

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
BUSINESS MEETING  
APRIL 11, 2024

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, April 11, 2024, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:11 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Philips, Tina Garzillo, Carole Kenney and Greg Waks. Also, present was Anthony Hamaday, Township Manager; Jarrett Lash, Twp. Planner; John Walko, Esq., Solicitor's Office and Leanna Colubriale, RVE Township Engineer. Absent was Vice-chair Bill Jenaway.

Meeting Minutes: March 21, 2024 – Business Meeting

Board Actions:

It was moved by Supervisor Kenney, seconded by Supervisor Waks, all voting "Aye" to approve the March 21<sup>st</sup> Business Meeting Minutes. None opposed. Motion passed 4-0.

CHAIRPERSON'S COMMENTS:

Chairperson Garzillo announced there was an Executive Session prior to tonight's meeting to discuss legal matters.

CITIZEN BOARD VACANCIES:

Chairperson Garzillo gave an update on current vacancies on the Upper Merion Citizen Boards.

- CC Advisory Board - 1 Vacancy
- CC Advisory Board Student Member - 1 Vacancy
- ECDC Student Member - 1 Vacancy
- Farmers Market Student Member - 1 Vacancy
- Human Relations Commission - 1 (Alternates)
- Media Advisory Board Student Member - 1 Vacancy
- Property Maintenance UCC Board - 1 Vacancy (Alternate)
- Public Safety Board Student Member - 1 Vacancy
- Upper Merion Foundation Sub-Committee - 1 Vacancy
- Upper Merion Historical Commission - 2 Vacancies
- UM Historical Comm. Student Member - 1 Vacancy
- Zoning Hearing Board - 1 Vacancy (Alternate)

SWEARING IN OF NEW EMS PERSONNEL BY JUDGE PATRICK KROUSE:

Chief James Johnson of Fire and EMS called Mr. Brian Fritz to the podium to be sworn in as a new member of Upper Merion EMT paramedic team. Brian graduated from Upper Darby High School and attended Delaware County Community College where he attained his paramedic certification. He also was a Volunteer Firefighter at Stone Hurst Fire Co. in Delaware County, PA and studied emergency management at Grand Canyon University.

District Judge Patrick Krouse administered Brian's Oath in front of his family and friends then his wife presented him with his badge.

NEW BUSINESS:

A. LOCAL GOVERNMENT WEEK – April 8 -14, 2024:

Chairperson Garzillo asked Supervisor Waks to read Resolution 2024-20 (Local Government Week) since this is actually the week local government is honored. This Resolution will be adopted at next month's Business meeting. After Mr. Waks read the resolution Mrs. Garzillo read a presentation by the PIO (Public Information Office) displaying what each of your local government departments has to offer and/or help our residents.

B. RESOLUTION 2024-18 RE: RECOGNIZING ARBOR DAY

Supervisor Philips read the Arbor Day Resolution which mentioned there will be many activities going on April 26<sup>th</sup>. Upper Merion Township will be honoring Arbor Day with the following activities: a tree identifying activity by UM Shade Tree Commission and those participating they will receive a ready to plant one-foot potted seedling. The Township will be honored for the 48<sup>th</sup> consecutive year by Tree City USA and for the 5<sup>th</sup> consecutive year for the Growth Award by the PA Dept. of Conservation & Natural Resources. Our Public Works Department will plant 6 new trees in April at different parks in Upper Merion and the Valley Forge Optimist Club will present awards for their Earth Day Poster Contest.

Board Action:

It was moved by Supervisor Philips, seconded by Supervisor Waks, all voting "Aye" to adopt Resolution 2024-18. None opposed. Motion approved 4-0.

C. RESOLUTION 2024-19 RE: RECOGNIZING EARTH DAY

Supervisor Kenney read the Recognizing Earth Day Resolution stating that Upper Merion Township cares deeply about our environment. Earth Day will be celebrated in our community on April 20<sup>th</sup> from 11am to 2pm at the Township Park with live music, crafters, green demos, sustainable products, food vendors, a petting zoo, a beer garden and the annual Earth Day Award Presentations. In addition, at Ross Road Field there will be a bicycle collection and repair service by ZummoBike. On Sunday, April 21<sup>st</sup> from 11am to 2pm there will be a Recycling Event at the Upper Merion Middle School Parking Lot located at 450 Keebler Road. Supervisor Kenney also mentioned that the Township will be giving out reusable bags at several locations due to the plastic bag ban that went into effect this year.

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Kenney, all voting "Aye" for the adoption of Resolution 2024-19. None opposed. Motion approved 4-0.

D. CONDITIONAL USE HEARING – NETFLIX, 180 NORTH GULPH ROAD. CONDITIONAL USE APPLICATION OF NETFLIX, 180 NORTH GULPH ROAD TO PERMIT THE FOLLOWING USES – IMMERSIVE THEATER, IMMERSIVE FOOD AND BEVERAGE, LIVE EVENT/CONCERTS AND SCREENING OF MOVIE/TV SHOWS.

Solicitor John Walko adjourned the meeting to open the Public Hearing for Netflix Conditional Use Application and presented three exhibits.

- 1) The Conditional Use Application submitted by the applicant Netflix CPX, LLC which was received by the Township on March 6, 2024.
- 2) The proof of publication for tonight's Hearing in the Times Herald Newspaper published on March 27<sup>th</sup> and April 3, 2024.
- 3) The proof of review of the Conditional Use Application which is a zoning requirement by the Upper Merion Planning Commission that was reviewed and recommended on March 13, 2024.

This application pertains to the previous Lord & Taylor building at the King of Prussia Mall located at 180 N. Gulph Road in the SE Shopping Center Zoning District. The relief is sought under Section 165-22A and accompanying table CD1 which does permit performing arts facilities and movie theaters by conditional use in the SC Shopping Center District. Netflix application proposes a multi-format entertainment venue pursuant to that use, including interactive and immersive experiences. At this time, Mr. Walko turned the meeting over to Netflix attorney Ms. Amy Farrell, who gave a short description about what Netflix is proposing and she introduced Mr. Gregory Lombardo, Mr. Brent Nikolin and Ms. Tingting Wei.

Next, Mr. Walko swore in the three representative from Netflix and proceeded with the hearing. Mr. Lombardo, Vice President of Netflix Live Experiences said a few years ago Netflix launched touring experiences of all their genres around the world for all ages. Those tours provided Netflix the knowledge to learn what their fans loved by seeing themselves in the stories, this basically created the foundation for Netflix House. Netflix House is a permanent entertainment destination intended to gather Netflix fans and he feels King of Prussia Mall is a great destination that we want to place our Netflix House.

Netflix wants to deliver the unexpected experience every day by offering a variety of entertainment to fans which also includes food and beverage experience offerings. Netflix will have local artists bringing that environment to life in new and engaging ways where fans can come together to celebrate each day. At the heart of the Netflix House is this constantly rotating offering of ticketed immersive experiences that are based on the shows and movies you see on Netflix. In addition, to the shows changing they will also feature food that was created by some of their All-Star Chefs that you see on Netflix, which would be seasonal and update regularly.

Mr. Lombardo said they will also have exclusive merchandise to purchase which will only be available at Netflix House and that merchandise would rotate on a regular basis. They feel by having this immersive experience for audiences of all ages will make Netflix House a really terrific part of the King of Prussia Mall.

Mr. Nikolin, Senior Program Manager at Netflix, who designs the construction and layout of Netflix House went over the plans for the former Lord & Taylor's store which is 120,000 sq. ft. He said a third of the building will be their "Back of House", located on the first floor, which is their services for set prep, a third is for the experience rooms and the last third of the building is the Marketplace, which is where food, beverage and retail items will be sold.

The Theatre will show Netflix shows or movies and the two larger rooms will be for immersive experiences like Stranger Things or Squid. The experiences are timed ticketed events that will change throughout the year and they could have from 120 to 200 people going through those spaces.

Mr. Nikolin also said the first floor will have 2 entrances, one from the Mall and one outside entrance plus two emergency exits. The second floor will only have one entrance from the Mall as well as elevators and steps to go up and down. The Marketplace will be on the second floor along with two smaller rooms and cutout/balcony to look down into the two large experience rooms.

Next, Ms. Mei, Producer for Netflix House, responsible for creative development and design of the Netflix House addressed the Board. She said Netflix specified 10 different usage type categories/spaces within Netflix House, which includes ticketed and free areas to experience. She went into further detail regarding the areas and explained that they will change throughout the year.

Finally, Ms. Farrell briefly summarized what's already allowed in the SC Shopping District and what Netflix is asking for by Conditional Use. Mr. Walko asked her if the Netflix presentation can be marked as Exhibit 2 as a demonstrative exhibit only and she agreed, next he asked the Board if they had any questions.

Supervisor Philips asked a few questions which Ms. Farrell and the team answered. They noted that they would like to open by the 4<sup>th</sup> quarter of 2025. Supervisor Waks thanked Netflix for their presentation and asked if they were applying for a liquor license, which Mr. Farrell responded in due time. Chairperson Garzillo asked if they worked with the Mall about staying open later and how would that be handled with locking the Mall parking gates? Mr. Nikolin said they have been talking with Mall management and will be working out the details as they come closer to opening.

With that said Mr. Walko asked if there were any Public comments. Hearing and seeing none he admitted the submissions of Netflix exhibits, closed the record and the hearing to adjourn back to the Business meeting for a vote on the Conditional Use application.

Board Action:

It was moved by Supervisor Philips, seconded by Supervisor Kenney, all voting "Aye" to approve the Conditional Use Application for Netflix. None opposed. Motion approved 4-0.

E. CONDITIONAL USE HEARING – WESTOVER COMPANIES, 550 AMERICAN AVENUE FOR THE CONVERSION OF THE EXISTING 3 STORY OFFICE BUILDING AT 550 AMERICAN AVENUE IN THE KPMU ZONING DISTRICT INTO A MULTIFAMILY DWELLING WITH 20 RESIDENTIAL APARTMENTS.

Solicitor John Walko adjourned the meeting to open the Public Hearing for Westover Companies Conditional Use Application and presented three exhibits.

- 1) The Conditional Use Application submitted by the applicant Westover Co., LLC which was received by the Township on March 5, 2024.
- 2) The proof of publication for tonight's Hearing in the Times Herald Newspaper published on March 27<sup>th</sup> and April 3, 2024.
- 3) The proof of review of the Conditional Use Application by the Upper Merion Planning Commission that was reviewed on March 27, 2024.

This application made pursuant to Section 165 & 160.2 which permits a conversion of an existing 30 thousand sq. ft. three story office building into a multifamily dwelling with proposed 20 residential apartments. Apartments are permitted by Conditional Use in the KPMU subject to certain conditions.

Then Mr. Walko turned the meeting over to the applicants representative Mr. Mark DeMinico.

Mr. DeMinico is the attorney for Executive Suites & Offices LP, which is also known as Westover Companies and owned by the Wiesenberger Family. He presented a certified survey which indicates the property is owned by Executive Suites & Offices LP as exhibit A1. This property consisting of 22.2 acres of ground, on which the office building is located, is referred to as 550 American Avenue. There are also five apartment buildings towards the right know as Valley Forge Suites totaling 356 units plus there are 3 more office buildings on that property. Next, he introduced Mr. Dave McManus, Vice President of Westover Property Management Company and Mr. Jeffrey Ivins, who is the architect. Both men were sworn in before giving testimony. Mr. McManus said due to the market changing they want to convert one of their 4 office buildings into apartments which still leaves 3 office building with approximately 185,000 sq. ft. of space.

Next, Mr. DeMinico said that his client's plan meant all the requirements to convert the office space into apartments within the KPMU District. He went over all the criteria that must be met with Mr. McManus and said the architect will review the floor plans later showing how all the requirements will be completed. Then, Mr. DeMinico asked Mr. McManus what amenities would be provided for all the residents and Mr. McManus said there will be a swimming pool, gym, common open space and landscaping around the property. Mr. DeMinico said his client's multifamily plan is consistent with the Township's Comprehensive Plan for mixed use and complies with the zoning ordinance. He also said there are 1,123 parking spaces and only 1,071 are required once they convert the property so there is more than adequate parking.

Finally, Mr. DeMinico asked Mr. McManus if the apartments will have adequate public facilities including water, sewage, fire protection and stormwater control. Mr. McManus replied they comply with all but believe the sewer would probably require additional EDUs which they're prepared to purchase. He also believes this Conditional Use will not be detrimental to other uses of the property in the vicinity.

Supervisor Waks asked what the monthly price will be for one bedroom compared to the two-bedroom apartment, Mr. MaManus replied between \$1,500 to \$2,500 hundred per month same as the other 5 apartment buildings there. He said this building will be incorporated with the existing 5 buildings known as the Valley Forge Suites. Mr. Waks asked him how does that compare to the average rental apartment in Upper Merion Township. Mr. MaManus said considerably less expensive compared to the Town Center apartments. Finally, Mr. Waks asked if the rental price included utilities and Mr. MaManus stated in the negative.

Supervisor Kenney asked how old is the building being renovated is. Mr. MaManus said it was built in the mid 80's. She also asked how many more EDUs they would need to convert this property, he said about 6 more. In addition, she asked since there will be extra parking spaces can they make them green space. He stated that some of the extra spaces would be used to make the patios for the lower apartments.

Mr. DeMinico then presented Mr. Ivins' CV/Resume as exhibit A3 confirming his status with the Board as an Architect and asked him to explain the floor plan for the conversion of the building. Mr. Ivins said on the first floor there will be 7 apartments with patios to meet the balcony requirements and on the second floor there is the leasing office, the fitness gym and the indoor bicycle storage, in addition there is bicycle parking spaces outside of the building. Also, there are about 6 apartments on the second floor with 3 of them having a balcony. Finally, the third floor has 7 apartments that mirrors the ground floor and all 20 apartments have a washer and dryer.

Chairperson Garzillo said the applicant should have presented this plan at a BOS Workshop before coming tonight for approval and Supervisor Philips asked the applicant to go over the plans again.

Mr. Ivins walked over to the plans explaining the layout of the different floors and how the building is built on a slope. So, some of the first floor is partially underground and some of the second floor has a bridge like slope connecting to ground level. He also said that they are adding a 2500# elevator to the building that can handle furniture when moving in and out. Next Mr. DeMinico ask for admission of A1 to A3 exhibits.

With that said Mr. Walko asked if there were any Public comments. Hearing and seeing none he admitted the submissions of their 3 exhibits, closed the record and the hearing to adjourn back to the Business meeting so this application could be voted upon the Board of Supervisors.

Board Action:

It was moved by Supervisor Philips, seconded by Supervisor Kenney. At this time Supervisor Waks asked the Board to take this matter under advisement. After a discussion with Mr. Walko, the Board was told that they have 45 days to decide. So, Supervisor Philips withdraw his motion so the applicant can attend the BOS Workshop on May 2<sup>nd</sup> to continue discussions. With that said Mr. Walko didn't close the record due to a contingency and said after the Workshop the applicant will appear at the next Business Meeting on May 9, 2024 to continue this hearing.

At that time Mr. Walko adjourned the hearing for the night saying it will be continued.

F. CONSENT AGENDA re:

1. Business Tax Appeal Settlement – Approval of a Business Tax Appeal submitted by Oliver Sprinkler Co., Inc, 501 Feheley Drive, King of Prussia, for the tax years 2021 & 2022 in the amount of \$11,772 which represents the penalty for both tax years.
2. Business Tax Appeal Settlement – Approval of a Business Tax Appeal submitted by TK Elevator Corp, 250 King Manor Drive, King of Prussia, in the amount of \$12,137.91, which represents the penalty for tax years.
3. Permission to set and advertise a public hearing on a proposed Ordinance amending Chapter 165, Zoning of the Township Code, Article XXVII, Signs, to provide regulations for murals in certain zoning districts at the June 13, 2024 regular Business meeting.
4. Financial Escrow Security Release– 3700 Horizon Drive - Approval of Escrow Release in the amount of \$83,621.00 for the completion of required site improvements to date as part of the Land Development project as recommended by the Township Engineer.
5. Upper Merion Township Library Evaluation: Approval of a professional service agreement to evaluate rainwater intrusion in the Library in the amount of \$6,600 with ARRO Consulting, Inc. of Birdsboro, Pennsylvania, as recommended by the Director of Public Works.

6. Land Development Plan Extension – Abbonizio Real Estate Partnership, 316 W. Church Road request extension of time until August 15, 2024.

Board Action:

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

G. RESOLUTION 2024-21 – re: APPOINTMENT OF TOWNSHIP PENSION PLAN ADMINISTRATOR – AIMEE BROUSE:

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Kenney, all voting "Aye" for the adoption of Resolution 2024-21. None opposed. Motion approved 4-0.

H. MOTION TO APPROVE SETTLEMENT AGREEMENT FOR RETURN OF TAX COLLECTION RECORDS REQUESTED BY TOWNSHIP, CCP MONTGOMERY, 2023-07565:

Board Action:

It was moved by Supervisor Kenny, seconded by Supervisor Philips, all voting "Aye" to approve the Settlement Agreement for return of Tax Collection Records. None opposed. Motion approved 4-0.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Kenney, all voting "Aye" to approve the Accounts Payables for invoices processed from March 14, 2024 to April 3, 2024 and Payrolls dated March 1<sup>st</sup>, 15<sup>th</sup> and 29<sup>th</sup> of 2024 for a total of \$4,713,549.85. None opposed. Motion approved 4-0.

ADDITIONAL BUSINESS: None

Board Comments:

Supervisor Waks wished all the Jewish residents a Happy Passover. He also mentioned since Passover and the Primary Election are on the same date this year residents from King 1 and 2 voting section in Upper Merion will be voting at Gulph Elementary School.

Public Comments:

Residents Tom & Debbie Welch and Dan & Lori Price from Riverview Road said the house next door became a rental 10 months ago and they have not been having their trash picked up. After it accumulates for a while and animals pick it apart they move it somewhere else.

The house is in disrepair and they have contacted the Codes Department several times and are very frustrated so they're asking for guidance. Mr. Hamaday said he will have Property Maintenance call them and inspect the property.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Supervisor Philips, seconded by Supervisor Kenney, all voting "Aye" to adjourn the meeting at 9:25 pm. None opposed. Motion approved 4-0.

  
ANTHONY HAMADAY  
TOWNSHIP MANAGER

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Minutes Approved:  
Minutes Entered: