



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

September 16, 2019

7:00 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

Shanna Lodge, Assistant Township Manager

Gwen A. Jonik, Township Secretary

Jill Bukata, Township Treasurer

John DeMarco, Police Chief

Al Gaspari, Codes Administrator

Mike Heckman, Director of Public Works

Dave Leh, P.E., Gilmore & Associates

Kristin Camp, Esq., Township Solicitor

Nancy Sage, Court Reporter

Mr. Donatelli called the meeting to order at 7:01 p.m., led the Pledge of Allegiance, offered a moment of silence and asked if any attendees were recording the meeting. There were no responses.

Approval of Minutes

Mrs. D'Amico moved, seconded by Mr. Goncharoff, to approve as presented the minutes of the August 13, 2019 Board of Supervisors Workshop and Conditional Use Hearings. The Motion carried unanimously.

Mrs. D'Amico moved, seconded by Mr. Goncharoff, to approve the minutes of the August 19, 2019 Board of Supervisors meeting, with Mr. Goncharoff proposing a revision. Within the Supervisors Report - 2018 Audit Report, he proposed the inclusion of his question and Mr. Kowalczyk's answer that the Township has procedures in place that are sufficient to negate the improper use of Township monies. Mr. Donatelli accepted the revision to the minutes and the Motion carried with two (2) in favor and one (1) abstention (D'Amico).

Approval of Payments

Mr. Goncharoff moved, seconded by Mrs. D'Amico, to approve the payments to all vendors as listed September 12, 2019. The Motion carried unanimously.

Treasurer's Report

Jill Bukata reported that the balance sheet remains strong; year-to-date revenues are at 77.2% of the budget; year-to-date expenses are at 60.1% of the budget; and earned income tax receipts are at 79.1% of the budget, \$332,000 ahead of this time last year.

Supervisors Report

Mr. Donatelli announced that Executive Sessions were held September 4 and 10, 2019 regarding personnel matters; and he read the following calendar: September 25, 2019 6:00 PM Struble Trail Extension Conditional Use Hearing; September 25, 2019 7:00 PM Zoning Hearing –

Donoghue Application (@ 411 Eagleview Blvd. – Conference Room); October 8, 2019 4:00 PM  
Board of Supervisors Workshop and Draft 2020 Budget Workshop; October 21, 2019 7:00 PM  
Board of Supervisors Meeting.

## ADMINISTRATION REPORTS

### Township Engineer's Report

Dave Leh reported that a preconstruction meeting was held for Gunner Properties' parking lot expansion (160 Park Road); site construction is underway for Chester Springs Crossing (Jankowski Tract); and the McKee Group/Fetters Tract has submitted a construction cost estimate for review in developing their construction escrow.

### Building and Codes Department Report

Al Gaspari answered Mrs. D'Amico's question about the Jankowski Tract's sewer main extension work affecting Garrison Drive in Windsor Ridge. Mr. Gaspari advised that they're almost done the work within Garrison Drive out to Route 100, and then they'll bore under Route 100, which will be a different project at a different time. Seven or eight properties have already sold in this subdivision (Chester Springs Crossing).

Mr. Gaspari reported that 67 building permits were issued last month, totaling \$90,670.34 in permit fees; a Zoning Hearing is scheduled next week for the Donoghue application - expansion of a small farmhouse on Greenridge Road; and a long-unoccupied house on Byers Road (Sorenson) is scheduled for Sheriff's Sale in the near future.

### Police Chief's Report

Chief DeMarco reported that 1,134 calls were handled by the Department last month, including 7 criminal arrests and issuing 97 traffic citations. School is back in session so please be cognizant of school buses and children; Officer Kemme recently competed in a firearms competition and received an award for his shooting skills; the Department will hold another Water Ice visit, this time at Reserve at Chester Springs.

### Public Works Department Report

Mike Heckman reported that 164 work orders were received and completed; problems with rags in the Eaglepointe wastewater treatment system continue; curb repairs were completed on Deerhaven, Foxclove and Krauser Roads; stormwater inlet were rebuilt on Rising Hill, Stanford and Waterview Road, and repaired on Krauser, Palsgrove, Deerhaven and Aston; preventive maintenance and State Inspections were performed on Township vehicles; Brian Owens has obtained his CDL license.

### Land Development

Vantage Point Retirement Living (Parcel 6C) Amended PRD Decision. Kristin Camp explained this application was for an amendment to the Tentative PRD Plan of 1999 for Byers Station Parcel 6C, proposing a senior living facility as allowed by Board approval. Several hearings have been held and a Decision & Order is before the Board for approval. The Applicant's Solicitor, Alyson Zarro, proposed revisions to Conditions 8, 9, 11, 12 and 14 in this Draft regarding utilities, utility poles, paving the existing gravel drive, deleting the requirement for a westbound right turn lane at the Byers Road access, and the connection with the sewer main being extended east on Byers Road. Ms. Camp reviewed the revisions and finds them to be reasonable. The Board discussed each proposed revision and found them acceptable.

Mr. Donatelli moved, seconded by Mr. Goncharoff, to approve the Decision & Order for Vantage Point Retirement Living, LLC for Amended Tentative Approval for Parcel 6C of the Byers Station Planned Residential Development as presented this evening conditioned on the incorporation of the revisions as discussed this evening. Ms. Camp advised she would amend the Decision for the Board's signatures. The Motion carried unanimously. The amended Decision follows:

#### **ORDER**

AND NOW, this 16<sup>th</sup> day of September 2019, the Board hereby approves the Application and amends the Tentative Approval for the Byers Station PRD dated July 6, 1999 to permit Parcel 6C to be developed as a senior living facility and approves a loading area 15 feet wide by 45 feet deep, subject to compliance with the following conditions. This Decision and Order grants only an amendment to the Tentative Approval in accordance with its express terms. Applicant shall apply for and obtain Final PRD Approval for Parcel 6C for the Project. Except as expressly augmented and clarified by the conditions hereinbelow, the Property and Project shall be used and developed in accordance with all of the applicable laws, ordinances, standards, specifications, resolutions and regulations of the Township and of all other agencies or authorities with jurisdiction over the Property and the senior living facility use (the "Applicable Law"). Any proposed use of the Property or Project different in any aspect from the Applicant's proposal which requires a modification of the terms and conditions of this Decision and Order or relief within the jurisdiction of the Board will require application to and approval from the Board.

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 Final PRD 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.

#### **CONDITIONS OF APPROVAL**

1. The Property shall be developed substantially in accordance with Exhibit A-11.
2. The color palette and architecture of the proposed building shall comply substantially with Exhibits A-13 through A-16 and the representations made in the Record, except that the roof over the front main entrance and the front porte-cochere shall be a gabled roof similar to the end gables over the front window elements. The minimum vertical clearance of the porte-cochere shall be fourteen (14) feet. The final color palette and design shall be approved by the Board of Supervisors during the final PRD plan review process.
3. The location and size of signs shall be approved by the Board during the final PRD plan review process. Signage shall include identification of the Butler House.
4. Removal of refuse and recycling shall occur between 7:00 AM and 5:00 PM, prevailing time, Monday through Friday.
5. All equipment installed on the roof of the proposed building shall be totally screened from view by the roof structure.
6. The Applicant shall design, permit and construct the proposed new driveway for the Butler House Property and provide written evidence that Vantage Point has legal authority to relocate the driveway to the new location on the Association Property in the area labeled "25' Wide Access Easement in favor of UPI # 32-4-495" on Sheet 1 of Exhibit A-11. The Applicant shall also provide written evidence that there is an easement or other agreement with the Association or the owner of the Butler House Property regarding access rights and the maintenance and repair of the relocated driveway on the Association Property.
7. The Applicant shall grant an easement in favor of the Butler House Property to utilize the Butler House Property Access segment crossing the Vantage Point Property.
8. The Applicant shall enter into an easement agreement with the Township for the portion of the Byers Road Access located on the Township Property. The agreement shall place all responsibility on Vantage Point and its successors for the construction, maintenance, repair and reconstruction of the driveway, signs, utilities necessary to service Vantage Point Property and appurtenances located in the easement area.
9. Applicant and the Township shall determine as part of approval for the final PRD Plan for Parcel 6C whether the existing utility poles on the existing gravel driveway to the Butler House Property shall be removed.
10. Except to the extent necessary to construct the Byers Road Access Driveway, the existing trees along the existing Butler House Property driveway located on the Township Property shall not be removed or damaged during construction.

11. Unless the Board determines during the final PRD plan review that a trail should be located elsewhere as suggested by the Township planning consultant (see Exhibit B-11), the segment of the existing driveway serving the Butler House Property crossing the Association Property and the Township Property which will not be utilized for access to the Butler House Property shall be converted to a trail. The trail shall be paved with macadam by the Applicant on the Township Property from Byers Road to the Association Property. If the Township is able to obtain the consent of the Association, the portion of the trail on the Association Property shall also be paved by Applicant. Applicant shall provide and continuously maintain signage and/or warning devices at the location where the trail crosses the Byers Road Access Driveway to warn trail users of crossing traffic.

12. Applicant shall design, permit and install all traffic improvements identified in the Applicant's Transportation Impact Assessment, Exhibit A-9, including a northbound right-turn lane at Graphite Mine Road and the Property right in/right out driveway, and an eastbound left-turn lane at the Byers Road Access driveway; even if the turning lanes do not satisfy PennDOT warrants. Subject to obtaining PennDOT approval, Applicant shall also design, permit and install other improvements to the intersection of Byers Road and Graphite Mine Road, including signal modifications, as determined necessary based on Township police accident records and recommendations of the Township traffic consultant.

13. Landscaping and fencing shall be installed and continuously maintained to block the view of the loading area and trash enclosure from Byers Road and adjacent properties.

14. Applicant shall design, permit and install all necessary infrastructure to service the Property with public sanitary sewer by connecting to a new sewer main in Byers Road that will be constructed by the Township/Municipal Authority. Applicant shall also purchase sewer capacity in an amount as determined necessary by the Township Municipal Authority.

15. The Applicant and the development of the Property and Project and related improvements shall comply with the comments and recommendations of the Township consultants set forth in Exhibits B-7, B-8, B-9, B-10 and B-15; and to the extent determined feasible or appropriate by the Board, the comments and recommendations of the Township planning consultant set forth in Exhibit B-11 applicable to the location of proposed trails.

16. The terms of the easements and other agreements required by the foregoing conditions of approval shall be satisfactory to the Board in form and substance. All easements and agreements shall be recorded contemporaneously with the final PRD plan for the Vantage Point Property.

17. Applicant and its successors and assigns in interest to the Property and the Project shall be strictly bound by a) all the representations and commitments made by or on behalf of the Applicant and the testimony, plans or other exhibits that were introduced into the Record whether or not express reference is made to said representations and commitments in this Decision; and b) all of the foregoing conditions of approval.

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Windsor Baptist Church Conditional Use Decision & Order. Kristin Camp summarized the Church's application which seeks approval of an educational use in the C-1 Village Commercial District and R-2 Residential District, to allow the building addition to be greater than 6,000 SF and to allow the height of the building to exceed 35' to allow for a pitched roof. Hearings were held and a Decision & Order is before the Board for approval.

Mr. Donatelli moved, seconded by Mr. Goncharoff, to approve the following Decision & Order for Windsor Baptist Church. The Motion carried unanimously.

#### **ORDER**

AND NOW, this 16th day of September, 2019, the Board hereby approves a conditional use pursuant to Sections 200-17.B(1) and 200-33.B(1) to permit the development of the New School Building as an educational use in the R-2 and C-1 Village District subject to the conditions listed below. The Board also approves a conditional use pursuant to Section 200-34.H to allow the New School Building to exceed 6,000 square feet. Pursuant to the authority in Section 200-34.F of the Ordinance, the Board also approves the height of the New School Building to exceed 35 feet to allow a pitched roof design as depicted in the architectural renderings which were admitted as Exhibit A-4. The conditional use approvals are subject to Applicant's compliance with the conditions listed below.

### **CONDITIONS OF APPROVAL**

1. Applicant shall construct the New School Building in accordance with the testimony and evidence presented at the hearing for the Application, except to the extent that any testimony or exhibits are revised to comply with Code requirements and to obtain final land development approval.
2. The specific design for the architecture for the New School Building shall be discussed with the Planning Commission and Historical Commission as part of their review of the land development plans and ultimately approved by the Board as part of final land development approval.
3. Applicant shall comply with outstanding comments set forth in the Township engineer's review letter dated July 3, 2019 to the satisfaction of the specific Township consultant during the land development approval process.
4. Applicant shall annually advise the Township in writing of the enrollment for the preschool and the Academy. If the enrollment for the preschool and Academy exceed a total of 500 students, Applicant shall be required to conduct a traffic impact study and implement traffic improvements recommended in the traffic study and approved by the Township traffic consultant to improve traffic operations in the vicinity of the Property and surrounding intersections. Also, at any time upon written notice, the Township may require Applicant to conduct a traffic study if there are on-site traffic circulation issues that create safety or traffic operation issues at the site accesses or along the adjacent roads, and in such case Applicant shall be required to implement the improvements recommended in the study to improve traffic conditions and as approved by the Township traffic consultant.
5. If the enrollment for the preschool and Academy exceed a total of 500 students, Applicant shall be required to submit evidence of the sanitary sewage flows from the Property and if the flows exceed the capacity purchased to date, purchase additional sewage capacity in an amount determined by the Township sewer consultant.
6. Applicant shall demonstrate to the Zoning Officer prior to the Board issuing final land development approval that it provides sufficient parking for all of the uses on the Property based on the Ordinance requirements.
7. Applicant shall remove the modular classrooms on the Property within 90 days of obtaining a use and occupancy permit for the New School Building.
8. Applicant and its successors and assigns in interest to the Property shall be strictly bound by this Decision.

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### **ADMINISTRATION**

Alternative Energy Ordinance amendment. Mr. Donatelli opened discussion of a proposed amendment to the Alternative Energy Ordinance by deleting the sections that prohibit roof-mounted solar arrays that face the street. Al Gaspari advised he has 3 residential permits on hold because the roof-mounted arrays would face the road, he's denied such permits in the past because of the Ordinance, and the concerns of glare and aesthetics are unfounded now due to current materials and technology. Ms. Camp advised that it's unlawful to deny permits due to aesthetics. Joe Stoyack, Planning Commission member, summarized the Commission's discussion of the proposed amendment at their September 12, 2019 meeting, concluding that these deletions may create inconsistencies in the Ordinance and the Commission would rather update the entire Ordinance to reflect current technologies and materials, and requesting the Supervisors delay advertising the proposed amendment. Discussion followed regarding: safety factors and aesthetic considerations of roof-mounted solar arrays that face the street; there are federal rebates for alternative energy systems; we don't want to discourage residents from using alternative energy; not all residential systems are owned by the homeowner – they can be owned by a corporation and installed on a residence; Mr. Stoyack offered to work on the Ordinance revisions with staff, the solicitor, and research other township's ordinances; it may take 1-2 months to draft those revisions. The Supervisors agreed to wait.

2020 Pension Plan Minimum Municipal Obligations. Mr. Donatelli advised that the Township's annual minimum obligations for the Pension plans in 2020 are as follows:

Uniformed employees \$185,750; non-uniformed employees defined benefit \$89,134; and non-uniformed employees defined contribution \$18,000. Mr. Goncharoff moved, seconded by

Mrs. D'Amico, to approve the 2020 Municipal Minimum Obligations for the three Plans at those amounts. The Motion carried unanimously.

Upland Farmhouse Mold Remediation Bid. Mr. Donatelli reported the Township sought bids for mold remediation at the Upland Farms house, and to include the removal of certain asbestos-containing materials. Three bids were received – Unlimited Restoration, Inc., American Technologies, Inc. and Plymouth Environmental; the lowest bid is non-compliant. Mr. Donatelli moved, seconded by Mr. Goncharoff, to reject the lowest bid (Plymouth). The Motion carried unanimously. Mr. Goncharoff moved, seconded by Mrs. D'Amico, to award the Contract to American Technologies, Inc. at their bid amount of \$94,253.53 which includes the removal of certain asbestos-containing materials. The Motion carried unanimously.

Township Building Low Voltage System – Revised Agreement and Warranty Provisions. Shanna Lodge requested the Board consider the revised Sales Agreement from our I.T. firm, Help-Now, to install access control, closed-circuit TV, intercom and security systems in the renovated/expanded Township Building project. Per the Board's request, the Help-Now / AES equipment sales agreement was revised to clarify and document the warranty provisions regarding AES's equipment and references their warranties. The Supervisors do not want Mr. Vargo executing the Sales Agreement until AES has signed it. Mr. Donatelli suggested tabling the topic until AES signs the revised Sales Agreement. All were in favor.

#### Open Session

Christina DiGiulio is now recording the meeting.

Tammy Krumbhaar, Meadow Creek Lane resident, noted that the September 30 date being considered for the Sunoco pipeline-related meeting is a Jewish holiday and requested it be rescheduled, and she provided a list of the Meadow Creek residents' questions/concerns, as requested by the Township. Mr. Donatelli advised the meeting would be rescheduled.

Fred Bauman, Meadow Creek Lane, questioned regulations regarding placing grass clippings/leaves into the street. Mr. Gaspari advised the Sidewalk Ordinance states such materials are not to be placed in the street. Ms. Lodge stated those conditions should be reported via the Township website's "Report A Concern" program.

Christina DiGiulio asked if there was an update to the Township's intervening with the Sunoco pipeline. Mr. Donatelli was not aware of anything new; he'll check the Docket.

Christina DiGiulio asked if there was an update regarding the Township's research on air monitoring devices. Ms. Lodge was not aware of anything new.

Mr. Donatelli adjourned the business meeting and announced a short recess to prepare for the Public Hearing for RIP Holdings, LLC.

#### Conditional Use Hearing – RIP Holdings, LLC

Mr. Donatelli called the Hearing to order at 8:23 p.m., a continuation from Hearing #1 held August 13, 2019. Ms. Camp conducted the Hearing; Nancy Sage recorded the proceedings and her Transcript is the formal Record of the Hearing. In summary, Ms. Camp advised tonight's Hearing for RIP Holdings (Profound Technologies) -- seeking conditional use approval for a building addition exceeding 6,000 SF in floor area and exceeding 60' in length -- is to discuss the parking requirements for the mixed uses in the building. The Zoning Officer has determined the building

serves a combination of uses, requiring a total of 78 parking spaces. The Applicant proposes 42 spaces which is adequate for current and future employees and retail customers which are by appointment. Alyson Zarro, Esq., Kevin Busza, Owner, and Christopher Daily, P.E., were in attendance. Board Exhibit 8 was entered into the Record. There is a provision in the Township Codes that allows the Board to modify the parking requirements. Following brief discussion Mr. Goncharoff moved, seconded by Mrs. D'Amico, to approve the following Decision & Order for RIP Holdings, LLC. Mr. Goncharoff advised the Applicant that they should continue to work with the Township's Planning Commission and Historical Commission on the exterior façade. The Motion carried unanimously.

#### **ORDER**

AND NOW, this 16<sup>th</sup> day of September, 2019, the Board hereby approves a conditional use pursuant to Section 200-34.H to allow the Addition to exceed 6,000 square feet in floor area. The Board also approves a conditional use pursuant to Section 200-36.B(1)(a) to allow the north elevation of the Addition to be a maximum of 110 linear feet. Pursuant to the authority in Section 200-73.K(2), the Board approves a modification of the parking requirements to allow a total of 42 parking spaces as shown on the Conditional Use Plans. The Board is satisfied that given the limited retail activity that occurs at the Property, 42 parking spaces is sufficient to accommodate the uses of the Property.

The conditional use approvals are subject to Applicant's compliance with the conditions listed below.

#### **CONDITIONS OF APPROVAL**

1. Applicant shall construct the Addition in accordance with the testimony and evidence presented at the hearing for the Application, except to the extent that any testimony or exhibits are revised to comply with Code requirements, the conditions imposed herein or to obtain final land development approval.

2. The specific design for the architecture for the Addition and Existing Building shall be further discussed with the Planning Commission and Historical Commission as part of their review of the land development plans and ultimately approved by the Board as part of final land development approval. The architectural elevations of the Addition shall, to the extent practicable, be designed with either a traditional village architectural character or a contemporary expression of traditional styles and forms, respecting the scale, proportion, roof pitch, character, and materials of historic examples in Byers, Eagle and the surrounding area, in accordance with the standards in Section 200-36.B of the Ordinance and in keeping with the Village of Eagle Design Guidelines dated November 21, 2011.

3. Applicant shall install landscaping in front of the north elevation of the Addition to break up the long continuous building façade. The details of the landscaping to be installed on the Property shall be approved by the Board as part of land development.

4. Applicant shall comply with all outstanding comments set forth in the Township engineer's review letter dated April 29, 2019 to the satisfaction of the specific Township consultant during the land development approval process.

5. Applicant shall provide on the land development plans access easements to allow for interconnections from the existing retail properties on the adjacent properties to the east, west and south to allow for future connections to these adjacent commercial properties.

6. Applicant shall require retail customers to schedule appointments in advance and limit such appointments to one customer at a time.

7. Applicant and its successors and assigns in interest to the Property shall be strictly bound by this Decision.

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#### **Adjournment**

There being no further business to be brought before the Board, Mr. Donatelli adjourned the Hearing and the evening at 8:29 p.m.

Respectfully submitted,

Gwen A. Jonik  
Township Secretary