

PARADISE TOWNSHIP BOARD OF SUPERVISORS

**In Re: JSPA REALTY, LLC – Conditional Use Application
for Hawthorne Mount Pocono Resort**

**June 22, 2023, 6:00 P.M., Conditional Use Hearing,
Paradise Township Municipal Building**

I. **Next Hearing.** August 14, 2023, at 5:00 p.m., at the Paradise Township Municipal Building.

II. **Briefs.**

a. **Time of Filing.** Briefs for all parties must be received by Paradise Township by 4:00 p.m. on July 28, 2023. Briefs will be accepted in writing or electronically via email. The Supervisors will not consider the postmark dates, dates of marking, or any other factor when considering receipt of briefs. The briefs must be physically in the Township’s possession by 4:00 p.m. on July 28, 2023. Emails with briefs enclosed received after 4:00 p.m. on July 28, 2023 will not be considered. The Township will distribute all briefs it timely receives, via email, to all parties.

b. **Content of Briefs.** Briefs shall not include any evidence not of record. Such new evidence will not be considered. Anyone writing a brief must submit their brief arguing only record facts found in the hearing transcripts or exhibits entered into the record. Briefs, in addition to the issues set forth below, may argue relevant portions of the Township Code of Ordinances, applicable statutory law, and case law.

To be clear, briefs are not evidence and will not be considered evidence. Briefs represent a parties opportunity to make legal arguments for or against conditional use approval, or for specific conditions based solely on the facts of record.

Hearing transcripts are available for purchase from the Court Reporter, Donna Kenderdine, email: dgk57@aol.com, phone (570) 992-7766, or a party may come to the Township to review copies of the hearing transcripts and exhibits. The exhibits are only housed at the Township and will not be included with the hearing transcripts if purchased. The Township cannot, by law, disseminate transcripts of an ongoing legal matter. Please make appropriate arrangements for access to the information you may need to write your brief.

c. **Form of the Briefs.** Each brief should contain the following format:

i. **Proposed Findings of Fact.** These are facts taken from the record which the brief writer wishes the Township to consider when making its argument.

Each fact should be supported by a cite to the relevant transcript (date of transcript and page number on which the fact is found) or to exhibits (name of exhibit, exhibit number, and page of exhibit).

- ii. Conclusions of Law. The conclusions of law are legal principles which the brief writer is utilizing to support its argument. This section should include cites to relevant Township ordinances, statutory law, and case law. Each new principle should be numbered separately and set forth in a succinct fashion the principle in writing. The citation is to support the principle and not replace it.
- iii. Discussion. The discussion section is where the proposed findings of fact and legal conclusion are coalesced into an argument supporting the position being espoused by the brief writer. The discussion section should provide a basis of support for why specific conditions being requested should be imposed.
- iv. Conclusion. The conclusions shall be a short, concise statement of the position of the brief writer which also sets forth the relief being requested, to wit: for or against the application. If the brief writer is in favor of the project but requests specific conditions be imposed, please set forth each such condition.

III. **Issues for Briefing**. The Supervisors request that briefs address, at a minimum, the following issues based on facts (transcripts and exhibits) of record.

- a. Chapter 160, Article III, Section 160-12(43.B) requires in a Resort Development Overlay District, to wit: “Master developments require a minimum of 60 contiguous acres for development.” Please provide the factual basis and legal support that the proposed resort and commercial areas are on contiguous parcels and whether any other municipal approvals are required to support the argument that the property is contiguous by way of connection through a separate municipality. Also include factual support and legal basis that a Township road, Rock Ridge, can be used to support a finding of a contiguous parcel under the ordinance and law. Please provide any proposed conditions, if any.
- b. A master development tract under the Paradise Township Zoning Ordinance is required to have frontage along and direct access to a road or highway controlled by PennDOT (see Chapter 160, Article III, Section 160-12(43.B.(e))). Please address based on facts of record how the proposed application intends to meet this requirement for both the commercial and resort. Also address whether restricted access to and from the resort and/or the commercial shopping center meet the intent of the ordinance. Finally, if the proposed roundabout is not approved, how will the master development meet this zoning requirement? Please provide any proposed conditions, if any.

- c. Chapter 160, Article XII, Section 160-71(B)(2) sets forth a purpose of the Resort Development Overlay District, “to provide the opportunity for integrated development of a variety of uses according to a Master Development Plan.” Please provide the factual and legal basis for how the two proposed uses (resort and commercial/shopping center) on two separate parcels meet the purpose of the ordinance. Please also address the factual and legal basis of whether the use of a walking path on Rock Ridge Road supports a finding of interconnectivity and integration of the resort and commercial shopping center sites. Please provide any proposed conditions, if any.
- d. Chapter 160, Article III, Section 160-12(43.B)(h)[4] authorizes commercial shopping centers in the Resort Development Overlay District as part of the Master Development Plan. The resort is authorized to be developed separately in the district with conditional use approval. Please provide the factual basis and legal support as to whether the commercial shopping center may be developed and continued if the resort fails or the resort use is terminated at any time after conditional use approval is granted. Please provide any proposed conditions, if any.
- e. Pursuant to Chapter 160, Article III, Section 160-10(7), Conditional and Special Exception Use Regulations require a General Standards which include a demonstration that the conditional use shall not jeopardize the public health, safety, welfare, quality of life, or convenience of Township residents and shall be designed and constructed such that vehicular and pedestrian traffic does not create undue congestion or hazards prejudicial to the general area. The issue of elimination or mitigation of collateral U-turn traffic to meet the above standard at the more proximal Wiscasset Road/State Route 611 intersection and continuation of that traffic onto Rock Ridge Road resulting from restricted access into the commercial center should be addressed including, but not limited to, if the proposed roundabout is not approved by PennDOT. Please provide any proposed conditions, if any.
- f. Any other position relevant to the position of the brief writer. Please provide any proposed conditions, if any.

IV. **Final Hearing and Public Participation.** It is anticipated that the August 14, 2023 date is the final hearing. The record will be closed after listing the briefs that were timely filed and received. Once the record is closed, the public will have the opportunity to make statements. The statements will not be transcribed or be part of the record. The conditional use decision and order of the Supervisors will be based solely on the record as it exists when the hearing is closed.

Distributed at June 22, 2023 conditional use hearing. Memo shall be posted on Township’s Website and sent to all parties via email.