



TOWNSHIP OF UPPER UWCHLAN
BOARD OF SUPERVISORS
REGULAR MEETING,
CONDITIONAL USE HEARINGS

May 15, 2017
7:00 p.m.
Approved

In Attendance:

Board of Supervisors

Kevin C. Kerr, Chair
Jamie W. Goncharoff, Vice-Chair
Guy A. Donatelli, Member

John E. Good, Esq., Township Solicitor
Elaine Parrish, Court Stenographer

Township Administration

Cary B. Vargo, Township Manager
Shanna Lodge, Assistant Township Manager
Gwen A. Jonik, Township Secretary
Jill Bukata, Township Treasurer
Al Gaspari, Codes Administrator
Mike Heckman, Director of Public Works
Dave Leh, Township Engineer
Chris Williams, Township Traffic Engineer

Mr. Kerr called the meeting to order at 7:01 p.m., led the Pledge of Allegiance, and offered a moment of silence.

Approval of Minutes

Mr. Goncharoff moved, seconded by Mr. Donatelli, to approve as presented the minutes of the April 11, 2017 Joint Boards and Commissions Workshop and the April 17, 2017 Board of Supervisors Meeting.

The Motion carried unanimously.

Mr. Kerr reminded the audience that the Board recently adopted a Policy that if anyone is going to video or audio tape the meeting, they are to advise the Chair prior to the start of the meeting.

Approval of Payments

Mr. Goncharoff moved, seconded by Mr. Donatelli, to pay all vendors as listed May 11, 2017, totaling \$730,926.66. The Motion carried unanimously.

Treasurer's Report

Jill Bukata reported a strong balance sheet; year to date revenues are at 40.6% of the budget; expenses are at 28.6 % of the budget; and earned income tax revenues are slightly less than this time 2016.

Supervisor's Report

Community Service Recognitions. Mr. Kerr presented Fire Chief Richard Ruth with a framed Letter of Recognition, commemorating Chief Ruth's 60 years of service with the Lionville Fire Company.

Scott Nicely, Township Emergency Management Coordinator, on behalf of the Emergency Management Planning Commission, presented a plaque to the Uwchlan Ambulance Corps, in recognition of the Corps' offering life-saving educational programs to Upper Uwchlan Township residents. Uwchlan Ambulance Corps members in attendance: John Applegate, Chief; Mark Alloway, Past President; Joe Behm, AEMT; Connor Ryan, Paramedic; Tiffany Guth, EMT/Explorer; and Tyler Orlando, Explorer.

Mr. Kerr read the published calendar: May 29, 2017 Office Closed – Memorial Day; June 13, 2017 4:00 p.m. Board of Supervisors Workshop; June 17, 2017 6:00 p.m. 9th Annual Upper Uwchlan Township Block Party on Route 100; June 19, 2017 7:00 p.m. Board of Supervisors Meeting; Yard Waste Collections: May 17, May 24, May 31, June 7, June 14.

Mr. Goncharoff asked if commercial companies can dump yard waste in our dumpsters. Mr. Heckman advised that the yard waste dumpsters are for use by Upper Uwchlan residents, not their landscapers, not commercial entities. This information is marked on the dumpster.

Administration Reports

Township Engineer's Report

Dave Leh reported that the McKee Group is revising their preliminary land development plans and will return to the Planning Commission in June; revised Jankowski Tract conditional use plans will be reviewed by the Planning Commission in June in preparation for the June 19 Conditional Use Hearing.

Building and Codes Department Report

Al Gaspari reported that 61 building permits were issued in April, totaling \$30,429 in permit fees; the Zoning Hearing Board will meet late May to hear the Fetter's request regarding an addition to a non-conforming structure; there have been several complaints recently about truck noise overnight – call if you have an issue; a Commercial Safety Inspection Program will kick off in June – a 3-year rotation cycle – there is a long list of items that will be inspected, including smoke detectors, clear stairwells, ADA accessibility, etc. Hal Harper asked if zoning regulation conformance would be included. Mr. Gaspari replied yes, it will be included.

Police Chief's Report

Cary Vargo reported that 1,001 incidents were logged last month, including 3 arrests, and 97 citations were issued.

Public Works Department Report

Mike Heckman reported that the Department completed the following work orders during April – 1 Municipal Authority; 79 PA 1-calls; 33 public works; 3 parks; 9 solid waste/recycling; as well as cleaning storm water inlets, installing a sump pit at Hickory Park to resolve an on-going drainage problem between fields, finishing the resurfacing the parking lot at Hickory Park, tree trimming, installing the flagpole at Upland Farms Park and filling potholes.

Land Development

Escrow Release. Toll Brothers has requested a release of escrowed funds for work completed at the Reserve at Chester Springs project on Little Conestoga Road. Gilmore & Associates reviewed the request and recommends the release of \$159,922.76. Mr. Goncharoff moved, seconded by Mr. Donatelli, to release the \$159,922.76. The Motion carried unanimously.

Marsh Lea Preliminary / Final Subdivision and Land Development Plan. Adam Brower, of E.B. Walsh, and T.R. Moser were present seeking approval of the Marsh Lea (formerly known as "Popjoy") Subdivision, a proposed 27-home development on Little Conestoga Road, at the boundary with Wallace Township – 21 homes in Upper Uwchlan, 6 in Wallace. The Plans have been reviewed by the Township consultants, the Planning Commission and the Board of Supervisors several times over the past year. Items of interest include: 1) a trail easement along Lot 17 which creates a connection from the development's sidewalk to the Brandywine Trail without going out to Little Conestoga Road. The trail easement will be a mowed grass trail, maintained by the Homeowners Association, who will also take care of the storm water basin along that Lot; 2) the postal service has a new policy eliminating door-to-door mail delivery

which necessitates a cluster mailbox. It will be centrally located with expanded right-of-way where several cars can stack, if necessary; 3) two underground tanks (10,000 gallons each) will provide for fire-fighting purposes as the development won't have public water service. One would be centrally located and the other in the open space in Wallace Township. Glen Moore Fire Company will provide guidance regarding the on-going maintenance of the tanks, mostly like through the Homeowners Association. Mr. Moser said the Homeowners Association documents are being drafted at this time. Mr. Goncharoff would like the Township to review those documents before they're recorded.

Mr. Donatelli moved, seconded by Mr. Goncharoff, to grant Preliminary/Final Subdivision and Land Development Approval to the plan titled "Marsh Lea Subdivision" prepared by E. B. Walsh & Associates dated April 17, 2016 and last revised February 9, 2017 with the following conditions:

1. The applicant shall adhere to all conditions and requirements set forth in the February 21, 2017 Conditional Use Decision & Order.
2. The plans shall be revised to address the comments raised in the April 11, 2017 Gilmore & Associates, Inc. review letter.
3. A waiver is hereby granted from Subdivision / Land Development Ordinance Section 162-28.A. to permit a 28' wide cartway in lieu of the required 32' wide width with the condition no parking will be permitted along the street.
4. A waiver is hereby granted from Subdivision / Land Development Ordinance Section 162-38.C.5 to permit driveways, with slopes greater than eight (8) percent, without providing a parking space within the right-of-way.
5. A waiver is hereby granted from Subdivision / Land Development Ordinance Section 162-41 to not provide sidewalk on both sides of the street.
6. A waiver is hereby granted from Subdivision / Land Development Ordinance Section 162-46.A.(5) to allow the lot depth to be greater than 3 times the lot width for Lot 23.
7. A waiver is hereby granted from Storm Water Management Ordinance Section 310.B to permit less than one foot of freeboard shall be provided between the 100-year water surface elevation and the top of embankment.
8. The Applicant shall obtain a Highway Occupancy Permit from Pa-DOT for the proposed accesses to Little Conestoga Road.
9. The Applicant shall obtain all applicable permits from The Chester County Conservation District and Pa-DEP.
10. The applicant shall work with Wallace Township, The Brandywine Trail Club, and Marsh Creek State Park to provide a connection to the existing trail system located along the south side of the property.
11. A Traffic Impact Fee shall be paid in the amount of \$74,688. The fee shall be paid prior to the issuance of the first building permit.

Mr. Brower questioned whether or not the payment of the traffic impact fee could be spread over several payments. Mr. Vargo reiterated the traffic impact fee shall be paid prior to issuance of the first building permit. The Motion carried unanimously.

Marsh Lea Sewage Facilities Planning Module (SFPM). The Board was requested to authorize the submission of the Marsh Lea SFPM to the Department of Environmental Protection (PaDEP) for their review and approval. Mr. Goncharoff moved, seconded by Mr. Donatelli, to adopt Resolution #05-15-17-09, authorizing the submission of the Marsh Lea SFPM to PaDEP. The Motion carried unanimously.

Byers Station (Parcel 5C) Amended Approval – Planned Residential Development (PRD). Alyson Zarro, Esq. of Riley Riper Hollin & Colagreco and Bob Dwyer, on behalf of Equus and Byers Retail Acquisition requested the Board revise the Final Approval for the Village at Byers Station (Parcel 5C) to clarify that the Approval is specific to Lot 1 – the residential only Lot – and is approved as part of the Planned Residential Development (PRD). It will also establish a 5-year development schedule for Parcel 5C Lot 2 – the commercial/retail only Lot. This is a

procedural request, as a “PRD” approval is slightly different from Land Development Approval, which was granted by the Board of Supervisors February 21, 2017. The revised Approval document was reviewed by the Township Solicitor.

Mr. Donatelli moved, seconded by Mr. Goncharoff, to approve the following Decision and Order. The Motion carried unanimously.

**Application of Byers Residential Acquisition, L.P. and Byers Retail Acquisition, L.P. for
Final Approval of the Residential Portion of Parcel 5C at Byers Station
Decision and Order**

1. The Final Plan shall be revised to comply with Gilmore & Associates, Inc. review letter dated November 3, 2016 and the Final Plan shall be labeled “Final PRD Plan, Lot 1, Parcel 5C The Village at Byers Station.”
2. The applicant shall secure all required outside agency permitting prior to plan recording.
3. The Applicant hereby agrees to make a contribution in the amount of \$206,000 to be utilized for the construction of Eagle Park. This contribution shall be made prior to the release of plans for recordation.
4. A multi-use trail shall be provided along Darrell Drive from Graphite Mine Road to Pottstown Pike.
5. A tot lot similar to that which is provided in the Windsor Ridge Development in Upper Uwchlan Township shall be provided within Lot 1.
6. The following proposed crosswalks shall be eliminated from the Final Plan:
 - Darrell Drive and Pottstown Pike (Northwest corner of project)
 - Darrell Drive and Graphite Mine Road (Northeast corner of project)
 - Station Boulevard and Graphite Mine Road (Southeast corner of project)
7. The proposed street light at Darrell Drive and Pottstown Pike (Northwest corner of project) shall be eliminated.
8. An ADA compliant ramp for the trail shall be provided on the western side of the driveway access on Station Boulevard.
9. The trail segment currently depicted adjacent to Station Boulevard shall be eliminated from the east side of Station Boulevard driveway access to Graphite Mine Road.
10. Applicant shall revise the plans to provide a trail crossing over Station Boulevard to connect the trail on Lot # 2 to an existing trail on the south side of Station Boulevard, unless Applicant can demonstrate to the Board that such trail connection is prohibitively costly and creates an undue financial burden in which case Applicant shall provide a trail connection in a different location accepted by the Board.
11. If Applicant does not install a retaining wall along Route 100 and the slopes exceed 3(H):1(V), geotechnical computations shall be provided confirming the proposed slope will be stable. In addition, the areas disturbed shall be planted with low maintenance vegetation to stabilize the area disturbed.
12. A waiver from Section 162-39.E to permit Belgian block curbing is hereby granted.
13. A waiver from Section 162-41.A which requires sidewalk to be provided on both sides of new streets is hereby granted. Sidewalks shall be provided on one (1) side of all internal streets.
14. A waiver from Section 152-311.G.(1) to permit the use of HDPE piping within the right-of-way instead of RCP is hereby granted.
15. A waiver from Section 152-311.H.(3) to permit the use of naturalized spillway lining instead of concrete block is hereby granted.
16. To the extent that the Final Plan or any of the conditions attached herein through this Order are inconsistent with the tentative plan approval granted by this Board in 1999 for Parcel 5C, the conditions of approval set forth herein shall control.
17. The commercial allocation of retail square footage depicted on Lot 2 of the Application is consistent with the June 7, 1999 tentative approval and shall continue to be deemed a tentatively-approved planned residential plan. Pursuant to Section 709(c) of the Pennsylvania Municipalities Planning Code, the period of time in which an Application for final approval of Lot 2, Parcel 5C must be filed with Upper Uwchlan Township shall be five (5) years from the date of this Order, unless otherwise amended upon request of the Applicant by this Board.

ADMINISTRATION

Authorize Advertisement of Zoning Ordinance Amendments – Medical Marijuana, Keeping of Chickens. Cary Vargo provided background: the State legalized medical marijuana in 2016. The proposed zoning ordinance amendments would make it possible to have a dispensary in the C-1 and C-3 commercial districts and a grower/processor in the LI and PI industrial districts. If we don't amend these sections, those uses are open to interpretation in all of our zoning districts. Keeping of Chickens: currently residents are not allowed to raise chickens. The proposed amendments would allow residents of single-family dwellings to keep a small number of chickens while providing standards to limit adverse impacts on neighbors.

Mr. Donatelli moved, seconded by Mr. Goncharoff, to authorize the advertisement of the proposed Ordinance amendments. Steve McNaughton made comment regarding 'chicken tractors' - portable chicken coops - and Brett Boden made comment regarding acreage. The Motion to advertise carried unanimously.

Mr. Kerr announced that May 21-27, 2017 is National Public Works Week. The Board wanted to recognize the Public Works Department's services and contributions to the health, safety and welfare of the community. Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Resolution #05-15-17-10, a Proclamation in support and recognition of National Public Works Week. The Motion carried unanimously.

Open Session

Joe, a Greenridge Road resident, and several other neighbors asked of the development plans for the Uppatinas School grounds. Mr. Vargo advised that the Developer subdivided 2 lots from the property, for single-family homes, and he's currently researching sewer system options, for @ 12 condos using the adaptive re-use of historic structures codes. No additions can be added to the existing buildings – any renovations need to stay within the existing building footprint. No plans have been submitted.

Brett Boden inquired of the Struble Trail expansion plans. Mr. Vargo advised the improved trailhead parking area should open soon, and a pedestrian crossing signal on Dorlan Mill Road is going through the review process, but he's unaware of the status of the trail on the 'north' side of Dorlan Mill Road.

A Uwchlan Township resident commented on noise from Eagleview businesses. Mr. Gaspari said according to our noise ordinance, there are certain hours within which noise shouldn't carry over property lines. He will investigate.

John Shelton inquired of the Struble Trail crossing and the status of the conditional use approval for the Trail project. Mr. Vargo explained the road crossing signal application was approved for submission to PennDOT and he'd research the status of the conditional use application.

Mr. Kerr announced that the Township website now includes a "Financial Dashboard"; another avenue for residents to see what is happening.

Steve McNaughton commented on storm water runoff from the trail project at Park Road and Little Conestoga Road.

Mr. Kerr announced that a short recess would be taken to set up for the Conditional Use Hearings.

Mr. Kerr reconvened the meeting at 8:15 p.m. and John Good, Esq., proceeded to conduct the Conditional Use Hearing.

Conditional Use Hearing – Gunner Properties

Mr. Good advised attendees of the Conditional Use Hearing process and announced Gunner Properties' Application was to hold a temporary beer garden in Eagle Village. Elaine Parrish recorded the proceedings. Mr. Good entered into the Record the following Board Exhibits:

- B-1 Conditional Use Application, Narrative, Drawing
- B-2 Proof of publication
- B-3 Property posting
- B-4 Gilmore and Associates letter dated May 8, 2017

Alyson Zarro, Esq., of Riley Riper Hollin & Colagreco, presented on behalf of Gunner Properties. Ms. Zarro distributed the Applicant's Exhibits packet (A-1 to A-6) and advised the Applicant seeks approval to conduct a seasonal, temporary beer garden use, June through October, Thursday through Sunday, Noon - 11:00 PM (with shorter hours on Sunday) on 9.2 acres in the C-1 Village Commercial Zoning District @ 160 Park Road. A professional brewer/operator has received a brewer's liquor license and they'll operate the beer garden. Ms. Zarro provided operational details.

The Supervisors favor the Use and commented that if Approval is granted, the Decision should include language that the Conditions can be modified without reopening the Hearing, to adjust for weather conditions, or if noise or traffic-related issues arise. This Application is for a temporary Use approval for this year; if they envision doing this next summer, the Decision could state that it could be an annually renewable Approval via a letter from the Supervisors.

Al Gaspari advised that if tents are going to be used, they'd need a permit. Mr. Gunther advised there are no plans to use tents, but if needed, the tent(s) would be taken down every night.

Don Tracy, Waynebrook Drive, commended Mr. Gunther for the property improvements to date and asked that overflow parking in the field be closer to Park Road, not the Waynebrook homes.

There were no further questions or comments. Mr. Good closed the Hearing and announced a Decision would be drafted and presented by the Supervisors' next meeting, June 19, 2017. Ms. Zarro asked if the Decision could be made prior to the Township's Block Party, so they could potentially be operating that day. The Supervisors will try to have the Decision prepared for their June 13, 2017 Workshop.

Conditional Use Hearing – 260 Sierra Drive L.P.

Mr. Good introduced 260 Sierra Drive L.P.'s application seeking approval of a manufacturing / product assembly operation. Essential Medical proposes leasing 12,500 SF of an existing 80,000 SF building in Eagleview Corporate Center. Elaine Parrish recorded the Proceedings. Mr. Good entered into the Record the following Board Exhibits:

- B-1 Conditional Use Application Documents
- B-2 Proof of publication
- B-3 Property posting
- B-4 Gilmore and Associates letter dated May 8, 2017

Mike Malloy, Esq., General Counsel for the Hankin Group, representing 260 Sierra Drive, L.P., distributed the Applicant's Exhibits packet (A-1 – A-7) and summarized the Application. Essential Medical proposes leasing 12,500 SF of the building at 260 Sierra Drive. DSM currently occupies 53,000 SF of this building. Essential Medical assembles femoral artery closure devices – the device places a suture and patch of collagen. Jason Kaiser, Operations Manager -Essential Medical, and Neal Fisher, Vice President – Hankin, were also in attendance. Essential Medical currently has 9 employees, assembling the device in Malvern.

They need more space so they can grow their business, hopefully internationally, estimating 30 employees in the future. The pieces to the device are delivered to the facility, via small UPS/FedEx trucks, assembled, and shipped back out. No chemicals are involved, 1 daytime shift, no noise emission.

In answer to Mr. Donatelli's and Mr. Vargo's questions, the deliveries are once a day; the device is quite proprietary - there are @ 37 patents for this product; there is no battery/no power in this plastic device; there might be potential for a 2nd shift (3:00-11:00 PM) in 5 years; average company-wide annual salary is \$90,000; typical employee has at least a High School education; not all positions are full-time.

Deb Mellon asked where the device is sterilized. Mr. Kaiser advised the device is sterilized in New Jersey.

Al Gaspari asked if the product line was going to be expanded. It is not.

Steve McNaughton asked what makes a 'clean room', where this device is assembled. Mr. Kaiser explained that a 'clean room' is a self-contained room, with glass walls, its own HVAC system, and staff wear gowns, masks, and hair coverings. There's nothing in the packaging but air.

Mr. Good suggested the Hearing be closed. Mr. Donatelli moved to approve the Conditional Use as submitted by 260 Sierra Drive L.P., incorporating the testimony, exhibits and discussion tonight, including that the hours of business are limited to regular daytime business hours - not to exceed 11:00 p.m. – and limited to assembly of this femoral artery closure device. Mr. Goncharoff seconded the Motion, which carried unanimously.

Adjournment

There being no further business to be brought before the Board, Mr. Kerr adjourned the Meeting at 8:59 p.m.

Respectfully submitted,

Gwen A. Jonik,
Township Secretary