

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
BUSINESS MEETING
NOVEMBER 10, 2022

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, November 10, 2022, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:30 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Tina Garzillo, Carole Kenney and Greg Philips. Supervisor Jenaway was absent. Also present were: Anthony Hamaday, Township Manager; Ashton Jones, Township Planner; Sean Kilkenny, Esq., Township Solicitor and Leanna Colubriale, Township Engineer.

MEETING MINUTES:

September 1, 2022 – Zoning Workshop
September 8, 2022 – Business Meeting
October 13, 2022 – Workshop Meeting

Board Action:

It was moved by Supervisor Waks, seconded by Vice-Chair Garzillo, all voting "Aye" to approve the Meeting minutes listed above. None opposed. Motion approved 4-0.

CHAIRPERSON'S COMMENTS:

Chairwoman Kenney stated that there was an Executive Session involving legal matters last week after the BOS Workshop Meeting and also prior to tonight's BOS Business Meeting. She also thanked all Veterans for their Service and stated that the Township building as well as the Library will be closed on Veterans Day, November 11, 2022.

Chairwoman Kenney expressed her condolence to the family of former Supervisor Jim Wilkinson who passed away in October. Supervisor Philips stated that Jim retired from the Navy in 1974 and worked in the Sheriff Office of Montgomery County before joining the Upper Merion Police Department. He retired as a Sergeant in 1985. Jim was appointed as Upper Merion Supervisor from 1992 to 1995.

Chairwoman Kenney said that item B on the agenda was changed last minute due to the applicant withdrawing late today.

NEW BUSINESS:

PROCLAMATION – SMALL BUSINESS SATURDAY:

Vice-Chair Garzillo mentioned that the Board of Supervisors and the Economic & Community Development Committee promote small business and some of the Board members on the Board and the ECDC are also small business owners. Mrs. Garzillo then read the proclamation stating that Small Business Saturday will be held on November 26, 2022 the Saturday after Thanksgiving.

PUBLIC HEARING – CONDITIONAL USE HEARING – Brandywine Operating Partnership, LLC, 650 Park Avenue. Applicant is requesting a Conditional Use to permit an addition on the property at 650 Park Avenue, to be constructed with a height of 60' in excess of the 50' maximum requirement for properties less than 4 acres in the KPMU Zoning District. The applicant is also requesting a modification of the 2019 Conditional Use approval to remove a retail use condition of approval to permit a single use tenant research & development use on the property.

Township Solicitor Sean Kilkenny asked for a motion to open the hearing.

Board Action:

It was moved by Supervisor Philips, seconded by Supervisor Waks, all voting "Aye" approving to open the hearing. None opposed. Motion passed 4-0.

Mr. Kilkenny open the hearing with a brief explanation of the hearing process. He then read the seven (7) Township exhibits that will be presented and finally he turned the hearing over to the applicant's attorney Mr. Al Fuscaldo. Mr. Fuscaldo, attorney for Brandywine Operating Partnership introduced other representatives from the applicant's team and handed out an exhibit packet to the Board with the applicant's items A1 thru A12.

Mr. Fuscaldo explained that Brandywine wants to build office space at 650 Park Avenue for their tenant and a parking garage at 631 Park Avenue for the employees that will be working in the 650 building. This project was originally approved in 2019 for a 100,000 sq. ft. multi-tenant unit with demolition in 2020 of the existing building before the pandemic halted the construction of the new planned building.

Brandywine is now proposing to build a 212,000 sq. ft. building for a single use life science tenant. This tenant will be performing research and development for life saving cancer products. The applicant is requesting that the 2019 approval to include a retail space be modified to remove that requirement since it is not compatible with the security needs of the new tenant.

Supervisor Philips asked if there would be any amenities for the employees like a cafeteria. Mr. Fuscaldo said there is a cafeteria in the plans with an outside patio that will be fenced in for security purposes. Supervisor Philips wants to make sure that the security fence will be aesthetic to the architectural plans of the building. Ms. Alexis Hilinski, project director confirmed that the fence will be aesthetic to the property, not a chained linked fence. Mr. Philips also wanted to know if the Linear Park was still going to be incorporated into the plans. Mr. Cornilias Brown, project engineer for Brandywine confirmed that they will reconstruct the Linear Park straight along the property line.

Public Comment: None

Board Action:

It was moved by Vice-Chair Garzillo, seconded by Supervisor Waks, all voting "Aye" to close the hearing. None opposed. Motion passed 4-0.

PUBLIC HEARING – CONDITIONAL USE HEARING – Brandywine Operating Partnership, LLC, 631 Park Avenue. Applicant is requesting a Conditional Use to permit an accessory garage structure to be constructed on the property at 631 Park Avenue with a height of 60' in excess of the 50' maximum requirement for properties less than 4 acres in the KPMU Zoning District.

Board Action:

It was moved by Vice-Chair Garzillo, seconded by Supervisor Waks, all voting "Aye" approving to open the hearing. None opposed. Motion passed 4-0.

Mr. Kilkenny open the second hearing and ask if anyone was requesting party status. No one came forward so he proceeded to read the six (6) Township exhibits and explained that everything that was presented in the first hearing will be brought over and included with this hearing.

Mr. Fuscaldo presented eleven (11) exhibits for Brandywine Operating Partnership for a proposed 5 ½ floor parking garage which will be 60' high at 631 Park Avenue. This parking garage will be complementary and aesthetic to their 650 Park Avenue office building. Chairperson Kenney asked if there will be enough parking for the employees and visitors. Ms. Hilinski stated there would be a total of 662 parking spaces for about 450 employees.

Supervisor Philips asked Mr. Andrew Dillon, the architect if both buildings were his renderings and if he was set with using precast concrete for the garage. Mr. Dillon answered in the affirmative. Supervisor Philips also wanted to confirm that Brandywine will keep both parcels together as one entity even though they are across the road from each other. Mr. Fuscaldo conveyed that the properties will stay linked in case of any future sales or tenants of either properties.

Vice-Chair Garzillo wanted to confirm that the parking garage will only be for the tenants at the 650 building and have the same or similar security as the office building. Ms. Hilinski said that there would be but wasn't sure about the extent of security because they're still in the early stage of development.

Public Comment: None

Board Action:

It was moved by Supervisor Waks, seconded by Vice-Chair Garzillo, all voting "Aye" to close the hearing. None opposed. Motion passed 4-0.

CONSENT AGENDA:

1. Resolution 2022-43 re: Reducing Police Officers' Contributions to the Police Pension Plan for the Year 2023 to 4%
2. Land Development Plan Review Extension – 411 Swedeland Road, Discovery Labs. Accept letter of extension from Discovery Labs for the review of the proposed Land Development Plan through January 31,2023.
3. Land Development Plan Review Extension – 450 W. Beidler Road. Accept letter of extension from 215 Windsor LLC for the review of the proposed Land Development Plan through December 8,2022.
4. Land Development Plan Review Extension – Mancill Mill Road Company. Accept letter of extension from Mancill Mill Road Company for the review of the proposed Warehouse Land Development Plan through January 31,2023.
5. Land Development Plan Review Extension – Exeter 555 Flint Hill Road. Accept letter of extension from Exeter 555 Flint Hill, LLC for the review of the proposed Warehouse Land Development Plan.

6. Conditional Use Application Extension – 1100 First Avenue. Accept letter of extension from Royale Garden LP, 1100 First Avenue for the scheduling of the conditional use hearing through December 31, 2022.
7. Authorization to Advertise Conditional Use Hearing – Royale Garden, LP, 1100 First Avenue. Authorization to set and advertise a public hearing at the December 8, 2022 Business meeting on the Conditional Use application of Royale Garden, LP, 1100 First Avenue to permit the construction of multi-family apartments, structured parking garage and sidewalk construction variances on the KPMU Zoned property.
8. Citizen Board Appointment – Environmental Advisory Council. BOS would like to appoint Vicky Meitus.
9. Payment Certificate for Phase 2 of the First Avenue Linear Park Phase II Project to Road-Con, Inc. in the amount of \$249,123.15 for work to date on the First Avenue Linear Park Phase II Project.
10. Authorization for the Township Manager to sign Real Estate Tax Settlement Stipulation for KOP Hospitality, LLC, 440 American Avenue, for the tax years 2021-2022 resulting in the overpayment of real estate taxes in the amount of \$8,287.66.
11. Authorization for the Township Solicitor to sign ZHB Appeal Settlement Stipulation – JL & CK Holdings, LLC, Intervenor Lux Skin & Lasers, Inc. 731 W. DeKalb Pike.
12. Financial Escrow Security Release No. 1, Phase 3 – Stonebridge at Upper Merion Subdivision, DeKalb Pike – Approval of Phase 3 Escrow Release No. 1 to Toll Mid-Atlantic LP, in the amount of \$1,259,960.00 for the completion of required site improvements to date as part of the subdivision as recommended by the Township Engineer.
13. Real Estate Tax Appeal Settlement – Approval of the following Real Estate Tax Appeals submitted by property owners as a result of mail theft/fraudulent checks:
 1. Stephen & Mary Jane Ryan, 465 Hughes Road in the amount of \$66.38 for the tax year 2022 which represents the penalty amount.
14. Schuylkill River West Trail Contract Payment 5 (Final) – James R. Kenney Excavating & Paving. Approve Payment Certificate #5 (Final) to James R. Kenney Excavating & Paving in the amount of \$11,557.60 for work to date on Phase 2 of the Schuylkill River West Trail.
15. Financial Escrow Security Release No. 2, Genterra, Inc, Columbus Street. Approval of Escrow Release No. 2 to Genterra, Inc. in the amount of \$33,061.50 for the completion of required site improvements to date as part of the Subdivision project as recommended by the Township Engineer.

No. 15 was amended to also release the third escrow security, this should read Financial Escrow Security Release No. 2 and 3, Genterra, Inc., in the amount of \$58,679.50.

Board Action:

It was moved by Supervisor Philips, seconded by Vice Chair Garzillo, all voting "Aye" to amend No. 15 on the Consent Agenda. None opposed. Motion passed 4-0.

It was moved by Supervisor Philips, seconded by Supervisor Waks, all voting "Aye" to approve the Consent Agenda. None opposed. Motion passed 4-0.

PRELIMINARY/FINAL DEVELOPMENT PLAN – EXETER – 446, 456 & 588 SWEDELAND ROAD. Consideration of a preliminary/final Land Development Plan for Exeter Swedeland Land, LLC, prepared by Kimley Horn & Assoc., dated August 5, 2022, for the construction of a proposed 150,000 sq. ft. warehouse and associated site improvements on the 10.46-acre tract. Zoned LI Light Industrial. Resolution 2022-45

Ms. Debra Shulski, attorney from Riley Riper Hollin & Colagreca introduced Tom Allman from Exeter and Paul Hughes, project engineer. Mr. Hughes addressed the traffic direction changes that they will discuss with PennDOT, for left turn only when leaving the property site. He is also working with the Sewer Authority so the development complies and he showed a rendering of the building with solar panels on the roof and the front of the facade.

Vice-Chair Garzillo asked who is responsible for payment and care of the solar panels. Mr. Allman from Exeter said that they're looking into a community program offered by different solar companies in PA. Hopefully it will be similar to NJ, in which a solar company will install the panels for free and usually pays rent for using the client's roof. Their building will be constructed to be able to accommodate the panels and additional weight once legislation is passed in PA.

Supervisor Waks asked what the changes for impervious coverage will be at the site. Mr. Hughes said the average is 75%, the existing is 93.44% and the proposed is 68.04%. Supervisor Waks asked Ashton Jones, Township Planner to explain LI zoning and if the developer meets the by-right which Ashton they did. Supervisor Waks then asked Mr. Kilkenny, Twp. solicitor to explain by-right. Mr. Kilkenny said by-right zoning is when all the contours of the zoning ordinance is met, it fits the Primitive Use and the criteria.

Supervisor Phillips asked if all the conditions that the Board recommend to the developer were met and Ms. Shulski said they agreed to all the conditions that were recommended. Mr. Phillips also wants to make sure that the truck drivers don't cut through residential streets and Ms. Shulski said that her client will get signage from PennDot and they will also contact Google Maps and Ways to update directions.

Chairperson Kenney asked how long it would take before the warehouse will be in operation and Mr. Hughes stated within 2 years.

Public Comment:

Mr. Larry Prasovsky at 991 Trinity Lane, expressed his opinion that the intersection of S. Gulph Road and Trinity Lane is dangerous and recommended that the Exeter warn their drivers know about it and to try to avoid that intersection.

Mr. Avraham Goldshmidt at 991 Trinity Lane, Gulph Mills said there is a visibility problem at the intersection at Holstein Rd. and Trinity Lane that he has a hard time leaving his driveway and asked for either a traffic light or speed bump. Chairperson Kenney said they can ask PennDOT to look into the problem since it is a State Road and Mr. Hamaday will also ask PennDOT to do a traffic study.

Ms. Dani Block at 293 Balligomingo Rd., Gulph Mills brought up concerns about Matsonford Road and Front Street. She said not only is Exeter looking to build there but there are other business' already in that area that have trucks coming and going. She said the traffic has to be rerouted and also asked if River Road could be widened.

Mr. Ken Foreman at 9719 Natton Court., Gulph Mills asked if there is going to be an island at the entrance/exit in addition to signage so the trucks can't make an illegal turn. Mr. Hughes said they are making it narrow so the trucks will have to go one way but Mr. Foreman asked if they could make only one entrance in and one out forcing cars and trucks to follow the directions.

Mr. Mike Krauss at 203 Holstein Rd., said that the truck drivers aren't going to follow directions and a cement curb won't stop a truck from making a wrong turn. He suggested to put a big boulder there to stop the trucks because they have already damaged the new bridge at Holstein and Trinity that was completed this year by taking out the guardrails.

Mr. Avraham Goldshmidt had an additional concern about the noise the trucks will make in a residential area. It was stated that there is a Federal Law on how much noise a truck can make but is rarely enforced. Also, he said the state is not making or taking the appropriate steps for the residents in this area.

After hearing the residents' concerns Chairperson Kenney suggested asking our State Representative to contact PennDot about the concerns at Holstein and Trinity intersection.

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Philips, all voting "Aye" to approve the development plan for Exeter 446,456 & 588 Swedeland Road with tonight's testimonies included, concurred by Chairperson Kenney and Vice-Chair Garzillo. None opposed. Motion passed 4-0.

PRELIMINARY/FINAL DEVELOPMENT PLAN – 320 W. DeKALB PIKE – REPUBLIC BANK. Consideration of a preliminary/final Land Development Plan for 320 DeKalb Partners, LL, Republic Bank, prepared by Stantec Consulting Services, Inc., Engineers, dated December 6, 2021 and last revised July 29, 2022 for the construction of a proposed one-story 2,822 sq. ft. bank pad site with 2 drive-thru lanes and associated site improvements on the 15.5-acre DeKalb Plaza tract. Zoned SC Shopping Center
Resolution 2022-46

Mr. Hamaday said the applicant did not send a representative for tonight's meeting and as of date have not complied with the Township Ordinance or meant the zoning conditions. Township council recommend that the applicants plan development plan be denied.

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Philips, all voting "Aye" to deny 320 W. DeKalb Pike Land Development Plan. None opposed. Motion passed 4-0

POSTING OF THE 2023 BUDGET:

Mr. Tony Hamaday gave an overview of the 2023 Budget, which will be presented at the December 8th Business Meeting. The 2023 will be voted on at that time.

Public Comment: None

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Philips, all voting "Aye" to approve the Accounts Payables for invoices processed from October 6, 2022 through November 2, 2022 and Payrolls dated October 14th and 28th of 2022 for a total of \$2,733,016.45. None opposed. Motion approved 4-0.

ADDITIONAL BUSINESS:

Supervisor Philips wished all Veterans a Happy Veteran's Day and gave a synopsis on how November 11th was picked. He also wished the Marine Corp. a Happy 247th Birthday.

Vice-Chair Garzillo mentioned that the HomeTown Heroes Program has started again and enrollment opened on November 7th. Mr. Hamaday stated that Upper Merion School District will also be accepting applications for banners to be hung around the school property. Mrs. Garzillo also mentioned that the police department in conjunction with the County will be accepting unwanted guns on November 16 and 19th, they will accept any size or type of gun with no questions asked. Mrs. Garzillo also wanted to thank the residents that came out on November 5th to clean and take care of the tree saplings that were planted earlier this year.

Supervisor Waks wished everyone a Happy Thanksgiving.

Chairperson Kenney mentioned how great the Fall Fest was that was held every weekend in October at Nor View Farm. She also brought up all the problems the US mail service is having and how it is impacting our residents.

PUBLIC COMMENTS:

Mr. Mike Krauss from Holstein Road asked who is responsible for installing sidewalks and how you would go about getting them. Supervisor Waks explained that not all residents want sidewalks because once installed the residents are responsible for the cleaning and upkeep of them. Mr. Waks did mention that all new developments are required to install sidewalks.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Supervisor Waks, seconded by Supervisor Philips, all voting "Aye" to adjourn the meeting at 9:48 PM. None opposed. Motion approved 4-0.



ANTHONY HAMADAY
TOWNSHIP MANAGER

lr
Minutes Approved:
Minutes Entered:

