. Clemons stated she would testify that she had concerns that the proposal had legal issues, whether it was the most beneficial use, whether meets TND ordinances. Mr. Murphy objected. Mr. Panzer questioned whether a lay witness could address legal issues but allowed the testimony.

Ms. Taggart's concerns included.

- Has petition with over 800 signatures objecting to the development
- Canvassed neighborhood and wanted to tell what she heard. Mr. Murphy objected as here say. Mr. Panzer sustained the objection.
- Mr. Murphy objected to any heresy testimony. Mr. Panzer agreed. Requested the witness only provide her own observations.
- Ms. Taggart is concerned about rumors that the Council needs to legally approve the CU application for fear of being sued. She wanted to point out that these statements were incorrect.
 - If applicant was allowed to build, we would not be here.
 - Proposal does not meet TND provisions in detail. Used filling out an application as an example. If you tried without it being complete, it would be rejected.

- Concern for lawsuit. She said this is a scare tactic and not based on fact.
- Felt this is a business venture for Superior. He will make his money and leave. We, Council and residents, must stay and live with the consequences. What is good for Superior Holdings is not good for the residents.

Question by Jim Pio. He asked whether Ms. Taggart was in contact with Superior. She responded no. No discussion on a preferred plan. He asked whether she was victim of intimidation to which she said yes. Referred to poster “thanking HCC” for change from proposal for single family homes to the TND plan. Felt was threatening because it told people to “thank” these people. Also, mentioned the disappearance of the HCC signs. Jim asked whether she filed a police report, to which she said yes.

Mr. Clemons presented Sandi Carroll who will testify about flooding issues. Mr. Murphy objected to opinions regarding flooding by a non-expert. Mr. Panzer sustained objection. She was allowed to show pictures of flooding during hurricanes/major storms, mostly along Ford Ave. Referred to flooding from waters from Henry’s Run (built in 1977). Mr. Clemons asked if she had photos of the Henry’s Run detention basin. She said yes. Basin never had water in it.

Mr. Clemon’s stated his clients would provide their public comments and would submit written exhibits of their testimony. The need to submit the testimony after making a public comment was questioned (no testimonies were subsequently provided in writing).

Mr. Clemon’s rested.

Tom Wheeler outlined public comment ground rules. Each participant may speak once and limit their comments. Please do not repeat comments made by others.

Nancy Henry – 107 Ford – concerned with potential traffic issues, delays in emergency vehicles

Mary Johnson – 338 Main – concerned with Borough ordinance 27-1107. She believes the development will be a detriment to the community. Commented that saying issues will be dealt with during future phases is not acceptable.

Sue Kosteleski – commented on 2 concepts presented during the original public meeting. Superior stated single-family homes was his (Mr. Laurenzetti’s) preferred design. According to her, he further stated the farmhouse would be saved and renovated to a community center. Stage 2 was never mentioned. Commented on uprooting of wildlife.

Robert Nathan – He heard early on that project complied with the technical criteria of the ordinance. But he knew there was more to consider. Commented that everybody affected should be aware of the project. Stated County (others) had a right to take (condemn) the property and preserve for recreation.

Shanna Carrol – Read list of observed plants and wildlife, several that she feels are in risk of extinction or imperiled in some states.

Jackie Carrol – Felt there is a feeling of dread. Those who do not feel dread are not aware of all the negative effects that are to come. Destruction of greenspace is greatest threat. Adequate greenspace can minimize stress.

Patricia Boyle – Commented on Mr. Pio’s question (to her outside this meeting) about whether she is tired of the same 3 people running the borough. She is not. Felt these individuals are largely responsible for keeping Hulmeville safe and taxes low. Commented she was Borough Secretary when Council revised the ordinance for the R-3 district. She said public comment was sought then since the public opinion counts. Does not object to development of any property if they follow the ordinances. Also felt owner of the property should not be forced to any other development plan they are not interested in. Commented that she would encourage developer to consider single family dwellings. Commented that increased tax base will not result in increased taxes. Commented on other pieces of disinformation.

Dennis Mitchell – Commented on his background as a resident. Tired of propaganda being distributed. Feels council members supporting HCC cannot realistically say they are not biased. Feels details that will be determined during detail design are not cause for denial. Supports conditional use.

Joe Coleman – Says understands Council knows they have to decide based on their understanding of the law. Comments about personal bias should not be relevant – must rely on Council to use their best judgement regardless of their bias. Felt they should preserve historic structures and the farmhouse is definitely historic. Said fact that it is not in the historic district is not because it is not historic, it is because of its separation.

Joe Williams – concerned with the erosion of the creek bank.

No further public comment

Mr. Panzer then stated the next order of business is to close the evidentiary record.

Council is to make decision within 45 days unless the parties agree to a different time frame. Council will consider the evidence provided. Proposed Council meet in mid-September (e.g., 9/19). Any briefs are to be submitted by Friday before (e.g., Sept 15). Council decision will be made publicly. Mr. Panzer proposed Wednesday, October 18 as the public meeting date. Tom Wheeler requested executive session be September 21. All agreed.

Question by Patricia Taggart whether Council will only meet once? Tom Panzer said if needed they would meet more, subject to any required advertising. She further questioned whether Council would know, during the Executive Session, what the vote would be? Mr. Panzer explained they may, but may change their minds after discussing, and actual vote will be in public.

Motion made by Dan Mandolesi, seconded by Nick Lodise, to close the record. Motion passed with all in favor, 5-0-0.

Motion made by Nick Lodise, seconded by Dan Mandolesi, to meet in Executive session on September 21, 2023, at 7 p.m. Motion passed with all in favor, 5-0-0.

Motion made by Mr. Mandolesi and seconded by Mr. Lodise to continue the public meeting on Wednesday, October 18, at 7 pm at William Penn Fire Co; motion passed with all in favor 5-0-0.

Motion made by Nick Lodise, seconded by Dan Mandolesi, to adjourn for the evening. Motion passed with all in favor, 5-0-0.

Respectfully Submitted

William Wheeler
Acting Secretary