



BOARD OF SUPERVISORS

AGENDA

May 8, 2018

Packet Page 1

5:00 p.m.

WORKSHOP

Packet
Page #

- I. Country Spirit USA Music Festival (being held in Ludwig's Corner)
 - Upper Uwchlan Township's Incident Action Plan Presentation

- II. Authorize Advertisement of Ordinance Amendment 2
 - No Parking on Waynebrook Roadways

- III. Open Session

- IV. Next scheduled Workshop: June 12, 2018

- V. Adjournment

6:00 p.m.

CONDITIONAL USE HEARING

4

Gunner Properties, Ltd 160-180 Park Road



UPPER UWCHLAN TOWNSHIP

MEMORANDUM

ADMINISTRATION

TO: The Board Of Supervisors

FROM: Gwen Jonik
Township Secretary *Gwen*

RE: Ordinance Amendment: No Parking – Reserve at Waynebrook Roadways

DATE: April 19, 2018

The Board is requested to authorize the advertisement of the attached Ordinance which will amend the Township's Vehicle and Traffic Ordinance Section 176-6. "No Stopping, Standing, or Parking" by adding the roadways in the Reserve at Waynebrook development: Waynebrook Drive and Windsor Way

Attachment:
Ordinance Draft



UPPER UWCHLAN TOWNSHIP
Chester County, Pennsylvania

ORDINANCE # _____

An ordinance amending The Code of Upper Uwchlan Township, Ordinance #06-01, Chapter 176-6.A, designating parking, stopping and standing restrictions by adding:

(16) Reserve at Waynebrook Development roadways, entire lengths:
Waynebrook Drive, Windsor Way

ENACTED and ORDAINED this _____ day of _____, 2018.

UPPER UWCHLAN TOWNSHIP
BOARD OF SUPERVISORS

Jamie W. Goncharoff, Chair

Sandra M. D'Amico, Vice-Chair

Guy A. Donatelli, Member

ATTEST:

Gwen A. Jonik
Township Secretary



UPPER UWCHLAN TOWNSHIP
140 Pottstown Pike
Chester Springs, PA 19425
610-458-9400 Fax 610-458-0307

CONDITIONAL USE APPLICATION

Tax Parcel Number: 32-4-86; 32-3-21 Date: 4/6/18

Name of Applicant: Gunner Properties, Ltd.

Address: 160 Park Road, Chester Springs, PA 19425

Telephone: ██████████ Email: ██████████

Owner of Parcel: Same as applicant

Address / Location of Parcel: Same as above address

Zoning District: C-1 Existing Use: Retail, personal service, office, apartments

Article / Section Authorizing Conditional Use: 200-33.B(8) and 200-73.K (2)

Description of Proposed Conditional Use: Seasonal eating and drinking establishment.

Applicant is also seeking approval to provide off-site parking on two other properties in the Township in the event overflow parking would be needed from time to time to serve the uses on the property.

This Application shall be accompanied by:

1. A fee of \$500.00 for Non-Commercial or \$1,000.00 for Commercial/Industrial
2. Twenty (20) copies of:
 - parcel plot plans (half of which can be of reduced size, i.e. 11 x 17),
 - impact statements (if applicable pursuant to the Township's Zoning Ordinance §200-83),
 - and any other information pursuant to Zoning Ordinance §200-116, §200-117 (Conditional Uses, Conditional Use Standards).

* The Applicant will be responsible for reimbursing the Township for Consultants' Fees and Legal Fees, and if additional Hearings are necessary, a Fee will be charged for each Additional Hearing:
Non-Commercial \$250.00/Hearing; Commercial/Industrial \$500.00/Hearing

I hereby depose and say that all of the above statements and the statements contained in any papers submitted herewith, are true to the best of my knowledge and belief.

Fred Gunther on behalf of Gunner Properties, Ltd.

Printed Name of Applicant

Signature of Applicant

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CHESTER

Sworn to and subscribed before me this
6th day of April, 2018

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

KATHLEEN E MCGRATH

Notary Public

UPPER UWCHLAN TWP., CHESTER COUNTY
My Commission Expires Aug 20, 2018

Kathleen E. McGrath
Notary Public



105 Kenilworth Street • Philadelphia • PA • 19147 • (215) 625-3821 Phone • (484) 792-9495 Fax
www.FTAVANIASSOCIATES.com

30 November 2017

Alyson Zarro, Esq.
Riley Riper Hollin & Colagreco
Eagleview Corporate Center
717 Constitution Drive
Exton, PA 19341

VIA EMAIL ONLY

**RE: Act 209 Fee Investigations of
“Levante” aka 160 Park Road,
Upper Uwchlan Township, Chester County
FTA Job #217-023**

Dear Ms. Zarro:

Per our recent email exchanges, F. Tavani and Associates, Inc. (FTA) has conducted Act 209 fee investigations for an existing seasonal beer garden known as “Levante” in Chester Springs.

BACKGROUND

In June of this year Gunner Properties received conditional use approval to operate a seasonal beer garden. The garden is known as Levante. Levante is located in an existing commercial building in the northwest corner of Pottstown Pike and Park Road. The space occupied by Levante in the commercial building had previously been occupied by operating commercial and residential uses which generated a certain amount of traffic. FTA conducted investigations to determine an appropriate traffic “credit” for those past uses as further explained in section 9 on page 4 of the attached conditional use order.

TOWNSHIP TRAFFIC INVESTIGATIONS

As you know, McMahon Associates, Inc. (McM) is the Township Traffic Engineer. McM performed a series of traffic counts to determine Levante’s existing trip generation. I received emails and back up data from the Township Traffic Engineer, Chris Williams. That information concluded that Levante generates, on average, approximately 76 PM peak hour trips. This is total ‘driveway’ activity as the site.

TRIP GENERATION of PAST USES

The site hosted a number of uses prior to Levante. Specifically, the following uses (and approximate square footages) were once found on site, and have been displaced as a result of Levante:

- Bicycle repair and sales shop (2,200 SF);
- Chiropractor office (1,100 SF);
- Professional office (1,300 SF);
- a Variety Store (2,000 SF¹); and
- a rental apartment (1 unit).

¹ This use was known as the “Pearls” market which is estimated to have 2,000-2,200 SF that was “under roof” and another 500+ SF which was the “outdoor” component. To be conservative, the outdoor component was not utilized.

The trip generation of these past uses can be explored using the Institute of Transportation Engineers (ITE) Trip Generation manuals, which are currently in their 10th edition. The following table summarizes the ITE Land Use Code and name which was used for each of the five land uses mentioned above:

TABLE 1
TRIP GENERATION – PAST USES

ITE LUC	Description	Size / Variable	PM Peak Hour		
			<u>IN</u>	<u>OUT</u>	<u>TOTAL</u>
820	Retail	2.2 KSF	4	4	8
720	Medical/Dental Office	1.1 KSF	2	4	6
710	General Office	1.3 KSF	0	1	1
814	Variety Store	2.0 KSF	7	7	14
220	Rental Apartment	1 unit	1	0	1
TOTAL			14	16	30

As mentioned earlier, Levante generates approximately 76 driveway trips, on average. It should be noted that for some land uses “passby” traffic is a known phenomenon. Passby traffic is traffic which already exists along an existing roadway which diverts to patronize a land use. Passby activity is especially common for site which fronts a major arterial roadway, such as Route 100.

Retail and food establishments are known to have passby traffic. Since passby traffic already exists it is not new traffic and Act 209 fees are not levied against existing traffic which patronizes a new site. The latest ITE publication (namely the Trip Generation Handbook) does not include specific guidance for suggested passby rates for beer gardens. However, beer gardens are similar to two land uses contained in the ITE reference, namely LU 931 (Quality Restaurant) and LU 932 (Hi Turnover Sit Down Restaurant). For the former, the average PM peak hour passby rate is 44%. For the latter, the average PM peak hour passby rate is 43%. The lower of the two was selected to be conservative. Thus, only 57% of total driveway traffic for Levante is considered new traffic.

The table on the next page summarizes total Levante driveway traffic and the credits which are reasonable to be applied (Levante passby trips plus past uses).

TABLE 2
PM PEAK HOUR SUMMARY

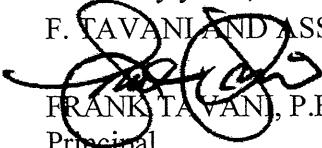
TYPE	TRIPS
Levante Driveway	76
Levante Passby	-33
Past Uses ²	-22
NET NEW	21

ACT 209 FEE DETERMINATION

As shown in Table 2, the net new traffic generated by Levante is 21 trips during the PM peak hour. The current Act 209 fee in Upper Uwchlan Township \$2,334 per PM peak hour trip. Thus the site appears liable for an Act 209 fee of \$49,014.

In the event that the Township feels that credits for past uses should only be applied as an “even exchange” (i.e., in consideration of only the space occupied by Levante), then the one apartment which is lost (my understanding being primarily due to marketability / noise issues) should be removed as a credit. In this case, the net new traffic generated by Levante is 22 trips during the PM peak hour and the site could be considered liable for an Act 209 fee of \$51,348.

Please call or email at your convenience with any questions. Thank you for the opportunity to serve.

Very truly yours,
F. TAVANIAN & ASSOCIATES, INC.

FRANK TAVANIAN, P.E., PTOE
Principal

attachment

² Per the latest ITE Trip Generation Handbook, the average PM peak hour passby rates for LUC 814 and 820 is 34% which was applied to determine net new (driveway) traffic (5 trips for LUC 814, 3 trips for LUC 820) as summarized above in Table 2 (22 total for all past uses).

BEFORE THE BOARD OF SUPERVISORS
OF
UPPER UWCHLAN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA

APPLICATION OF GUNNER PROPERTIES, LTD.

CONDITIONAL USE APPLICATION

AND NOW, this 13th day of June, 2017, the Board of Supervisors of Upper Uwchlan Township hereby adopts the following Decision and Order:

A. BACKGROUND AND FINDINGS OF FACT

1. Applicant is Gunner Properties, Ltd., 160 Park Road, Chester Springs, Pennsylvania 19425.
2. Applicant is the legal owner of 160 Park Road, identified as UPI Nos. 32-4-86 and 32-3-21 consisting of approximately 9.2 acres total ("Property"), pursuant to a Deed dated June 19, 2015 for the Property (See Exhibit A-4).
3. The Property is located at the northwest corner of Pottstown Pike and Park Road.
4. The Property is zoned C-1 Village Commercial District.
5. On April 17, 2017, Applicant filed a Conditional Use Application ("Application") with Upper Uwchlan Township (the "Township") seeking approval for an eating and drinking establishment pursuant to Section 200-33.B(8) of the Township Zoning Ordinance ("Zoning Ordinance").
6. A public hearing was held on the Application on May 15, 2017.
7. At the hearing, the Township was represented by its Solicitor John E. Good and the Applicant was represented by Alyson M. Zarro. No one requested party status.

8. The Property is currently improved with several buildings which previously have been used for a variety of retail uses and two paved parking areas.

9. The Property contains approximately a large unimproved field which has previously been used as overflow parking for special events.

10. Applicant proposes to operate a seasonal beer garden on the Property from June through October on Thursdays, Fridays, Saturdays and Sundays from the hours of approximately 12 p.m. to 11 p.m.

11. A liquor license would be held by a brewer and the beer garden would be operated by the brewer.

12. The majority of the beer garden use would be conducted outside with the bar located in the lower level of an existing barn building on the Property in the "stable area."

13. The indoor component of the use would be limited in occupancy to 40 people, including employees.

14. The primary area for parking would be the paved parking area taking access from Park Road with additional parking in the paved parking area taking access from Pottstown Pike and overflow parking in two areas in the existing field, accommodating a total of approximately 120 cars.

15. The bathroom facility is a self-contained, on-lot portable facility that is not connected to the public sewer, which is operated by a professional operator and will have capacity for 3,000 users.

16. The water consumption will be minimal for a sink area that will serve the bar.

17. Food will be provided by food trucks that will visit the Property and which will not be connected to public sewer or water.

18. The outdoor beer garden area will be fenced from Park Road and will be located primarily between Park Road and the existing buildings.

19. Applicant introduced Exhibit A-6, Site Plan prepared by D.L. Howell & Associates, Inc. dated April 12, 2017, which shows the general locations of the bar, bathroom and food truck areas.

B. CONCLUSIONS OF LAW

1. Applicant has standing to proceed with the Application.

2. The conditional use hearing was duly advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and the Zoning Ordinance and the Property was posted in accordance with the requirements of the MPC.

3. Applicant has demonstrated compliance with the standards for an eating and drinking establishment use set forth in Section 200-33.B(8) of the Zoning Ordinance and conditional uses set forth in Sections 200-116 and 200-117 of the Zoning Ordinance.

C. ORDER

Conditional use approval of the eating and drinking establishment pursuant to Section 200-33.B.(8) of the Upper Uwchlan Township Zoning Ordinance is hereby granted subject to the following conditions:

1. The eating and drinking establishment use shall be conducted in accordance with the testimony and exhibits provided at the hearing on May 15, 2017.
2. Applicant shall comply with all applicable Township ordinances and regulations.
3. Applicant shall obtain all applicable Township permits and approvals for the eating and drinking establishment use.

4. Applicant shall obtain all required third party permits and approvals, including, but not limited to any applicable Chester County Health Department and Pennsylvania Liquor Control Board permits or approvals, and shall provide copies of any such permits and approvals to the Township.

5. Applicant shall ensure, and the PLCB licensee shall continuously maintain a policy of liquor liability insurance in the minimum amount of Two Million (\$2,000,000.00) Dollars for so long as Applicant and PLCB licensee shall offer alcoholic beverages pursuant to its liquor license.

6. Applicant shall stripe the two paved parking areas on the Property in compliance with applicable Township ordinances.

7. Applicant shall provide ADA accessible parking spaces in the paved parking area(s) in accordance with applicable Township ordinances.

8. After the eating and drinking establishment is open and operational, Applicant and the Township shall monitor the traffic operations of the Property access as well as Park Road between Pottstown Pike and Little Conestoga Road and shall implement traffic operations measures if necessary to direct the flow of traffic during the times that the use is operational in order to insure that safe traffic operations are provided.

9. Applicant shall coordinate with the Township Traffic Engineer to confirm whether any increase in trip generation is estimated to result from the eating and drinking establishment use that would require the payment of a Traffic Impact Fee pursuant to the Township's Act 209 Traffic Impact Fee Ordinance.

10. Applicant shall provide, operate and maintain bathroom facilities in accordance with the testimony and exhibits presented at the hearing and in accordance with any third party approvals required for such facilities, such as the Chester County Health Department.

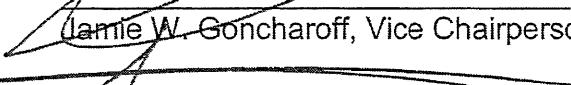
11. The eating and drinking establishment shall be permitted to operate from June through October, on Thursdays through Sundays, from the hours of 12 p.m. to 11 p.m.

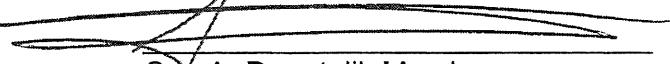
12. Applicant shall be required to seek annual approval from the Township for the seasonal eating and drinking establishment use, but such approval shall not require the reopening of the conditional use hearing or additional conditional use approval, provided that Applicant provides copies of any required third party permits and approvals that are required to be renewed in connection with the continued operation of the eating and drinking establishment.

APPROVED this 13th day of June, 2017.

UPPER UWCHLAN TOWNSHIP
BOARD OF SUPERVISORS


Kevin C. Kerr, Chairperson


Jamie W. Goncharoff, Vice Chairperson


Guy A. Donatelli, Member

ATTEST:


Gwen A. Jonik, Township Secretary