



TOWNSHIP OF UPPER UWCHLAN
BOARD OF SUPERVISORS
PUBLIC MEETING,
CONDITIONAL USE HEARING

July 24, 2019

6:00 p.m.

Approved

LOCATION: Temporary Township Administration Office
415 Eagleview Boulevard, Suite 116
Exton, PA 19341

In Attendance:

Board of Supervisors

Guy A. Donatelli, Chair
Sandra M. D'Amico, Vice-Chair
Jamie W. Goncharoff, Member

Township Administration

Cary B. Vargo, Township Manager
Gwen A. Jonik, Township Secretary

Tom Oeste, Esquire, Township Solicitor -- Buckley Brion McGuire & Morris LLP
Kevin McKenna, Esquire, Township Solicitor – McKenna Snyder LLC

Mr. Donatelli called the meeting to order at 6:01 p.m., led the Pledge of Allegiance, offered a moment of silence and asked if anyone planned to record the meeting. There were no responses.

Mr. Donatelli advised an Open Session would be held until Mr. Goncharoff arrived.

Open Session

A citizen asked the status of the Struble Trail Hearing. Mr. Donatelli advised that the Hearing was going to be continued and the date would be determined once Mr. Goncharoff arrived.

Mr. Goncharoff arrived shortly after 6:00 p.m.

ADMINISTRATION

Eagle Retail Associates/Starbucks Conditional Use Decision & Order.

Mr. Donatelli asked Mr. Oeste to summarize the draft Decision & Order for Eagle Retail Associates/Starbucks' conditional use application, seeking approval to permit a retail store with drive-through service in the C-1 Village Commercial District, in the former Bank building - Eaglepointe Shopping Center, pursuant to Zoning Ordinance Section 200-33.B.(5). The Public Hearing was held June 11, 2019. The draft Decision contains 14 Conditions, which have been reviewed by the Board of Supervisors and the Applicant's Representative and are acceptable to all parties.

Mr. Goncharoff moved, seconded by Mrs. D'Amico, to grant Conditional Use Approval with the 14 Conditions, as follows. The Motion carried unanimously.

The Board grants the Application subject to strict compliance with the following conditions. Compliance with the conditions shall be demonstrated during review of and decision on the land development application and plan and shall be determined by the Board. The Board shall resolve any conflict or inconsistency between any condition, between any condition and Applicable Law or between any condition and the Record.

1. Applicant and its successors and assigns in interest to the Shopping Center property shall be strictly bound by this Decision and Order.
2. To the extent not inconsistent with any of the specific conditions of approval, Applicant shall comply with and the Starbucks Coffee Shop shall be operated in substantial conformance with the representations and commitments made in the Record.

3. The use of Pad Site 4 shall be a Starbucks Coffee Shop with one (1) drive-thru service lane and window as generally depicted on Exhibit A-3, Schematic Design Package, as modified by Exhibit A-4, Site Sketch. The final configuration of the drive-thru stacking lane and bypass lane, and the number of stacking spaces, shall be determined during the land development review.
4. All drive-thru stacking of vehicles shall be located on the Pad Site. Stacking and queuing of vehicles shall not extend into the Shopping Center drive aisles, Simpson Drive or Pottstown Pike. To the extent necessary after opening for business, Applicant shall modify the drive-thru stacking layout to prevent off-site stacking and queuing of vehicles.
5. The land development plan shall depict an area for loading and unloading; and turning templates for ingress and egress by delivery vehicles to and from the Pad Site. All deliveries shall occur during hours when the Starbucks is not open for business. Loading and unloading may occur in designated parking spaces and drive aisles as long as loading and unloading occurs during non-business hours.
6. The land development plan shall be reviewed for emergency access and be subject to approval by Township emergency service providers.
7. The Applicant shall demonstrate during land development that the number of parking spaces required by Zoning Ordinance Section 200-73.H.(3) for the Starbucks use are provided on the Pad Site and in the parking area across the drive aisle immediately to the west of the Pad Site, described at the Hearing as the Acme lot.
8. Employees of the Starbucks store shall be required to park in the Acme lot if deemed necessary by the landlord or Township. Starbucks shall require all employees to park in the Acme upper lot within seven (7) days of Starbucks' receipt of a written request by the Township or landlord.
9. If after a minimum period of ninety (90) days from the Starbucks opening for business, the Township observes any queuing or stacking of vehicles which occurs out into the Shopping Center drive aisles, Simpson Drive or Pottstown Pike (as prohibited by Condition #4 above), then the Township may require that the Applicant perform a traffic study. The study shall be completed by a qualified traffic engineer and the scope of the study shall be approved by the Township traffic consultant. To the extent feasible, the Applicant shall make modifications to Simpson Drive, the Shopping Center drive aisles and internal circulation as may be recommended by the study or required by the Township traffic consultant.
10. The Applicant shall comply with the comments, requirements and recommendations of McMahon Associates, Inc., Township Traffic Consultant, set forth in Paragraph III, items 4 through 7, of Exhibit B-4.
11. The Applicant shall comply with the comments, requirements and recommendations of ARRO Consulting, Inc., Township Sewer Consultant, set forth in Paragraph V, items 1 and 2, of Exhibit B-4.
12. The land development plan shall include a comprehensive signage plan for the Pad Site, that includes but is not limited to restricting parking on the Pad Site to customers of Starbucks and Eagle Formal Wear (or subsequent tenant), informational signage for additional parking in the Acme lot and signage prohibiting vehicles waiting for drive-through service from standing or stopping in the Shopping Center drive aisles, Simpson Drive or Pottstown Pike. The signage plan shall be reviewed by the Township Historical Commission for recommendations relative to sign area, height and lighting.
13. The Applicant shall continuously maintain the existing pedestrian crosswalk from the Pad Site to the Acme lot (located at the southwest corner of the Pad Site as depicted on Exhibit A-2) to accommodate pedestrian movement to and from parking in the Acme lot. The crosswalk shall be adequately lit during Starbucks business hours.
14. The Applicant shall notify the Board by correspondence or electronic mail delivered to Cary Vargo, Township Manager, within 10 days of the Date of Decision set forth hereinbelow, its full and complete consent to the conditions specific herein above or the Application is denied; the Board expressly finding and concluding that the Application, in the absence of compliance with the said conditions, is inconsistent with or in violation of the standards, criteria, purposes and policies codified in the Zoning Ordinance. In the event the conditions are not accepted in full or an appeal is taken, the Board retains jurisdiction and shall supplement this Decision and Order with Findings of Fact and Conclusions of Law in support of the denial of the Application.

- - - - -

Gunner Properties Ltd. / 160 Park Road Conditional Use Decision and Order.

Mr. Oeste summarized the draft Decision and Order for Gunner Properties Ltd.'s conditional use application, seeking approval for an eating and drinking establishment (a beer garden) in the C-1 Village Commercial District pursuant to Zoning Ordinance Section 200-33.B.(8) and to allow off-site parking pursuant to Section 200-73.K.(2). The Public Hearing was held June 11, 2019. The draft

Decision and Order contains 24 Conditions, which have been reviewed by the Board of Supervisors and the Applicant/Applicant's Representative and are acceptable to all parties.

Mr. Goncharoff moved, seconded by Mrs. D'Amico, to grant Conditional Use Approval with the 24 Conditions, as follows. The Motion carried unanimously.

The Board grants the Application subject to strict compliance with the following conditions. Compliance with the conditions shall be demonstrated during review of and decision on the land development application and plan and shall be determined by the Board. The Board shall resolve any conflict or inconsistency between any condition, between any condition and Applicable Law or between any condition and the Record.

1. Applicant and its successors and assigns in interest to the Property shall be strictly bound by this Decision and Order.
2. To the extent not inconsistent with any of the specific conditions of approval, Applicant shall comply with and operate the Beer Garden with inside and outside seating in substantial conformance with the representations and commitments made in the Record.
3. The indoor area of the Beer Garden in Building 1 shall be limited to a maximum of 2,500 square feet of public area for service and consumption of alcohol and food.
4. The maximum occupancy of persons (including adults, children and employees) both inside and outside for the Beer Garden use on the Property shall be 498 occupants. Applicant shall take appropriate measures to control the number of occupants so that this maximum number is not exceeded.
5. The outside service and consumption of alcohol and food shall be limited to the an area of approximately 24,000 square feet, including the courtyard of approximately 2,000 square feet on the southeast corner of Building 1 and the existing fenced-in area to the southwest, southeast and northeast of Building 5 (collectively the "Outside Service Area"). The limits of the Outside Service Area shall be clearly depicted on the land development plan and be subject to Board approval in the land development decision. Fences and gates shall be installed and continuously maintained around the Outside Service Area to discourage customers from leaving the Outside Service Area with alcohol. Signage approved by the Township shall be installed and continuously maintained advising customers that the carrying or consumption of alcohol beyond the limits of the Outside Service Area is prohibited. Customers consuming alcohol shall not be permitted in areas other than the Outside Service Area, including into any parking lots, the open fields to the south, west and north of the buildings on the Property and beyond the Property boundaries.
6. Applicant shall provide a copy of the liquor license for the Beer Garden to the Township and adhere to all conditions imposed by the PaLBC and all laws and regulations applicable to the license, including but not limited to the hours of service of alcohol, as long as those conditions are not inconsistent with the terms of this Decision and Order.
7. All managers of the Beer Garden; and all employees who serve alcohol at the Beer Garden; shall obtain Responsible Alcohol Management Program certification from the PaLBC. Proof of certification shall be provided to the Township upon request.
8. If Applicant provides amplified sound outside of Building 1, it must be connected to Applicant's speaker system which points and projects the speakers towards the south towards Park Road.
9. A total of 12 equivalent dwelling units ("EDUs"), or 2,735 gallons per day, of sewer capacity is required for the Beer Garden use and other uses existing on the Property. Applicant has previously purchased 3.5 EDUs of sewer capacity from the Township. Applicant shall purchase an additional 8.5 EDUs before the Beer Garden is open for business. After the Beer Garden is in operation for the first spring/summer season, the Township may examine the water usage records for the Beer Garden use and determine if additional sewer capacity must be purchased based on the water usage at the Beer Garden or if the assumption of the sewer capacity needs for the Beer Garden is inaccurate. If the Township wastewater consultant determines that additional sewage capacity is necessary for the Beer Garden, Applicant shall purchase the same within a reasonable period of time agreed to by the Township. Conversely, if the Township wastewater consultant determines that Applicant purchased more capacity than needed to service the Beer Garden, Applicant may utilize the excess capacity for other uses on the Property or may sell the excess capacity to the Township.
10. Applicant shall pay a Traffic Impact Fee for the Beer Garden use. The fee shall be based on PM peak hour trips as determined by a trip study performed by the Applicant's traffic engineer. The time of the trip counts shall be approved by the Township traffic consultant.
11. Prior to opening the Beer Garden and the service of any alcohol, Applicant shall fully construct and continuously maintain all improvements depicted on Exhibits A-4, A-5, A-7 and A-8 as may be modified by the approved final land development plan, including the parking lots, lighting and

landscaping. Without limiting the foregoing, curbs, fencing and/or wheel stops shall be installed around the entirety of the perimeter of the parking lots to prevent vehicles from leaving the parking lot and entering the lawns and fields surrounding the building area and existing and proposed parking lots.

12. A minimum of 128 parking spaces shall be provided on the Property at all times. The uses of the Property shall not be changed if the change of use requires additional parking in accordance with Zoning Ordinance Section 200-73 unless additional parking is provided.
13. At all times that the Beer Garden use is operated on the Property, Applicant shall provide off-site parking spaces by written parking agreements with nearby property owners for the number of parking spaces required for the Beer Garden occupancy from time to time as determined by the Township. Initially, parking agreements for 133 off-site parking spaces shall be in force as represented by the Applicant at the Hearing. Copies of written parking agreements for 133 parking spaces satisfactory to the Township shall be provided to the Township prior to the opening of the Beer Garden and the service of any alcohol. The agreements shall provide for notice to the Township if the agreements are terminated. If there is insufficient parking on the Property and off-site to accommodate all of the uses on the Property, Applicant shall take reasonable measures to reduce occupancy for the uses on the Property.
14. Applicant shall design, permit, construct and continuously maintain pedestrian crosswalks across Park Road to accommodate safe crossing of pedestrians to and from the off-site parking lots. The design and construction of the crosswalks shall be reviewed and approved by the Township traffic consultant.
15. The final layout of the parking lots and circulation, including but not limited to the proposed gate and one-way travel direction, shall be determined during land development review. To the greatest extent feasible, traffic for the Beer Garden shall utilize the Park Road entrance and exit to and from the Property.
16. If requested by the Township, the Applicant shall perform a traffic study after the Beer Garden is in operation for the first spring/summer season. The study shall be completed by a qualified traffic engineer and the scope of the study shall be approved by the Township traffic consultant. To the extent feasible, Applicant shall make improvements as determined necessary by the Township, including modifications to the Park Road and Pottstown Pike entrances to the Property (e.g., turning lanes, widening) and the northbound left-turn lane from Park Road to Pottstown Pike. The implementation of any improvements that require PennDOT approval shall be subject to the Applicant obtaining the necessary approvals and permits.
17. Applicant shall provide and continuously maintain bicycle racks on the Property to accommodate a minimum of 20 bicycles.
18. Portable toilets shall not be utilized on the Property, except for a special event with the prior approval of the Township. Permanent toilet facilities connected to the public sewer system for the maximum occupancy of 498 persons shall be provided and continuously maintained on the Property for as long as the Beer Garden use is conducted on the Property.
19. The food trucks proposed by the Applicant shall be parked adjacent to Building 3 as depicted on Exhibit A-4. A portable generator shall not be used for operation of the food trucks. Applicant shall not permit any of the food trucks to have any signage which has flashing, moving, scrolling or electronic messages. The sale of food from the food truck or any other catering of food shall be limited to customers of the Beer Garden.
20. Applicant shall purchase and maintain commercial general liability insurance in the minimum amount of \$3,000,000, naming the Township as additional insured by endorsement to the policy. Applicant shall provide a copy of the certificate of insurance and endorsement to the Township prior to opening the Beer Garden and the service of any alcohol.
21. The PaLCB licensee shall continuously maintain a policy of liquor liability insurance in the minimum amount of Two Million (\$2,000,000.00) Dollars for so long as Applicant and PaLCB licensee shall offer alcohol on the Property. Applicant shall provide a copy of the certificate of insurance to the Township prior to opening the Beer Garden and the service of any alcohol.
22. While the Beer Garden is in operation, Applicant shall designate drop-off/pick-up spaces for transportation services on the Property and prohibit parking in these spaces other than by transportation service providers such as Uber or Lyft.
23. To the extent not specifically addressed by other conditions of approval, the Applicant shall comply with the comments, requirements and recommendations of Gilmore & Associates, Inc., Township Engineer; McMahon Associates, Inc., Township Traffic Consultant; and ARRO Consulting, Inc., Township Sewer Consultant; all as set forth in Exhibit B-4.
24. The Applicant shall notify the Board by correspondence or electronic mail delivered to Cary Vargo, Township Manager, within 10 days of the Date of Decision set forth hereinbelow, its full and complete

consent to the conditions specified herein above or the Application is denied; the Board expressly finding and concluding that the Application, in the absence of compliance with the said conditions, is inconsistent with or in violation of the standards, criteria, purposes and policies codified in the Zoning Ordinance. In the event the conditions are not accepted in full or an appeal is taken, the Board retains jurisdiction and shall supplement this Decision and Order with Findings of Fact and Conclusions of Law in support of the denial of the Application.

Mr. Donatelli advised Agenda item III would be next.

Conditional Use Hearing for the Struble Trail.

Kevin McKenna, Esquire, Township Solicitor for this Application, advised that a request had been made to Continue the Hearing to another time. All parties were in agreement. Following brief discussion, the Board of Supervisors granted the request for continuance and the Struble Trail Conditional Use Hearing was continued to a date certain of September 25, 2019.

Returned to ADMINISTRATION

Township Building Security Program.

Cary Vargo advised that the Township's I.T. Consultant, HelpNow, provided a proposal in the amount of \$110,000 to install access control, closed-circuit TV, intercom and security systems in the renovated Township Building. The scope of work was developed, reviewed and revised by the building renovation team. They have reviewed the proposal and recommend its approval. In answer to Supervisors' questions: between this proposal, the building cabling, and the emergency generator, there were cost savings compared to what was included in the Electrical Contract of the building renovation bids; HelpNow is experienced with police-specific programs in several Chester County municipalities; this system doesn't address live-streaming of township meetings. There are several options, which include live streaming, recording then uploading online, etc. Cary Vargo will investigate and provide a report.

Several Board members made comment about the Terms within the Proposal, including the warranty of the equipment. Following brief discussion, Mr. Donatelli moved, seconded by Mrs. D'Amico, to approve the execution of the Agreement conditioned on the Township Solicitor's review, possible revision and approval of all Terms of the Proposal/Contract. The Motion carried unanimously.

Open Session

Brett Boden asked if new technology would be included in the Schoolhouse. Mr. Vargo advised the only renovation in the Schoolhouse is a new HVAC system and installation of a TV screen on the front of the dais. Brief discussion of wireless projection systems followed. These will be researched.

Mr. Boden asked about the impact of parking for the Gunner Properties' beer garden. Mr. Vargo explained that the existing parking lot on the northeast side of the property is proposed for expansion and the grade and existing trees will buffer headlights from the Waynebrook neighborhood.

Mr. Boden asked about the status of the commercial lot on Byers Station Parcel 5C. Mr. Vargo advised the most recent plan proposes @ 30,000 SF of retail/commercial/office and 55 townhouses, which is by right from the original Tentative PRD Plan Approval. The Developer continues to seek commercial anchor tenants.

Adjournment

There being no further business to be brought before the Board, Mr. Donatelli adjourned the Meeting at 6:36 p.m.

Respectfully submitted,

Gwen A. Jonik,
Township Secretary