



TOWNSHIP OF UPPER UWCHLAN
BOARD OF SUPERVISORS MEETING

July 17, 2023

7:00 p.m.

Approved

Attending:

Board of Supervisors

Sandra M. D'Amico, Chair
Jennifer F. Baxter, Vice-Chair
Andrew P. Durkin, Member

Township Administration

Tony Scheivert, Township Manager
Gwen Jonik, Township Secretary
Jill Bukata, Township Treasurer
Rhys Lloyd, Code Enforcement Director
Anthony Campbell, Zoning Officer
Mike Esterlis, Director of Public Works
Tom Jones, Police Chief
Dave Leh, P.E., Township Engineer

Kristin Camp, Esq., Township Solicitor
Kevin McKenna, Esq., Township Solicitor

LOCATION: Township Building, 140 Pottstown Pike, Chester Springs, PA 19425

Mrs. D'Amico called the evening to order at 7:03 p.m., led the Pledge of Allegiance and offered a moment of silence. No one planned to record the meeting. There were 6 citizens in attendance.

Approval of Minutes

Mrs. Baxter moved, seconded by Mr. Durkin, to approve as presented the minutes of the June 13, 2023 Board of Supervisors Workshop, June 13, 2023 Conditional Use Hearing, and June 19, 2023 Board of Supervisors Meeting and Conditional Use Hearings. The motion carried unanimously.

Approval of Payments

Mrs. Baxter moved, seconded by Mr. Durkin, to approve the payments to all vendors listed July 13, 2023. The motion carried unanimously.

Treasurer's Report

Jill Bukata reported a strong balance sheet; halfway through the year, year-to-date revenues are at 63.8% of the budget; year-to-date expenses are at 49.1% of the budget; earned income revenue is \$77,000 lower than this time last year, which could just be due to timing of deposits.

Jeff Kowalczyk, of Barbacane Thornton & Company, presented the 2022 Audit results. They've issued clean audit opinions on the Township and pension plan funds, plus the annual comprehensive financial report, which provides additional statistical information and trends. They audited processes and controls to look for risks, and issued a clean opinion, no deficiencies identified.

Tony Scheivert asked if there was anything we should be aware of in the future given the recent police officer hirings. Mr. Kowalczyk advised the funds are in good shape and adding officers shouldn't be a problem. Both pension plans are well funded.

Supervisor's Report

Mrs. D'Amico announced that Executive Sessions were held July 11, 2023 regarding personnel and legal matters, and July 17, 2023 regarding legal matters. She announced the following calendar: August 8, 2023, 4:00 p.m. Board of Supervisors Workshop; August 21, 2023, 7:00 p.m. Board of Supervisors Meeting.

Administration Reports

Township Engineer's Report

Dave Leh reported the Hickory Park Improvements project can move forward with design and permitting now that the bog turtle study is complete. No turtles were found.

Building and Codes Department Report

Rhys Lloyd reported that 66 building permits were issued last month, totaling \$26,909 in permit fees; he and Anthony Campbell performed 179 scheduled inspections, of which 10 were for resales; 10 new homes settled last month; they addressed 24+ zoning complaints; there were no fire safety inspections conducted; and they're reaching out to the Homeowners Associations, one at a time, for donations of bicycles to give to Coatesville Giving Bikes Back – 6 have been donated to date.

Police Chief's Report

Chief Jones reported there were 1,025 incidents last month; there's a TikTok challenge of stealing street signs – please report missing signs; Junior Police Academy went well – there were 45 cadets, it's a great program and will probably expand to 5 days next year; Chief Jones thanked Tony Scheivert for his assistance with recent Turnpike and Park Road incidents; he thanked Mike Esterlis and the Public Works Department for their help with road issues, renovations in the Department, etc. Chief's safety tip this month is to lock doors, garage doors, cars, etc. and report anything suspicious via 9-1-1.

Public Works Department Report

Mike Esterlis reported the Department received and completed 170 work orders; all road base and inlet repairs are complete in preparation for road milling and paving, slated to begin August 14; roadside tree trimming has started.

Land Development

Dave Leh advised that Vantage Point Senior Living has requested escrow release #1 in the amount of \$420,845.20 for site improvements at their Fieldstone at Chester Springs project. Gilmore & Associates reviewed the request and recommends the release of that amount. Mrs. Baxter moved, seconded by Mr. Durkin, to approve release #1 in the amount of \$420,845.20 to Vantage Point Senior Living for the Fieldstone at Chester Springs site improvements. The motion carried unanimously.

Administration

Transfer from General Fund to Capital Fund. Jill Bukata requested authorization to transfer \$450,000 from the General Fund to the Capital Fund, as included in the 2023 Budget, for upcoming expenditures. Mrs. Baxter moved, seconded by Mr. Durkin, to approve the transfer as requested. The motion carried unanimously.

260 Sierra Drive, LP Conditional Use Decision & Order. Following a Hearing held June 13, 2023, Kristin Camp, Esq., drafted a Decision & Order for 260 Sierra Drive, LP, to allow DSM to use a portion of an existing building to manufacture Seprafilm. This Order grants approval with conditions, most carried over from the 2016 Order that allowed for manufacturing silicone hydrogel.

Mrs. Baxter moved, seconded by Mr. Durkin, to grant Conditional Use Approval with conditions, as follows. The motion carried unanimously.

ORDER

And Now this 17th day of July, 2023, the Board hereby approves the Application and grants a conditional use pursuant to Section 200-49.M.(1) of the Ordinance to allow the use of approximately 17,475 square feet of the Building to be used for manufacturing of Seprafilm subject to Applicant and DSM complying with the following conditions of approval:

CONDITIONS OF APPROVAL

1. The proposed manufacturing use shall be built and designed in accordance with the Application and the evidence and testimony presented by Applicant at the hearing, except as revised to comply with these conditions of approval.
2. The manufacturing use which is approved in this Decision and Order is limited to the manufacturing of Seprafilm by DSM or any successor company to DSM in the manner in which Applicant testified to at the hearing. No other manufacturing use is approved by this Decision and Order. Applicant and DSM or its successors and assigns may continue to manufacture silicone hydrogel in the portions of the Building approved by the 2016 Decision, subject to all applicable conditions imposed in the 2016 Decision.
3. If Applicant intends to install outdoor storage tanks for the manufacturing use, such tanks must comply with all relevant provisions in the Ordinance, including but not limited to Section 200-49.O.(3) which was revised after the 2016 Order was issued to allow as an accessory use in the PI District aboveground storage tanks for storage of inert gases, liquids and solids, water and brine; provided, however, that the storage of any materials and/or substances that meet the definition of a regulated substance as that term is defined in 25 Pa. Code §245.1 shall be prohibited.
4. The retrofit of the Building for the proposed manufacturing use shall be designed in compliance with the Township's Building Code, the International Fire Code, 2018 Edition and NFPA 30, Flammable and Combustible Liquids Code, 2018 Edition for the specific use group proposed and with all safety features that Applicant testified to at the hearings. Prior to the issuance of a use and occupancy certificate for the Building, Applicant shall submit building plans and specifications which shall be approved by the Township Fire Marshal and Building Code Official, in the Township's sole discretion.
5. The area of the Building which is used for manufacturing of Seprafilm shall be self-contained and separated from the other uses in the Building including the manufacturing of silicone hydrogel.
6. Delivery of all materials for the manufacturing use shall be limited to the hours of 7:00 a.m. until 7:00 p.m.
7. DSM shall obtain and maintain all necessary federal, state and local permits for any storage tanks that are located inside or outside of the Building. A copy of the tank permits must be provided to the Township prior to commencing the manufacturing use and any renewals of such permits shall be provided to the Township.
8. The tanks must be installed by a certified and licensed third-party tank handler registered with the PaDEP.
9. There shall be no discharge of any chemicals into the public sewer system from the Building. Any waste (for example sink waste) that is discharged from the Building into the public sewer system shall have properties no stronger than domestic waste and shall be approved by the Uwchlan Township Municipal Authority.
10. The manufacturing use shall not emit any smoke, ash, dust, vapors, gases, toxic or noxious materials into the air which will violate any federal, state or county air pollution laws or regulations.
11. The manufacturing use shall not emit any noise, fumes or odors that are perceptible beyond the property boundaries.
12. The manufacturing use shall not produce any vibration or electrical, radio or electromagnetic interference.
13. Prior to the use and occupancy of the Property, Applicant shall provide to the Township a list of all chemicals that it intends to use in the manufacturing process and the estimated quantity of same and location of storage area for each chemical and shall update that list if the chemicals or quantity of chemicals change. The Township may share this list with the Building Code Official and emergency responders.
14. Applicant shall prepare an emergency preparedness chemical release plan and provide a copy of the same to the Township. The Township's designee shall review Applicant's emergency preparedness chemical release plan and offer suggestions for revisions, which Applicant shall implement at Applicant's cost. Applicant shall review the emergency preparedness chemical release plan on an annual basis and update it as necessary. All updates shall be reviewed and approved by the Township in the same manner as the original plan.
15. Prior to the issuance of a use and occupancy certificate for the portion of the Building where Seprafilm will be manufactured, Applicant shall conduct a test of the emergency radio communications to make sure that emergency responders have adequate communication from all areas inside the Building. If the test reveals that there is not adequate communication from inside the Building for emergency responders, Applicant shall install the necessary remedial measures such as but not limited to signal amplifiers, antenna or other means to restore communication. The

- Township's designee and Fire Marshall shall receive copies of the test results and verify that adequate communications from inside the Building is provided.
16. DSM shall ensure that the receipt, handling, use, storage, disposal and transport of all hazardous waste and flammable materials in any way associated with the manufacturing process fully complies with any and all federal, state, county and local codes, laws, ordinances, regulations and standards at all times.
 17. Applicant must prepare a hazardous waste contingency plan and an evacuation plan for the Building in the event of release of hazardous substances. The Township may hire a consultant with expertise in hazardous waste to review such plan and suggest recommendations, which Applicant shall implement at Applicant's cost. Applicant shall review the hazardous waste contingency plan on an annual basis and update it as necessary. All updates shall be reviewed and approved by the Township in the same manner as the original plan.
 18. Applicant and its successors and assigns in interest to the Property shall be strictly bound by:
 - a. All the representations, warranties and commitments made by or on behalf of the Applicant and the testimony, plans or other exhibits that were introduced into the record on these proceedings whether or not express reference is made to said representations, warranties and commitments in this Decision; and
 - b. All of the foregoing conditions of approval.

A 5-minute recess was announced to prepare for the next agenda item.

Chester County Parks and Facilities Conditional Use Decision & Order. Kevin McKenna, Esq., the Township's Solicitor for this Application, presented the Conditional Use Decision & Order drafted following the Hearing held June 19, 2023 for the County Parks and Facilities Department to extend the Struble Trail from its existing trailhead, across Dorlan Mill Road, and connecting with land of Marsh Creek State Park. The Decision & Order grants approval with conditions. The County, represented by Ari Christakis, Esq., Buckley Brion McGuire & Morris, reviewed the draft Decision and agreed to those conditions.

Mrs. Baxter moved, seconded by Mr. Durkin, to approve the Decision & Order with the conditions as follows. Stonehedge resident Steve Egnaczyk asked about the Historical Commission's recommendations regarding the ruins of the Dorlan Mill miller's house. Mrs. D'Amico and Mrs. Baxter advised they are included in the Decision. The motion carried unanimously.

ORDER

And now this 17th day of July, 2023, the Upper Uwchlan Township Board of Supervisors hereby approves the Conditional Use Application of Chester County submitted on May 1, 2019, pursuant to Section 200-44.I.(10) of the Ordinance to allow for public and government use of the Property in the form of a public trail and improvements identified within the Conditional Use Application consistent with the Applicant's testimony and evidence presented at the Conditional Use Hearing subject to the following terms and Conditions of Approval:

CONDITIONS OF APPROVAL

1. The Development of the Property shall be built and designed generally in accordance with the Struble Trail – Extension II plans dated May 1, 2019 and last revised May 17, 2023 which were admitted as Exhibit A-3, as such plans are revised to comply with this Order and to obtain land development approval.
2. The Applicant shall comply with or otherwise satisfy all comments of the Gilmore & Associates Review Letter, dated June 1, 2023 ("Review Letter"), to the satisfaction of the Township, as such comments may be modified or amended in accordance with the Subdivision and Land Development Ordinance process.
3. Applicant shall comply with all recommendations of the Township's Planning Commission at its June 8, 2023 meeting, subject to the Planning Commission's adoption and approval of such meeting minutes related to the Struble Trail and corresponding Struble Trail – Extension II plans, as follows:
 - a. Applicant shall preserve the retaining wall, on the northern end of the Property, located behind the former Dorlan Mill miller's house;

- b. The Township shall work with the Commonwealth/DCNR to preserve the remaining structures as best as possible per the Historical Commission's February 2023 recommendations, at the Township's expense, potentially obtaining permission to build a low stone wall outlining the Dorlan Mill miller's house foundation;
 - c. Stone materials that may be removed during the trail construction process shall be offered by Applicant to the Township, without charge;
 - d. Applicant shall install one (1) marker of reasonable size and content acceptable to Township, describing the historic nature of Dorlan Mill and the miller's house at a reasonable location along the trail to be mutually agreed to and approved by the Applicant and the Township Manager. The marker is to be designed, produced, and delivered by Township, at Township's sole cost.
4. The Applicant shall install post and rail fencing, and a steel entry gate with bollard installations consistent with the review letter and the approved Struble Trail – Extension II plans dated May 1, 2019 and last revised May 17, 2023.
 5. The Applicant shall complete stormwater management through an infiltration trench as indicated within the approved Struble Trail – Extension II plans.
 6. The Applicant shall submit a Highway Occupancy Permit for the RCP pipe crossing Dorlan Mill Road as indicated on the Struble Trail – Extension II plans.
 7. The Applicant shall obtain from PennDOT an updated PennDOT permit for the trail and pedestrian flashing signal at Dorlan Mill Road.
 8. The water tower shall be demolished and removed prior to paving of the trail.
 9. The County shall install three "private property-stay on trail" signs; one at each end of the trail, and a third at the midpoint of the Struble Trail – Extension II.
 10. The County shall repair or replace any gap on the southern fence line in a commercially reasonable manner and timeframe.
 11. The County shall relocate the gate on the eastern side of the Property away from the water service line (i.e. closer to Dorlan Mill Road).
 12. Reasonable and workmanlike efforts shall be made by the County to prevent damage to the adjoining property situated along the southern property line arising out of trail construction (related to Struble Trail – Extension II), and such damage shall be repaired by the County so as to return that property to its condition prior to such damage.
 13. The Applicant shall comply with all conditions set forth in the Final Minor Subdivision Plan approved by this Board on July 18, 2022.
 14. The Applicant shall enter into and record an easement and corresponding easement agreement between the Applicant and Natural Lands permitting and related to the extension of the Struble Trail across the Property.
 15. Prior to the completion of the construction of the extension of the Struble Trail, the Applicant and Natural Lands shall enter into a Memorandum of Understanding, the terms of which shall be subject to the prior written approval of the Township, setting forth the terms of the transfer of the Natural Lands Parcel to the Commonwealth of Pennsylvania upon completing the Struble Trail – Extension II, including a restrictive covenant limiting further development of the Property.

Chester County Parks and Facilities Struble Trail – Extension II Land Development Plan Approval.

Dave Leh advised that the consultants had reviewed the County's Struble Trail – Extension II land development plan, last revised May 17, 2023, and had provided the County with a clean letter. Mrs. Baxter moved, seconded by Mr. Durkin, to approve the County's Land Development Plan with conditions, as follows. The motion carried unanimously.

The Board of Supervisors of Upper Uwchlan Township at their July 17, 2023 meeting hereby grants Preliminary/Final Land Development Approval for a plan prepared by Bursich Associates, Inc. titled, "Preliminary/Final Land Development Plans Struble Trail – Extension II" dated May 1, 2019 and last revised May 17, 2023. The following conditions accompany the approval:

1. The Applicant shall comply with all conditions set forth in the Conditional Use Decision and Order for the project.
2. The plans shall be revised to address the comments raised in the Gilmore & Associates, Inc. June 1, 2023 review letter.
3. Applicant to preserve the retaining wall that was in back of the Dorlan Mill miller's house.

4. That the Township work with the Commonwealth/DCNR to preserve the remaining structures as best as possible per the Historical Commission's February 2023 recommendations, at the Township's expense, potentially obtaining permission to build a low stone wall outlining the foundation where the Dorlan Mill's miller's house stood and build relocated stairs to the house;
5. Stone materials that may be removed during the Trail construction process be offered to the Township;
6. The Township shall craft and install an interpretive sign/plaque memorializing the historical significance of the house.

Natural Lands Trust, Inc., Conditional Use Decision & Order. Kevin McKenna, Esq., the Township's Solicitor for this Application, presented the Conditional Use Decision & Order drafted following the Hearing held June 19, 2023 for Natural Lands Trust, to allow for public and governmental use of certain Property to include and adjacent to the Struble Trail. The Decision & Order grants approval with conditions. Natural Lands, represented by Ari Christakis, Esq., Buckley Brion McGuire & Morris, reviewed the draft Decision and agreed to those conditions.

Mrs. Baxter moved, seconded by Mr. Durkin, to approve the Decision & Order with conditions, as follows. The motion carried unanimously.

ORDER

And now this 17th day of July, 2023, the Upper Uwchlan Township Board of Supervisors hereby approves the Conditional Use Application of Natural Lands submitted on May 1, 2019, pursuant to Section 200-44.I.(10) of the Ordinance to allow for public and government use of the Property in the form of a public trail and improvements identified within the Conditional Use Application consistent with the Applicant's testimony and evidence presented at the Conditional Use Hearing subject to the following terms and Conditions of Approval.

CONDITIONS OF APPROVAL

1. The development of the Property shall be built and designed generally in accordance with the Struble Trail – Extension II plans dated May 1, 2019 and last revised May 17, 2023 which were admitted as Exhibit A-3, as such plans are revised to comply with this Order and to obtain land development approval.
2. The Applicant shall comply with or otherwise satisfy all comments of the Gilmore & Associates Review Letter, dated June 1, 2023 ("Review Letter"), to the satisfaction of the Township, as such comments may be modified or amended in accordance with the Subdivision and Land Development Ordinance process.
3. The Applicant and/or the County shall comply with all recommendations of the Township's Planning Commission at its June 8, 2023 meeting, subject to the Planning Commission's adoption and approval of such meeting minutes related to the Struble Trail and corresponding Struble Trail – Extension II plans, as follows:
 - a. Applicant shall preserve the retaining wall, on the northern end of the Property, located behind the former Dorlan Mill miller's house;
 - b. The Township shall work with the Commonwealth/DCNR to preserve the remaining structures as best as possible per the Historical Commission's February 2023 recommendations, at the Township's expense, potentially obtaining permission to build a low stone wall outlining the Dorlan Mill miller's house foundation;
 - c. Stone materials that may be removed during the trail construction process shall be offered by Applicant to the Township, without charge;
 - d. The Applicant and/or the County shall install one (1) marker of reasonable size and content acceptable to Township, describing the historic nature of Dorlan Mill and the miller's house at a reasonable location along the trail to be mutually agreed to and approved by the Applicant and the Township Manager. The marker is to be designed, produced, and delivered by Township, at Township's sole cost.
4. The Applicant and/or the County shall install post and rail fencing, and a steel entry gate with bollard installations consistent with the review letter and the approved Struble Trail – Extension II plans dated May 1, 2019 and last revised May 17, 2023.

5. The Applicant and/or the County shall complete stormwater management through an infiltration trench as indicated within the approved Struble Trail – Extension II plans.
6. The Applicant and/or the County shall submit an Highway Occupancy Permit for the RCP pipe crossing Dorlan Mill Road as indicated on the Struble Trail – Extension II plans.
7. The Applicant and/or the County shall obtain from PennDOT an updated PennDOT permit for the trail and pedestrian flashing signal at Dorlan Mill Road.
8. The water tower shall be demolished and removed prior to paving of the trail.
9. Natural Lands or the County shall install three “private property – stay on trail” signs; one at each end of the trail, and a third at the midpoint of the Struble Trail – Extension II.
10. Natural Lands or the County shall repair or replace any gap on the southern fence line in a commercially reasonable manner and timeframe.
11. Natural Lands or the County shall relocate the gate on the eastern side of the Property away from the water service line (i.e. closer to Dorlan Mill Road).
12. Reasonable and workmanlike efforts shall be made by the County to prevent damage to the adjoining property situated along the southern property line arising out of trail construction (related to Struble Trail – Extension II), and such damage shall be repaired by the County so as to return that property to its condition prior to such damage.
13. The Applicant shall comply with all conditions set forth in the Final Minor Subdivision Plan approved by this Board on July 18, 2022.
14. The Applicant shall enter into and Record an easement and corresponding easement agreement between the Applicant and the County permitting and related to the extension of the Struble Trail across the Property.
15. Prior to the completion of the construction of the extension of the Struble Trail, Natural Lands and the County shall enter into a Memorandum of Understanding, the terms of which shall be subject to the prior written approval of the Township, setting forth the terms of the transfer of the Natural Lands Parcel to the Commonwealth of Pennsylvania upon completing the Struble Trail – Extension II, including a restrictive covenant limiting further development of the Property.

Resolution: Amend 2023 Fee Schedule. Rhys Lloyd, the Township’s Building Code Official, advised the Board that the International Code Council (ICC) had updated their Building Valuation Data schedule in February 2023. The Building Valuation Data is used when calculating building permit fees for new construction. The Township is therefore updating the 2023 Fee Schedule to reflect the updated ICC Data schedule.

Mrs. Baxter moved, seconded by Mr. Durkin, to approve **Resolution #07-17-23-06**, amending the 2023 Fee Schedule to reflect the updated ICC Fees. The motion carried unanimously.

Open Session

There were no comments offered.

Adjournment

There being no further business to be brought before the Board, Mrs. D’Amico adjourned the Meeting at 7:36 p.m.

Respectfully submitted,

Gwen A. Jonik
Township Secretary