

# THE IMPORTANCE AND LIMITATIONS OF HISTORIC PRESERVATION LAW: LESSONS FROM THE OREGON VILLAGE PROJECT



Looking Out the Reading Road Toward Lancaster, Oregon, Pa.

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## PROPOSED OREGON VILLAGE DEVELOPMENT

This map of Oregon Village shows the two sites of housing and commercial uses on both sides of Oregon Pike in Manheim Township.



SOURCE: RETTEW





Date: July 6th, 2013

Project: Oregon Village

Scale: 1" = 100'



# Oregon Village

Variance Exhibit 1-Overall Plan

RETTEW



## TIMELINE: 2016-17

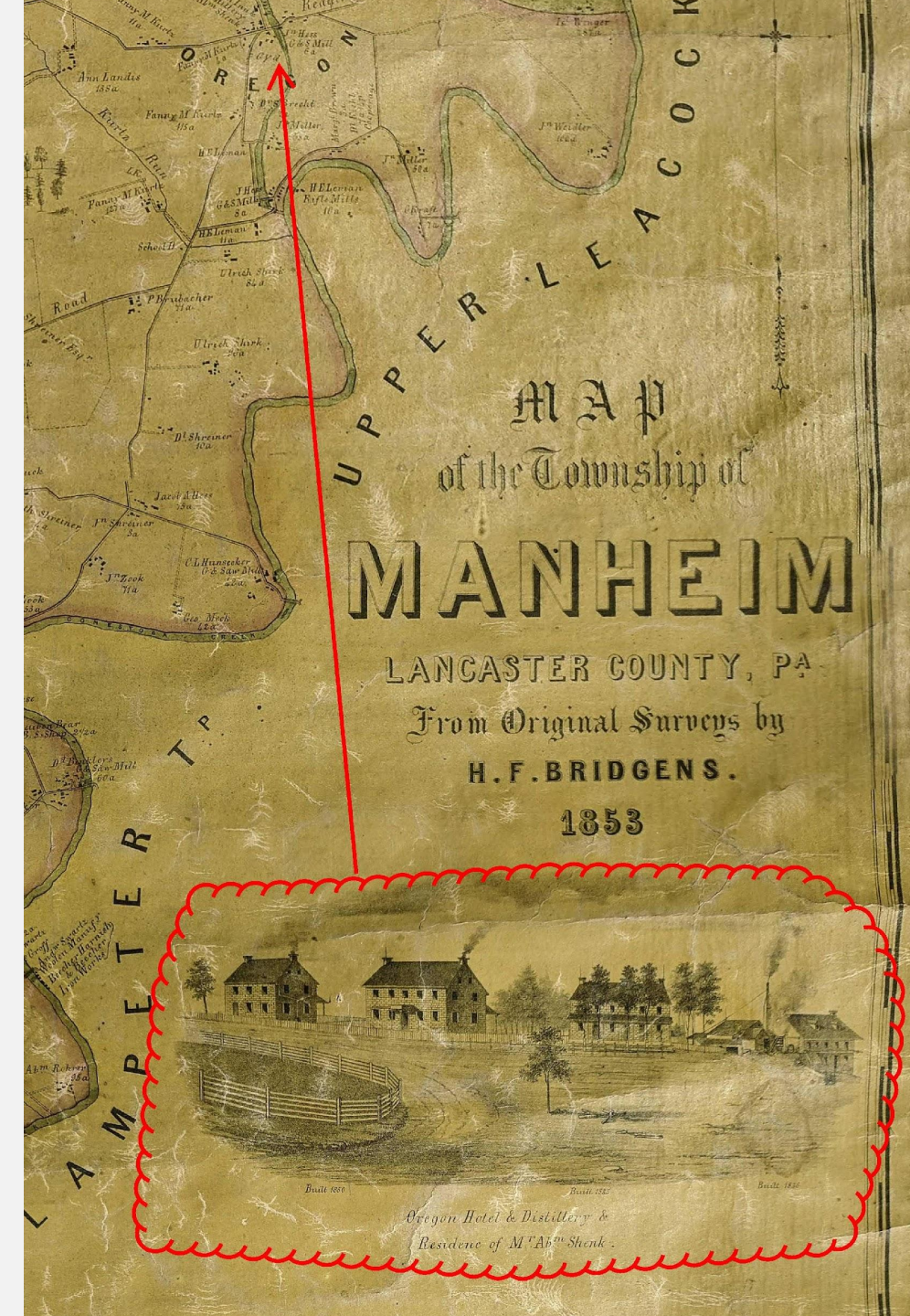
- 2016: Hurst Family submits Conditional Use application to Manheim Township
- January 2017: Conditional Use application rejected
  - Infrastructure concerns
  - Preservation Easement on small agricultural parcel (less than .5 acre)
- October 2018: Developers re-apply for Conditional Use
  - changes to traffic patterns in revised plan eliminate need to extinguish easement or acquire property through eminent domain
- December 2018: Planning Commission approves revised conditional use application; moves the application to township commissioners





# TIMELINE JANUARY-JUNE 2019

- January 2019: Commissioners open public hearings on conditional use application (held monthly through June)
  - Party Status denied to Manheim Township Historical Society and Respect Farmland
  - Commissioners rule that the project is not located in MT's historical overlay, and it is not zoned agricultural
- 1st Half of 2019: Open Hearings
  - Developers argue that project fits into township and county plans to limit sprawl through the application of village overlays
  - Asserts that there will be no adverse effects to general welfare of community
  - Randy Harris' testimony was abruptly cut short.
  - Criticism of proposed Architectural Design Guidelines was not taken seriously.
- June 2019: Commissioners approve Conditional Use application
  - 76 acre mixed-use village development
  - 550 housing units, single family, apartments, and townhouses
  - 120 bed hotel and other commercial development





## TIMELINE: JULY 2019

- Mary Bolinger appeals commissioner's decision to Lancaster County Court
- States that the commissioners failed to identify and protect and preserve historic sites near the development, as required by MT's historic preservation ordinance
- Argues that the commissioners were in error by not including her c. 1860 property as an historic site entitled to protection



## TIMELINE: NOVEMBER 2020

- Judge Brown denies Bolinger's appeal, upholds decision to approve the conditional use application
- Ruling contends that improved traffic pattern would divert traffic away from historic structures, thus adequately protecting historic structures located on them
- Judge Brown ruled that Bolinger did not adequately establish the structures historic value and that inclusion on databases of historic sites was not adequate to establish that historic value

Sept. 22, 1992

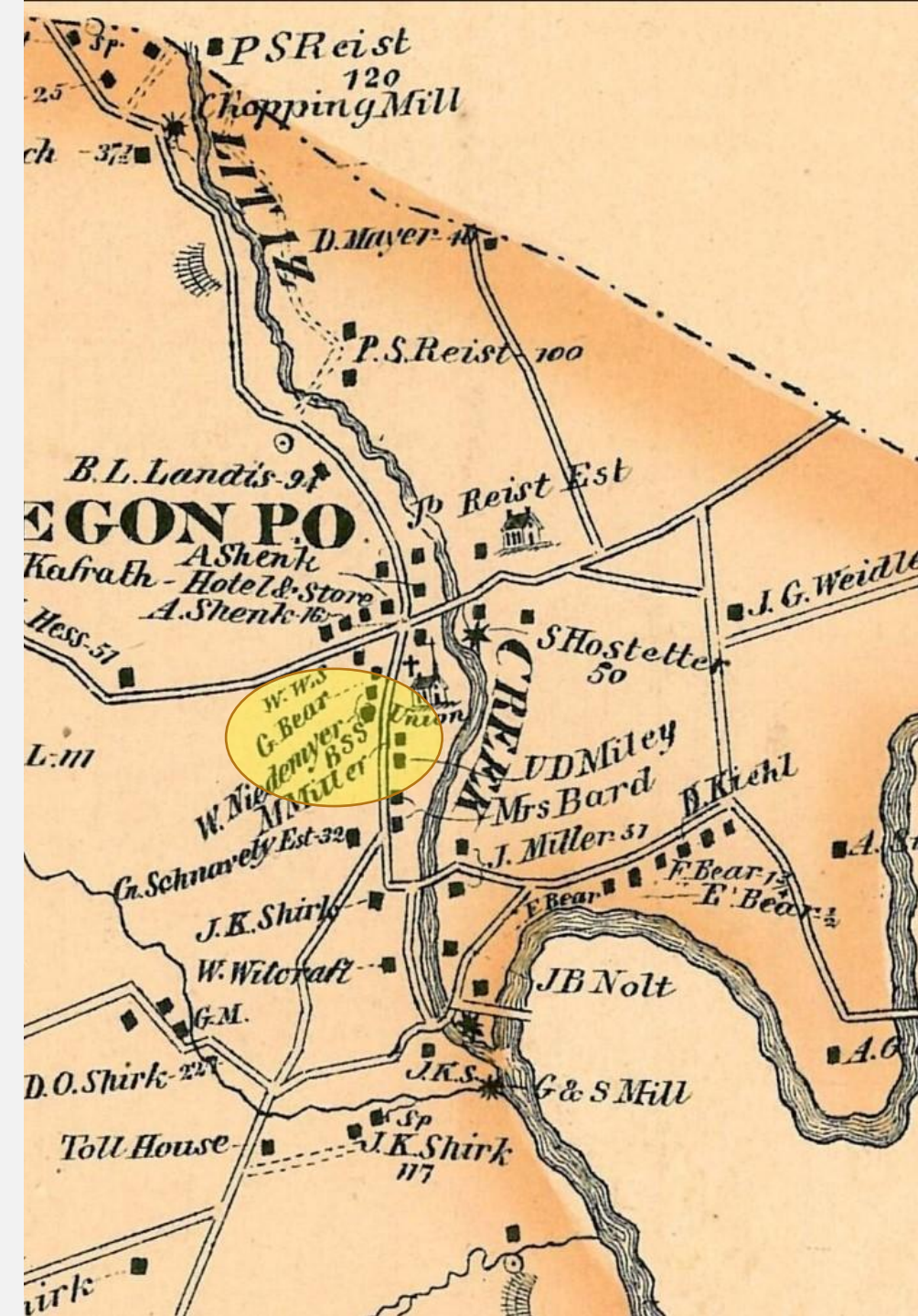
3. Oregon Schoolhouse (PACS #5), northside of Oregon Rd., Manheim Twp.: this resource meets National Register criteria A and C as a good example of a rural late 19th century school.
4. Grabill Bear House (PACS #6), southside of Oregon Rd., Manheim Twp.: this property meets National Register criterion C as a good example of a vernacular interpretation of the Italianate style of architecture.
5. Dr. Brecht Farmstead (PACS #18), eastside of Creek Rd., Manheim Twp.: this intact mid-19th century farmstead meets National Register criteria C as a good example of its type.
6. Frederick Bear Cigar Factory (PACS #12), Creek Rd., Manheim Twp.: This property is a locally significant commercial





## TIMELINE: DECEMBER 2021

- Bolinger wins appeal of Judge Brown's decision at Commonwealth Court
- Court rules that Judge Brown went too far by ruling that Bolinger failed to prove her property was historic
- Court rules that township commissioners misinterpreted the zoning rules when approving the conditional use application
- Property owners do not appeal to State Supreme Court





## TIMELINE: MARCH 2022

- Commonwealth Court remands the Conditional Use application back to township commissioners
- Developer required to demonstrate no adverse effects on historic properties
- Four of five commissioners recuse themselves from voting on the application, no action possible





## TIMELINE: APRIL-JUNE 2022

- April 2022: Commissioners again recuse themselves from voting on the Conditional Use application; township solicitor, attorneys for the Hursts and Bolinger all agree that the commissioners should vote on the application
- April 2022; Judge Brown issues court order requiring two of the recused commissioners to vote on the application
- June 2022: Commissioners unanimously vote to deny the Conditional Use application, citing the omission of Mary Bolinger's property in the list of impacted historic sites







## TIMELINE: SEPTEMBER 2022

- September 14: Developers again appeal decision to Court of Common Pleas
- Key points of appeal:
  - 2019 decision based on position that Bolinger property was not associated with any historic events, and that the architectural features alone did not warrant the the property being listed as historic
  - Following the Commonwealth Court decision, commissioners agreed that Bolinger's house was in fact listed on the township's historic overlay, and thus eligible for protection against adverse effects of development
  - However, since historic overlay was not part of 2019 proceedings, historic resources should not be considered now
  - Because key information about the Bolinger property is missing from the c. 1990 historic overlay, the property should be disqualified from inclusion thereon



# LESSONS FROM OREGON VILLAGE

- Responsibility for identifying and protecting historic sites falls to municipal governments
- Municipal decisions are liable to judicial review
- Municipalities need well written ordinances for historic preservation
- Historic overlays or inventories must be kept current, accurate, and complete
- Potential impact of development on historic resources should be considered early in zoning processes
- Municipalities must be willing and in the position to enforce their historic preservation ordinances

## Vegetation Legend

- Proposed Street Tree
- Proposed Deciduous Tree
- Proposed Evergreen Tree
- Proposed Ornamental Tree
- Existing Tree
- Shrub or Groundcover
- Meadow/Grass/No Scale
- Stream
- Creek