

Brief as presented by Paul N. Houle regarding the Conditional Use Application and Master Development Plan of JSPA Realty's proposed "Hawthorne Mount Pocono Resort".

7/21/2023

ISSUE 1

Regarding Ordinance 160-21 (7) (b):

finding of the facts:

Ordinance 160-21 (7) (b) reads "No site disturbance shall be allowed on slopes exceeding 25%, except under the following circumstances:

[1]

Logging shall be by specific approval of the Board of Supervisors. A submission plan shall include an approved soil erosion and sedimentation plan; a listing of the amounts and species of timber to be harvested, which in no case can be conducted on more than 15% of the acreage located on these slopes; and a reclamation plan for restoring the site. Precautions shall be taken to avoid destruction or injury of brush and trees.

[2]

Grading for a portion of a driveway accessing a single-family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25% is possible.

[3]

Any driveway or other access road must be designed to have a slope length no greater than 75 feet."

Discussion:

As can be seen and read or measured from their exhibit titled "Geotechnical Engineering Report prepared by Midlantic Engineering Inc. page 15, (Applicants 21), slopes on the property which is an extension of rock ridge road leading from the proposed resort area to the proposed commercial area and in particular which separates the property of Paul Houle from the Montgomery property have values which run as high as 42% over horizontal distances of 100 ft.

Conclusion Issue 1:

Therefore that property which is the portion of the extension of rock ridge rd shall have no disturbance as it has slopes greater than 25% and none of the exceptions in this ordinance apply. This also removes this strip of land from being considered a 'link' between the proposed resort and the proposed commercial area.

ISSUE 2

Regarding Ordinance 160-12 43.B(e)

Finding of the facts:

Ordinance 160-12 43.B (e) reads in part " Master development tracts shall have frontage along and direct access to a road or highway controlled by the Pennsylvania Department of Transportation."

Discussion:

As seen from exhibit sheet 2 of 11 (pg. 2 of Hawthorne Mount Pocono Resort Conditional use and Master Development plan) there is no direct access to a road or highway controlled by the Pennsylvania Department of Transportation.

Conclusion Issue 2:

The Master Development Plan shows no such direct access to a road or highway controlled by the Pennsylvania Department of Transportation. Therefore, the application should be rejected.

ISSUE 3

Regarding Ordinance 160-71B(1):

Finding of the facts:

It is completely true that in numerous parts of the paradise township ordinances it's made clear that terms or words in the ordinances that are not defined explicitly within those ordinances are to be taken as having their 'customary meaning'. See ordinances 87-4, 102-4, 110-3 et. al., and most importantly 160-55.

Ordinance 160-71B(1) reads:

"Purpose: The Resort Development Area District is established for the following purposes: (1) To provide an opportunity for integrated (underline mine) development of a variety of uses according to a Master Development Plan ("Master Development Plan");"

The word 'integrated' is not defined within the ordinances and so its 'customary meaning' is to be used.

Mr. Varaly has written and stated that the definition he found in 'Webster's Dictionary' is "integrated as something "with various parts or aspects linked or coordinate." --see "John R. Varaly, AICP, memorandum dated April 27, 2023 re: report on JSPA Realty, LCC—Conditional Use Application.

Mr. Houle has provided a copy of the definition given by webster with the appropriate citation and where this can be found. He provides (See exhibit Houle 1):

From: <https://www.merriam-webster.com> Webster's internet dictionary:

“Legal Definition: integrate

verb

in·te·grate; integrated; integrating

transitive verb

: to form, coordinate, or blend (underline mine) into a functioning or unified whole.”

(There are a number of other definitions but this one is the most appropriate for this point.)

(Mr. Houle also provides Webster's definition of the word 'blend' from the same source as Houle exhibit # 1.):

“blend

1 of 2

verb:

'blend' *blended* also *blent* **'blent'** ; *blending*”

(and to further clarify the meaning of the word blend, Mr. Houle provides (See Houle exhibit number 1) some synonyms of the word 'blend' again taken from the same source):

“Synonyms of blend transitive verb:

1

MIX

especially : to combine or associate so that the separate constituents or **the line of demarcation cannot be distinguished** (underline and bold mine) “

Discussion:

Mr. Varaly fails to cite the year of the publication of the dictionary he attests to have used, nor does he include a copy of the page on which the definition is provided, only his testimony which claims that definition exists. Further Mr. Varaly has not been sworn in as an expert linguist and therefore his remarks as to the definition of the term 'Integrated' cannot be taken as 'expert testimony'.

Now then, Mr. Houle provides Webster's internet dictionary resource in detail which can be easily accessed by the reader..

A line of demarcation in Mr. Houle's provided definition (Houle exhibit number 1) is clearly seen between the proposed resort area and the proposed commercial area. (See Hawthorne Mount Pocono Resort Conditional Use and Master Development plan page 1 of 4, dated Aug 8, 2022 and revised Nov. 23, 2022.) Beyond what would be considered a line, there is an entire area of demarcation ! Therefore, the proposed development is not integrated as provided by Webster's dictionary cited by Mr. Houle. Furthermore, there is the term 'customary meaning' (underline mine) of the word 'integrated' required by the ordinances. There is no evidence provided by Mr. Varaly that the definition he provides is its customary meaning. If we consider the use of the word 'integration' as given here: integration of blacks with whites by president Truman during World War II, and the integration of the blacks with whites by president Kennedy in the 60s, it is easy to see that the definition provided Mr. Houle is far closer to the 'customary meaning' of the term 'integrated' than that suggested by Mr. Varaly. Furthermore Mr. Varaly is not an expert in the English language.

The developer is not at liberty to use any definition he chooses, just the 'customary meaning' definition.

Conclusion Issue 3:

The proposed resort development and the proposed commercial development are not integrated according to its customary meaning in Paradise Township. as defined in Houle exhibit 1

Therefore the proposed commercial portion of this development plan must be denied as it is not integrated with the proposed resort development.

Paul N. Houle

Paul N. Houle
Paul N. Houle